The wind of change

Comparative lessons for restorative justice in South Africa and the United Kingdom

Theo Gavrielides and Grace Loseby
Restorative Justice for All (RJ4All) is an international institute with an aim to create, increase and disseminate knowledge in the areas of restorative justice and alternative dispute resolution. The Institute challenges the restorative justice movement through ground breaking research and evaluation, and by bringing people together to network and exchange best practices.

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Book Abstract

The death of Nelson Mandela in December 2013 closed an active year for restorative justice. His life was a symbol of restoration and promise and continues to stir interest and discussion in the search for an alternative to incarceration and towards peaceful conflict resolution.

This book looks at restorative justice in context of two countries, the United Kingdom and South Africa, as they independently try to navigate between past, present and future justice systems. There is reference to the cultural, political and socio-economic landscapes of each nation. Our understanding of justice is symbolic of these landscapes and a mapping exercise is undertaken, with a discussion of enablers and barriers for the restorative justice movement internationally.

The book also discusses the ownership of restorative justice and the role of non-governmental bodies such as Khulisa. A key to the restorative justice process is a balance of stakeholder involvement between state and community enterprise. It is important to examine and highlight the importance of these bodies in the continuing and increased commentary on the restorative justice process. Subsequently, this book offers a timely and much needed discussion regarding our careful future steps in the shadow of legendary voices.
Acknowledgements

I was fortunate to write this book in the good company of my research assistant Grace Loseby. She is an exceptional and hard working young researcher with amazing potentials to become a leading scholar in the restorative justice and criminal justice field. I thank her for her help. Many thanks also to my good friend and colleague Simon Fulford. His professionalism and diligence inspire me and I feel privileged to be working with him.

I am also grateful to those who spent their time sharing their views and ideas especially George Lai Thom, LesleyAnn Van Selm, Martin Wright, Lisa Rowles. Special thanks go to Khulisa UK which funded this project as well as the Restorative Justice for All institute which allowed its publication.

I have expressed my concerns and hopes for the restorative justice movement openly and honestly. I hope that this book adds to the debate. It is important that restorativists learn how to reconcile and respect each others’ views, Plurality is a strength and a more colourful and diverse dialogue within the restorative justice movement can only enhance it.

Professor Dr. Theo Gavrielides

Author

February 2014.
Foreword: Simon Fulford, Chief Executive of Khulisa UK

Social development has entered a phase where global needs are just as important as local solutions. The phrase, “Think global, act local” is as true now as “Think local, act global.” We truly are all connected.

The Emergence of the Asian Tigers and BRIC countries shows that the dominant view of the ‘developed north’ and ‘poor south’ fails to acknowledge the constructive potential of a reverse model. We believe that Khulisa brings new dynamism to north-south relations with a unique model of social solutions. Programmes tested in extremely fragile, challenging and under-resourced communities in South Africa have provided innovative and effective solutions to addressing crime and violence here in the UK. Skill and expertise that has been nurtured in Bolton, Newham or Portsmouth has similarly enhanced community programmes in Soweto, Durban and Cape Town.

Having initially focused our UK work on combating violence and offender rehabilitation, we are keen to now draw on the rich heritage of community-led Restorative Justice held by Khulisa in South Africa. restorative justice is already one of the key underlying principles of our behaviour-change programmes and fits closely with our heartfelt belief in social, not just criminal, justice.

As we investigate how best to lend our knowledge and expertise to the development of Restorative Justice in the UK, we commissioned RJ4All to carry out an analysis and assessment of the growth in restorative justice policy and practice in each country. This paper compliments the forums, seminars and knowledge-exchange initiatives we have already carried out between England and South Africa over the last several years.

We are grateful for the depth and breadth of the analysis undertaken by RJ4All and the recommendations they put forward. It is our hope that we can implement much of what they suggest through open and sincere collaborations with a multitude of partners,
funders and commissioners already active in their communities. We would like to come bearing gifts and not with a hand looking to take.

I am taken to reflect on Nelson Mandela’s release from prison in 1990. It is seen as the most pivotal moment in the struggle to end Apartheid, and as President de Klerk later reflected, "I realised that after the announcements...South Africa would be changed for ever.” An economy on the verge of collapse, a society on the brink of civil war, and with many predicting an even bloodier chapter to follow, its destiny was changed forever.

Is the UK justice system poised on the cusp of such a moment itself? While our prisons are not crumbling, our offenders abused and our management rife with corruption, it is a system under considerable stress where “staying the course” seems less and less realistic. The status quo is not sustainable while many would argue that most of the proposed solutions are unworkable. If nothing changes, will we simply end up with more victims: the offenders themselves whose lives are not rehabilitated and the individuals, communities, families and businesses blighted by their crimes.

We would like to contribute to the conversations where new paradigms for justice in the UK are being explored. We would like to look not at how we can tweak and amend the current structures in place, but a vision of what it really looks like when it’s fixed. Together we could map our way to the future we want.

When Mandela walked out of prison in 1990, neither he, the ANC, nor the Apartheid regime itself knew exactly how to get to freedom, but a vision of what this looked like and a commitment to peaceful transition ensured they found a way.

Can we create a “Mandela Moment” for justice in the UK today? Is restorative justice part of the solution?

We answer “YES” to both.

Simon Fulford
Chief Executive, Khulisa UK
January, 2014
Executive Summary

It is safe to claim that RJ has now made it onto the criminal justice agenda worldwide. Indeed, some wish to see it in a more prominent place, others continue to cast doubt about its effectiveness. The opportunities as well as the pitfalls for anyone delivering restorative justice in the UK and internationally are becoming obvious.

As these opportunities appear, any restorative justice service provider with diligence and prudence to maintain its reach must engage in serious strategic thinking. Using the UK as its focus of investigation, this book will argue that the institutional restructures that are being developed will bring the demise of a number of existing restorative justice providers and the development of those who “fit the bill” or have placed themselves strategically in a strong provision.

The key purpose of this book is to reflect on this process by adopting a focused, case study approach using the example of the restorative justice -based progammes delivered by the NGO Khulisa in South Africa and the UK. The book is part of a project that was commissioned from the UK-based Khulisa.

In the UK, restorative justice developed organically and in the shadow of the law without any formal structures that would mainstream it as a consistent option. To a great extent, this is still the case as the restorative justice practice is chosen on ad hoc basis by agencies in the public, private and voluntary sectors. The institutionalisation of restorative through the Crime and Courts Act 2013 will have a significant impact on its use, especially concerning adult offenders. The increase use of restorative justice as a diversion will see the judiciary taking an active part in enforcing restorative justice. It therefore signifies a logistical shift from community to state in its implementation and the process being used as a pre-sentence solution as seen in the case of South Africa.

For South Africa the re-introduction of reconciliatory and restorative practices came after an awakening following the Truth and Reconciliation Commission (TRC). Like in most developing countries, providing access to justice to all South African citizens
remains a major challenge. Despite national and international criticism, it showed the country the alternative option to the administration of justice and the re-framing of citizens’ relationship with the state. Justice processes within liberal democracies, such as the UK and SA, view crime as a challenge to the rule of law, which then dictates processes including punishment.

Our comparative analysis of restorative justice’s development in South Africa and the UK has resulted in the identification of levers and enablers for the delivery of restorative programmes. Our research also pointed out that the same enablers can also act as barriers for any restorative justice service provider including the investigated case studies of Khulisa UK and Khulisa SA.

**Diversion**

A fundamental question for any restorative justice provider is who has the power to divert a case from its traditional route of prosecution, sentencing and imprisonment. More importantly, what are the levers that will enable an restorative justice service provider to divert the case to their practice? Resistance to divert or lack of knowledge of the potential for diversion are some of the barriers.

When looking more closely at the impressive numbers of diverted cases that have been dealt with by Khulisa SA (e.g. 3930 in two years), we notice that in their vast majority they were prosecutorial referrals at the pre-court stage. Unlike what some may expect, this diversion was not attributed to a statute or a top down authority.

In the UK restorative justice alongside other alternative court diversion approaches is potentially growing. Government support for reducing burdens on the court and penal systems is driven by value for money perhaps even more than by the desire for justice to be felt to have been done, even though the latter conclusion has been well researched.

A noticeable difference between the UK and SA is the role and indeed the willingness of the Crown Prosecution Service (CPS) to divert a case at the pre-court stage. There is an
opportunite time to develop relationships with statutory criminal justice agencies more widely. Currently, there is a general political and budgetary desire to find alternatives to prosecution for less serious cases and for those who have no previous offending history.

In order to be strategic with how much and what sort of resource is invested in developing relationships with the prosecuting authorities and other agencies, any restorative justice service provider must have a clear idea of the sort of cases that have more potential of being diverted. Looking at the South African example, the most common types of crimes that were referred to Khulisa SA were for; assault, theft, malicious damage to property, shoplifting, criminal injuries and vandalism. In terms of geography, where there were higher rates of violence, petty crimes and substance abuse (e.g. in Wentworth), there were also higher numbers of referrals.

Special reference needs to be made to domestic violence cases. According to the 2012 evaluation report for Khulisa SA, domestic violence cases represent a high proportion of their cases. These however were not initially diverted as domestic violence incidents but as aggravated assault From the above one must conclude that the areas of domestic violence, restorative justice service providers must look at gender violence and family abuse more closely. Increased understanding of the potential of restorative justice for these cases as well as the establishment of an evidence based approach will further help restorative justice service provision in this grey area.

**Legislating restorative justice**

Looking at the issue of legislation and policy reform more closely, this book argues that no restorative justice service provider should assume that diversion, implementation and funding go hand in hand with top down provision of restorative justice including those that are now on statute in the UK. In fact, many have argued that the very ethos of restorative justice is not to be found in formalised criminal justice structures but in the community where it was born.
Collaboration

Identifying current restorative justice service providers as well as those who we know will be expected to become restorative justice providers due to statutory or other reasons is a key step for any future strategy in the UK.

Training and accreditation

Undoubtedly, during implementation, a number of limits unavoidably have to be placed upon the restorative justice norm. These may stem in part from organisational constraints on what can or should be achieved within the existing punitive operational framework of our criminal justice system. There is no reason to believe that the training of restorative justice facilitators falls outside of these organisational constraints. What is important to note, however, is that the evidence may suggest that the problem of training has already been extended far beyond this commonly acceptable level of pragmatism.

Looking at Khulisa SA, one of the most important success factors of JARP is the superior training that practitioners receive prior implementation. This training is grounded upon universally accepted restorative justice principles while it also takes an ad hoc form that is relevant to the organisation. A nationally accredited body does not provide it, nor does it seek the approval of any university or governmental body. This is a model that could be considered by Khulisa UK and other restorative justice providers in the UK. In the UK, there is a general belief that to achieve consistency and higher quality in restorative practice, that training and accreditation must be controlled from the top and centrally.

Funding limitations

Funding for restorative justice services has always been a challenge. This must now be considered against a background of spending cuts. Generally, it is easily argued that reaching justice ideals is costly both organisationally and economically. In fact, it would
be naïve to believe that ideals of any origin (punitive or restorative) can ever come first in organisational routines and professional interests. This seems to be particularly relevant to restorative practices where the time and labour to organise a meeting appear to be greater than the construction and disposal of criminal cases by traditional procedures.

Research has also shown that funders’ priorities are not always consistent with restorative justice ‘s normative principles, as these are understood by its extensive theoretical literature. In going forward in a tough financial climate any restorative justice service provider must be alert not to become funded driven. Adhering to organisational values and the underlying ethos of restorative justice will be key for the survival of existing practice. This will also mean being honest with our own organisations as restorative justice service providers.

Victim centred services

The criminal justice system and governments across the world are realising and slowly acknowledging significance of victims in the justice process. Long battles have been fought by the victims and restorative justice movements to move the victim from the margins to a more central position in the criminal justice process. Following the new EC Victims’ Directive, European governments now have no other option but to become more responsive to victims’ needs and voices.

Research and evaluation

One of the strongest messages coming out of our review is that the key lever of success for the South African based Khulisa projects was their ability to use hard data to show their effectiveness. Funding bodies and the academic community need to be convinced that interventions such as those based on restorative justice, deliver good results. Evidence based practice is now a pre-requisite for further funding.

However, how research and evaluation are conducted remains a controversial area and a potential barrier that must be carefully considered. Evaluation of restorative justice
programmes can often be hampered. Some of the reasons are associated with the role that has been bestowed on restorative justice and the impact of the retributive and utilitarian traditions of justice.

**Winning the cost-benefit argument**

Implementing restorative justice in a difficult financial climate instantly brings up the question of cost and benefit. Although data on the financial viability of restorative justice are extremely limited, it somehow managed to convince that it is a cheaper option for governments. However, what is clear from our South African based research is that if restorative justice service providers in the UK fail to show that they reduce court and CPS caseload as well as cut down the costs of justice, the current interest will soon wane.

**Summing up**

As governments around the world continue to take interest in restorative justice and set up new strategies, legislation and funds to promote it, their role must be clear. Restorative justice exists in small neighbourhoods, in homes, churches, schools, tents, humid mediation centres and, yes sometimes, in criminal justice agencies and institutions. And this is what makes restorative justice special. It is the community’s way of understanding and dealing with conflict. The SA governmental strategy honestly and openly acknowledges the role of the community in the design and delivery of restorative justice services. This was not introduced in the first draft of the strategy despite the strong community led ethos that characterises dispute resolutions methods in the country. Mistakes had to be made while arguments around recidivism and cost are yet to be won.

Anyone with an interest in criminal justice reform can feel a strong wind of change for restorative justice. This wind brings challenges, opportunities and risks that must be considered by anyone aspiring to be an restorative justice service provider. The wind also creates power interest battles, tensions and the demise of both good and bad practice. How and whether one engages with these trends is fundamental for survival.
Introduction

The term “restorative justice” was first introduced into contemporary criminal justice literature and practice in the 1970s. Since then, volumes of theoretical and empirical papers have been written about restorative justice ‘s potential, normative aspirations and practices. It is a concept and a practice with a number of definitional challenges, which many have tried to tackle. Its ambiguity, however, remains (see Johnstone 2002; Gavrielides, 2007; Gavrielides 2008; Artinopoulou 2010).

It is however, beyond the scope and purpose of this paper to deal with restorative justice`s definitional matters. Here, when we talk about restorative justice we take it to be “an ethos with practical goals, among which is to restore harm by including affected parties in a (direct or indirect) encounter and a process of understanding through voluntary and honest dialogue” (Gavrielides 2007, 139). Gavrielides understands the term “ethos” in a broad way. “Restorative justice, in nature, is not just a practice or just a theory. It is both. It is an ethos; it is a way of living. It is a new approach to life, interpersonal relationships and a way of prioritising what is important in the process of learning how to coexist” (Gavrielides 2007, 139). For Braithwaite (2002) and McCold (1999) the principles underlying this “ethos” are: victim reparation, offender responsibility and communities of care. McCold argues that if attention is not paid to all these three concerns, then the result will only be partially restorative. In a similar vein, Daly (2002) said that restorative justice places “...an emphasis on the role and experience of victims in the criminal process” (p.7), and that it involves all relevant parties in a discussion about the offence, its impact and what should be done to repair it. The decision making, Daly said, has to be carried out by both lay and legal actors. According to Gavrielides, "restorative justice adopts a fresh approach to conflicts and their control, retaining at the same time certain rehabilitative goals" (p.139).

It is safe to claim that restorative justice has now made it onto the criminal justice agenda worldwide. Indeed, some wish to see it in a more prominent place, others continue to cast doubt about its effectiveness (Acorn, 2004). In the UK, the interest in restorative justice peaked in 2002-3 when the Home Office opened the 'Restorative Justice Unit’ and launched a consultation on whether restorative justice should be included more formally into the adult criminal justice system. Despite overwhelming
support and the publication of one of the most thorough and supportive government funded evaluation reports on restorative justice (Sherman and Strang, 2007), the interest soon waned and along with it the Home Office Unit and their policy and legislative plans.

This interest was revived soon after the current coalition government took power. In December 2010, their Green Paper “Breaking the Cycle”, announced their intentions for key reforms to the adult and youth justice sentencing philosophy and practice. The Ministerial Foreword noted: “There is much work to do in a criminal justice system which is so badly in need of reform ... We will simplify and reduce a great mass of legislation ... We will put a much stronger emphasis on compensation for victims ... I think it is right to describe these reforms as both radical and realistic” (Ministry of Justice, 2010: 2). It soon became clear that the current government wanted to see the development of restorative justice at three key stages of criminal justice:

- First, as: “a better alternative to formal criminal justice action for low level offenders ... This is a more effective punishment than a simple caution, and builds on local approaches already used by the police” (Ministry of Justice, 2010);
- Second, as a diversion from prosecution (an out-of-court disposal) for cases where prosecution would be likely to lead to a fine or community sentence;
- Third, as a pre-sentence diversionary option for offenders who admit guilt, stating: “They could, therefore, inform the court’s decision about the type or severity of sentence handed down ... Greater use of restorative justice can prevent the feeling of powerlessness which often results from being made a victim. Increased use of compensation and reparation will benefit victims directly while establishing the principle that offenders must take personal responsibility for their crimes.” (Ministry of Justice, 2010).

Turning to the youth justice system, the government announced that it will “increase the use of restorative justice ... we will build on the role currently performed by volunteer youth offender panel members and ensure that referral orders have a strengthened restorative approach. We will support panel members to increase their skills and confidence in using restorative justice in referral orders ... restorative justice is already a key part of youth justice and we want to encourage this across the youth
justice sentencing framework as a whole, drawing on the experience of youth conferencing in Northern Ireland” (Ministry of Justice, 2010).

In December 2012, the Ministry of Justice published its revised Referral Orders Guidance to courts, Youth Offending Teams (YOTs) and Panels (Ministry of Justice, 2012). This followed the first national strategy on restorative justice. Titled “Restorative Justice Action Plan for the Criminal Justice System”, the strategy makes a number of short and long term commitments around four areas: access, awareness, capacity and evidence. The responsible Minister noted during the launch of the document: “Many victims of crime get to see sentences being passed, but it’s not always enough to help them move on with their lives. We know that around 85% of victims who participated in restorative justice conferences were satisfied with the experience. That’s why I want restorative justice to become something that victims feel comfortable and confident requesting at any stage of the criminal justice system. Victims deserve access to a high standard of restorative justice no matter where they are in the country and at a time that’s right for them.”

Soon followed the review of the Victims’ Code, although there is very little evidence that serious consideration was given to the impact of the Victims Directive due to be implemented by November 2015. What also followed was investment (and commitment for further investment) of funds in restorative justice. The first instalment was given to an organization to train prison staff. Additional funds of £29 million are expected to be distributed to Police and Crime Commissioners (PCCs) to disperse as they think fit at a local level.

However, the biggest development is said to be the passing of the Crime and Courts Act 2013. Part 2 “Deferring the passing of sentence to allow for restorative justice” provides for the diversion of adult cases to a restorative justice practice at the presentence stage. The Act was enacted in December 2013 and courts now have the power to defer the passing of a sentence provided that all parties (i.e. both the offender and the victim) agree. The Act also requires that anyone practising restorative justice must have regard to the guidance that is issued by the Secretary of State. No other formal requirement is stated.

The opportunities as well as the pitfalls for anyone delivering restorative justice in the UK are becoming obvious. Alongside these policy, strategic and legislative

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1 The directive establishes principles for victim support throughout the criminal justice system, but also contains two articles that relate directly to restorative justice: ‘Article 12 – Right to safeguards in the
developments, there have been some institutional adjustments including a confusing, and to some extent, contradictory development of the role of the Restorative Justice Council (RJC). Originally set up as a charity with a membership structure and a campaigning role for the representation of restorative justice practitioners’ interests to government, it now claims to act as a registry and as a regulator for restorative justice practices nationally. While the body receives membership fees, it also claims to be the auditor of good practice, which it inspects for a fee. Its relationship with central government also remains confusing as it receives its main income from the Ministry of Justice, while its Chair is a civil servant and its CEO the Head of the 2003 Home Office Restorative Justice Unit (see Gavrielides, 2013).

As the aforementioned changes are set in motion, any restorative justice service provider with diligence and prudence to maintain its reach must engage in serious strategic thinking. This paper will argue that the institutional restructures that are being developed will bring the demise of a number of existing restorative justice providers and the development of those who “fit the bill” or have placed themselves strategically in a strong provision. The key purpose of this paper is to reflect on this process by adopting a focused, case study approach using the example of the restorative justice -based programmes delivered by the NGO Khulisa in South Africa and the UK. The paper is part of a project that was commissioned from the UK-based Khulisa. To collect our data we adopted a comparative methodology using the tools of secondary analysis through desk research. We triangulated these findings with a small-scale survey that was conducted with five key stakeholders through open ended, in-depth interviews.

The paper is broken down into three sections. The first aims to provide a descriptive account of the two NGOs in South Africa and the UK. The second section proceeds with a critical analysis of how the restorative justice norm developed in the two countries looking at issues of history, culture and legislation. The context and indeed the social environment within which restorative justice is developed are paramount for any comparative study. The paper then proceeds with its main section, which aims to provide a comparative account of the key levers and barriers for restorative justice in the two countries. These revolve around issues such as the law, key stakeholders and providers, infrastructure, diversionary mechanisms and policy.

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2 The information is accurate at the time of writing, December 2013.
Originally set up in 1997 as “Khulisa Crime Prevention Initiative”, Khulisa Social Solutions is a non-profit organisation offering three different types of inter-connected services in all of the nine provinces of South Africa. These services are: crime prevention and justice, community and leadership development and social enterprise and business development. The stated mission of the organisation is “To inspire constructive behaviour in individuals and communities through programmes designed to promote sustainable individual and community development”. The organisation employees over 220 staff at a national level and has a turnover of around R35 000 000 (2010-11)\(^3\).

The main restorative justice based programme that is offered is the Justice and Reconciliation Project (JARP), which began in 2007 in Phoenix, KwaZulu-Natal. This led to the establishment of JARP in six further sites funded by the European Commission. According to Khulisa SA, JARP is “a creative, community based restorative justice initiative for dealing with crime, wrongdoing and conflict through a direct dialogue between victims and offenders, their families and their support networks”. JARP's stated mission is “to strengthen and empower individuals and communities to deal with crime, wrongdoing and conflict”. JARP's objectives are:

- To contribute to the reduction of crime in identified communities by encouraging public participation;
- To assist the criminal justice system to reduce its overburdened case load through Alternative Dispute Resolution Mechanisms and Restorative Justice;
- By providing an alternative to incarceration;
- To provide an alternative restorative approach to the delivery of justice to the current retributive approach;
- To empower communities to deal with conflict and wrongdoing.

According to an independent evaluation that was published in August 2012, during March 2010 – April 2012, JARP dealt with 3930 cases. Out of these, 2387 were youth diversion cases (Hargovan, 2012). Evaluations by UNISA and UKZN recommended that JARP be rolled out across the country while the SA government

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\(^3\) Equivalent to 1,902,548.65 GBP based on 1 South African Rand equals 0.055 British Pound Sterling (3/2/14)
identified is as a Best Practice Model for South Africa awarding it in 2009 with its “Extra Mile Award”.

Khulisa UK began its programmes in 2009 as a sister organisation of Khulisa SA, and has since worked at HMPs Forest Bank, Parc, Feltham, Portland, Isis & Cookham Wood, schools and Pupil Referral Units (PRUs) in London and Sheffield and several London communities. Its stated mission is “to break the cycle of crime and violence by helping people to change their lives”. The organisation is registered as a charity and has a turnover of £457,000 (2012-13) and offers 4 key programmes. According to Khulisa’s website these are:

- “Silence the Violence (STV) and Face It which are social learning cognitive-behaviour programmes based on therapeutic methods leading to pro-social behaviour-change, self-awareness and pro-social identity on the part of participants. The programme contains 10 modules of 2-3 hour facilitated sessions (usually run over 5 days) incorporating both individual and group attention. It is followed-up with 1:1 support and can incorporate additional group work and/or “booster” sessions pre-release.
- Milestones is a solutions-focused through-the-gate mentoring programme with a 12 year history of development and testing. It includes intensive resettlement support for 6-12 months post-release. The project currently serves young offenders released from HMPs Portland, Isis and Dorchester.
- My Square Mile In Summer 2011 Khulisa UK, in partnership with HMP Forest Bank, launched an innovative new project that will involve prisoners and their families from the Bolton community. Inspired by the Government’s Big Society agenda and the belief that we can all make a difference in our local community, the project will initially engage with prisoners through our Silence the Violence programme and subsequently in the community, with supporting family members, post-release”.

Since 2009, 5 assessments of their programmes by/affiliated with major academic institutions (University of Central Lancashire, University of East London, London Metropolitan University, Manchester Metropolitan University) have been conducted, focusing on design, impact, evidence base and theory of change. Indicative findings include:

- Reductions of up to 40% for violent and aggressive tendencies
• Improvements in participant coping mechanisms by up to 37%
• A cohort of 38 adult male prolific offenders on programmes at HMP Forest Bank in 2011-12 had a one-year known reoffending rate of just 34%.
• 2010 study by NACRO⁴ showed that young offenders on the Milestones project who completed had a short-term re-offending rate of just 14%.

Furthermore, in 2010-11, two cohorts at HMP Forest Bank were assessed by the University of Central Lancashire against a matched-comparison group to demonstrate statistical impact. Milestones was awarded with a prestigious Butler Trust commendation in 2011, while Face It also won a Retrospective Evidence Competition award from Project Oracle in 2013 and was a finalist at the Youth Justice Board Evidence Awards 2013.

Putting things in context: The development of restorative justice in the UK and South Africa

1. Restorative justice in the United Kingdom

Constructing a clear account of the development and current status of restorative justice in the UK is not an easy task for at least three reasons. Firstly, as it will be evidenced by this paper, in the UK, restorative justice developed organically and in the shadow of the law without any formal structures that would mainstream it as a consistent option. To a great extent, this is still the case as the restorative justice practice is chosen on ad hoc basis by agencies in the public, private and voluntary sectors.

Secondly, the UK consists of multiple legal jurisdictions, which have not experienced a unified and consistent view and application of restorative justice. These jurisdictions correspond to the four UK countries: England, Wales, Scotland and Northern Ireland. There are 4 key sub-systems of criminal justice: (1) Law enforcement (Police & Prosecution), (2) Courts, (3) Penal System (Probation & Prisons) and (4) Crime Prevention. Some legislation applies throughout the whole of the UK; some applies in only one, two or three countries. The Criminal Justice System (CJS) is applied independently in three separate judiciaries; England and Wales, Scotland and Northern Ireland. The Youth Justice System (YJS) is significantly different in all three judiciaries with separate legislation, courts and sentencing systems.

Thirdly, the policy and political context within which restorative justice is developed is different in each UK country as this has a direct impact on the key principles and priorities driving its development. Although the process of restorative justice ‘s progress in the UK can be described as a ‘transformation from the virtual absence of the late 1980s to its contemporary popularity’ (Walklate, 2005), there are remarkable differences between all three jurisdictions (Miers 2004). For instance, when the early restorative justice initiatives were funded in England and Wales, strong emphasis was placed on their ability to divert offenders away from prosecution and imprisonment (Dignan 2010). Conversely, in Northern Ireland priority is given on the
preventative impact of restorative justice practices (Jacobson and Gibbs 2009). Irish
restorative justice systems range from a highly successful Youth Conferencing Service to
a community-based system (CBRJ – Community-Based restorative justice) providing an
alternative to former paramilitary activity (Ashe 2009). In Scotland, restorative justice
initiatives are mainly championed by the Scottish Association for the Care and
Rehabilitation of Offenders (SACRO) and function as diversion from prosecution options
for Procurators Fiscals (Kearney et al 2006).

In all three jurisdictions it has been recognised that restorative justice was
particularly effective for young offenders and that it shared many values with existing
preventative and therapeutic approaches to youth offending. Various programmes and
pilots have been funded by government and independent bodies but there has been no
funded provision on a consistent basis for restorative justice for adult and serious
offences. Here, when we talk about the development of restorative justice in the UK we
are mainly referring to England and Wales.

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>CRIMINAL JUSTICE SYSTEM DESCRIPTION</th>
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</table>
| England and Wales| The legal system of England and Wales is based on common law. The decisions of the senior appellate courts become part of the law, but most criminal law is codified within Acts of Parliament. The CJS is answerable to two ministries; The Ministry of Justice and the Home Office. It is served by the following main agencies:  
**Police:** A decentralized system of 43 regional police services, which are responsible for the prevention of offending, the investigation and prosecution of crime to the point of charge.
**The Crown Prosecution Service (CPS):** A government department, responsible for prosecuting criminal cases that have been passed on from the police.
**Courts:** Most criminal cases are dealt with, or pass through the Magistrates Courts, although more serious cases are all dealt with in the Crown Courts.
**National Offender Management Service (NOMS):** An executive agency of the Ministry of Justice, bringing together: Probation Service (35 Probation Trusts responsible for pre-sentence reports, supervising non-custodial sentences and the safe rehabilitation of paroled offenders) and HM Prison Service (responsible for 137 prisons in England and Wales). |
Scotland

Criminal law and procedure in Scotland\(^5\) is different from that in the rest of the UK. Similarly the CJS systems and agencies have developed from a separate background and are distinct from England and Wales. The main distinction is that Scottish criminal law is based principally on a common law tradition, whereas in many jurisdictions much of the criminal law is contained in statute. Scotland has developed a 'mixed' system of criminal law with an increasing number of crimes and offences appearing in the statute books. Many statutory offences are shared with England & Wales through UK wide legislation; nevertheless, many of the most serious crimes in Scotland, including murder, rape, robbery, assault and fraud as well as less serious crimes such as breach of the peace, are common law crimes.

Northern Ireland

It has its own judicial system\(^6\), which is headed by the Lord Chief Justice of Northern Ireland. The Northern Ireland Courts and Tribunals Service have general responsibility for legal aid, advice and assistance. Policy and legislation concerning criminal law, the police, prisons and probation are the responsibility of the Department of Justice. The ultimate source of law is statutes passed by the Northern Ireland Assembly or Westminster Parliament, but there is also the same legal duty to comply with European Community law.

Table 1: The Criminal justice systems in England & Wales, Scotland and Northern Ireland

<table>
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<th>Northern Ireland</th>
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1.1 Restorative Justice in the youth justice system

The Youth Justice system is a complex set of arrangements led by the Ministry of Justice\(^7\). This involves multi-agency Youth Offending Teams (YOTs), on a local basis. These bring together local authority children’s services, probation trusts, NHS services, the police and CPS, the voluntary sector, youth courts, prisons and private sector providers. Individuals are criminally liable from the age of ten.

The main custodial sentence for young people (10-17 years old at the time of conviction) is the Detention and Training order. Young people may also be sentenced to extended determinate or indeterminate sentences under Sections 226 and 288 of Criminal Justice Act 2003. There are three types of secure accommodation in which a

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\(^5\) Scottish Office: Scottish CJS Legal and Administrative Arrangements 19/7/2001
\(^6\) www.nidirect.gov.uk/index/information-and-services/crime-justice-and-the-law
\(^7\) Following the Public Bodies Reform Bill 2010-11, the current UK government started a process of transferring organisational authority of the YJS from the Youth Justice Board (2009a, 2009b) of England and Wales to the Ministry of Justice.
young person can be placed: (1) Secure Training Centres (STCs); purpose-built centres for young offenders up to the age of 17 and run by private operators under contracts, which set out detailed operational requirements. (2) Secure children's homes; generally used to accommodate young offenders aged 12 to 14, girls up to the age of 16, and 15 to 16-year-old boys who are assessed as vulnerable. They are run by local authority children services, overseen by the Department of Health and the Department for Education. (3) Young Offender Institutions (YOIs); facilities run by both the Prison Service and the private sector and can accommodate 15 to 21-year-olds. They will only hold females of 17 years and above.

The main reform of the YJS took place after a 1996 Audit Commission report, which severely criticised it as ineffective and expensive (Audit Commission 1996). The result was the introduction of the ‘Crime and Disorder Act 1998’ (CDA), which according to many writers, is the first enabling legislation for restorative justice in England and Wales (e.g., see Liebmann and Masters 2001). With its principal aim being “the prevention of offending by young people”, the Act introduced three central innovative features into the youth justice system, which are said to have changed it fundamentally, bringing it one step closer to restorative justice values.

The first feature was a new governmental body: the ‘Youth Justice Board for England and Wales’ (YJB), an executive non-departmental public body that oversees the youth justice system as it aims to prevent offending and reoffending by children and young people under the age of 18. The second innovative element was the creation of ‘Youth Offending Teams’ (YOTs). These are multi-agency panels formed by local authorities to provide reports for courts, supervise young offenders sentenced by the court, and to undertake preventative work. Their staff includes; police officers, social workers, probation officers, education and health workers and youth service officers. Third, the Act introduced a range of new orders and amended existing ones.

The major impact in relation to restorative justice was the introduction of formal Reprimands and Final Warnings, which are the response to the first offences committed by young people and are intended as a diversion from prosecution. These are designed to be delivered in a restorative manner and call for the victim's views and involvement to be sought. The Final Warning is referred to and delivered by the multi-agency YOT and is the largest restorative response, albeit at an early stage of offending.
One specific measure was the ‘Reparation Order’, which enables courts to order young people to undertake practical reparation activities either directly to victims or the community. This needs to be the outcome of a mutual agreement between the parties.

Section 2.4 made it clear “...it should not be a mechanistic process based upon an eye for eye approach; instead any reparation should be tailored to meet both the needs of the victim, if they wish to be involved and addressing the offending behaviour of the young offender” (Home Office 1998: S2.4). Section 6.1 set down the restorative nature of the outcomes to which such a process should lead. Finally, the guidance notes suggested that victim offender mediation (VOM) could be considered as a part of ‘Reparation Order’, and that YOTs may wish to consider establishing this restorative process (Home Office 1998: S6.1). restorative justice is also visible in other elements of the Act such as ‘Action Plan Orders’, final warnings and reprimands.

A year later, the ‘Youth Justice and Criminal Evidence Act 1999’ (YJCEA) was passed, which introduced the ‘Referral Order’. This is a mandatory sentence for young offenders (10-17) appearing in court for the first time who have committed offences unlikely to result in a custodial sentence. The court determines the length of the Order based on the seriousness of the offence, and can last between three and twelve months. Once the sentence length has been decided, the juvenile is referred to a ‘Youth Offender Panel’ to discuss and finalise the content of the order. These panels are arranged by local YOTs and can include: the offender and their family and friends, the victim and their family, a representative of the local YOT and three members of the community. In theory, the process is a restorative one, including honest and sincere understanding of what happened and the pain inflicted and what needs to occur to put it right. The Government has described the Order as the first introduction of restorative justice into the youth justice system, while the Act itself makes specific reference to VOM as a possible agreed outcome of a panel.

Arguably, Youth Offender Panels should operate on restorative justice principles, enabling young offenders to achieve reintegration into the law-abiding community by taking responsibility and making reparation. Victims must be given the opportunity to participate actively in the resolution of the offence and its consequences, subject to their

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8 The two Acts also introduced Detention and Training Orders, Intensive Supervision and Surveillance Programmes, Bail Supervision and Support programmes, Parenting Orders.
wishes and informed consent. Victims who attend restorative justice processes such as youth offender panels can derive considerable benefit and they generally report high levels of satisfaction with the process. The presence of victims also can substantially enhance the beneficial impact of the panel on both young offenders and parents. The involvement of victims must be entirely voluntary and based on informed consent. Victims may choose to; attend a panel meeting, to have their views represented, to submit a statement, to be kept informed, or not to participate in the referral order process in any way. They need clear information about the options they have and be given time to make up their mind, without pressure.9

The Criminal Justice and Immigration Act 2008 introduced the Youth Rehabilitation Order (YRO); a community sentence for young offenders and combines a number of sentences into one generic sentence. It is the standard community sentence used for the majority of children and young people who offend. It simplifies sentencing for young people, while improving the flexibility of interventions. An Activity requirement, or a Supervision requirement can require reparation to a victim and, if agreed, a meeting or communication with a victim. This is the main measure to enable restorative practices with young people who offend at this level. Restorative justice in a custodial setting can be enabled through supervision requirements, or on a voluntary basis, but there is no specific statutory provision. The YJS and its sentencing philosophy are currently under review.

1.2 Restorative justice in the adult criminal justice system

Until the passing of the Crime and Courts Act 2013, the provision of restorative justice in the adult sector has been mainly on a non-statutory basis. There was some provision for restorative and reparative activities within a Community Sentence, as part of an Action Plan Order, or Suspended Sentence (see The Criminal Justice Act 2003, Sections 189 & 201). However, restorative justice at a post sentence stage has been successfully used by various agencies and practitioners for many years, generally without serious challenge. Other than the conditional cautioning carried out by some police services there is no provision for pre-sentence restorative justice.

Restorative justice was largely implemented in the shadow of the law and through voluntary action. This was also achieved through ad hoc practice by criminal justice agencies (see Table 2) and community organisations. Mediation is the primary restorative justice practice for adult cases. Five distinctions can be made, none of which are mutually exclusive. The first is between programmes that are primarily oriented towards the needs of the offender, and those that also take account of the needs of the victim. The second distinction is made between projects where victims meet their offenders and projects where groups of victims take part in discussions with unrelated offenders. Although this type of mediation does not preclude bringing the individuals together to consider how offenders can make amends, their main goal is to help both victims and offenders to challenge each other’s prejudices. The third distinction concerns mediation programmes that may include face-to-face meeting of the victim with the offender and those that have mediators act only as go-betweens. The fourth category depends on the cases that the mediation programmes accept. For instance, a project may take cases below or above a certain level of seriousness, or only juvenile cases. Lastly, there are full Victim-Offender Mediation programmes that are designed to meet the needs of both parties, and their community, according to the permission and

<table>
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<tr>
<th>KEY CJ AGENCY</th>
<th>DESCRIPTION</th>
<th>RESPONSIBLE BODY</th>
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<tbody>
<tr>
<td>Police</td>
<td>43 regional police forces</td>
<td>Led by the Home Office, Chief Constables and PCC’s</td>
</tr>
<tr>
<td>Crown Prosecution Service</td>
<td>42 areas</td>
<td>Headed by the Director of Public Prosecutions; the Attorney General is answerable to Parliament</td>
</tr>
<tr>
<td>Courts</td>
<td>Magistrates, Crown courts</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>Probation Service</td>
<td>55 areas</td>
<td>National Offender Management Service under Ministry of Justice</td>
</tr>
</tbody>
</table>

**Table 2: The key criminal justice agencies in England and Wales**
agreement of both parties, and to carry out any outcome agreement that might be forthcoming. These processes are usually carried out by paid professional staff or by trained volunteers. Other practices include conferencing and neighbourhood resolution panels (or neighbourhood justice panels).

It is our prediction that the amendment to the Crime and Courts Act 2013 will have a significant impact on the use of restorative justice, especially concerning adult offenders. The increase use of restorative justice as a diversion (at the judges discretion) will see the judiciary taking an active part in enforcing restorative justice, it therefore signifies a logistical shift from community to state in its implementation and the process being used as a pre-sentence solution as seen in the case of South Africa.

2. Restorative Justice in South Africa

Like in most developing countries, providing access to justice to all South African citizens remains a major challenge. This is one of the main responsibilities and strategic goals of the Department for Justice and Constitutional Development (DoJCD). For South Africa the re-introduction of reconciliatory and restorative practices came after an awakening following the Truth and Reconciliation Commission (TRC). Despite national and international criticism, it showed the country the alternative option to the administration of justice and the re-framing of citizens’ relationship with the state. Justice processes within liberal democracies, such as the UK and SA, view crime as a challenge to the rule of law, which then dictates processes including punishment. As Allan states (2003: 63) ‘...in the context of liberal democracy, where personal freedom is acknowledged as a fundamental value, and every necessary limitation of freedom must be suitably justified, departures from the rule of law are properly occasions of moral censure’. This acknowledgement of individual freedom that is codified also signifies the approach to the handling of crimes by the state and not by communities or individuals, resulting in a disconnection between citizens and the process of justice.

Following the collapse of Apartheid (1948-1994) the previous rule of law was challenged on grounds of universality and equality, in what the Justice and Constitutional Development of the Republic of SA called the ‘democratic era’. The TRC signified a more reconciliatory and participatory process. It is thought that such
practice involved the resurfacing and symbolic acknowledgement of previous African indigenous justice systems, a marriage of the rule of law and Ubuntu.

Ubuntu (a Zulu word) is a lifestyle or unifying world-view (or philosophy) of African societies based on respect and understanding between individuals. Ubuntu has been translated as humanness (Anderson: 2003). It envelops values of group solidarity, compassion, respect, human dignity, conformity to basic norms and collective unity. Ubuntu and restorative justice underscore the importance of consensus, agreement and reconciliation. This is in direct contrast with retributive justice. As Schoeman (2013: 292) describes: ‘it [Ubuntu] therefore adds a new dimension to the debate on justice as an integrated part of being a person and, in this context, guides us to question what effect this has on administration of justice’. Reform of practices essentially acts as a separation from the past and signifier of the future.

This should explain some of the organic similarities between restorative justice and justice as practised by African people through community and customary courts and its expression through forums in urban areas (e.g. street committees and community courts). By using restorative and reconciliatory practices the process would shame the deed and not the person - aspiring to identify the underlying causes of conflict retaining the character of human-ness. As Braithwaite (1989) communicates in his theory of reintegrative shaming, disintegrative shaming emphasises the evil of the actor, while reintegrative shaming acknowledges the act as the evil thing, done by a person who is not inherently evil. The TRC in SA focused on identifying crimes for political motivations and purposes in accordance with the UN ‘gross crimes against humanity’. In this process the act and reasons for this were shamed, the state paid compensation for harm done, the perpetrator heard the victim describe how they and their relatives and community had been violated and the perpetrator was granted amnesty. Although there were many opportunities for therapeutic catharsis for these traumas, the main focus was to establish a process of national transitional justice to move the nation into a new political regime.

An opportunity for acts to be shamed within restorative justice processes also acknowledges the wrongdoing by the state and failure of its citizens for these acts to occur. This allows recognition for the state to be part of the justice processes but not fully encompassing. Therefore it can be transformative for people and societies, in their connection with state and relationship with their communities. In an address by
President Nelson Mandela to the Interfaith Commissioning Service for the TRC (1996): “But the whole South African nation has been a victim, and it is that context that we should address the restoration of dignity and issue of reparation. The healing process is meant for the individual, the family and the community. However, above all the healing process involves the nation, because it is the nation itself that needs to redeem and reconstruct itself”.

The institutional design for the TRC began to take shape in 1993 and was outlined in a parliamentary act passed in 1995, shortly after South Africa’s transition (Promotion of National Unity and Reconciliation Act No. 34. South Africa July 26, 1995). Further endorsement came in the policy documents of government came in early in the Welfare White Paper (1996), the National Crime Prevention Strategy (NCPS) (1996) and further more in reports issued by the South African Law Reform Commission. This development in processes, clearly displayed the state’s role in capacity-building for justice in an attempt to integrate the restorative justice principles initiated in the TRC within retributive justice institutional law. This created a national endorsement that justice was to be well connected in its relationship with its citizens.

As documented by Pelser and Rauch (2001) the South African government’s approach to criminal justice is contained in the overarching NCPS, which to some extent, still guides activities in the criminal justice sector and that signified a shift in emphasis from crime control to crime prevention and towards understanding crime as a social issue rather than solely a security one. The South African Law Commission (2000: 21) in response to the 1997 Child Justice Bill reforms stated that ‘there is a growing expectation that the sentence must be restorative, in the sense both of compensating the individual who suffered as result of a crime and of repairing the social fabric that criminal conduct damages’.

An increased number of crimes has led to calls for heavier sentences. With the development of mandatory and minimum sentencing in both countries there has been a growing cause and effect relationship with increasing prison populations (Sloth-Nielsen and Ehlers: 2005). As of March 2010 nineteen of South Africa’s penal institutions were above 200% capacity (Prison Inspectorate). Cilliers and Smit (2007) for example, conclude that although statistical analysis of the recidivism rate in South Africa could not be found, a study on prison health care during 2002 estimated that the reoffending rate after release could be as high as 94%.
In what Martinson's (1974) article calls the ‘nothing works’ debate, this has produced the demise of the rehabilitative approach and the renaissance of the ‘just deserts’ movement. This was supported in Pelser and Rauch (2001) in their overview of the SA criminal justice system that had been defined by populism and strongly supports a tougher law enforcement approach. So much so, that in South Africa calls for the reinstatement of capital punishment has had to be quashed, suggesting that the dream of offenders mending their ways remains alive despite having been attacked repeatedly (Skelton and Batley: 2008).

The SA legislature has twice defined restorative justice: the first time was in the Probation Services Act no 116 and 1991 (as amended by Act 35 of 2002), where it was defined as follows: “The promotion of reconciliation, restitution, and responsibility through the involvement of a child, and the child’s parents, family members, victims and the communities concerned.” The second time was in the Child Justice Bill (B 49B 2002), which was passed by the National Assembly on 25 June 2008. The definition of restorative justice in this Bill is: “An approach to justice that aims to involve the child offender, the victim, the families concerned and community members to collectively identify and address harms, needs and obligations through accepting responsibility, making restitution, taking measures to prevent a recurrence of the incident and promoting reconciliation”.

However, one of the most thorough and clear governmental statements on restorative justice is the 2010 “Restorative Justice National Policy Framework” published by the Department of Justice and Constitututional Development (DoJ &CD). Therein, the DoJ & CD noted: “The need for this framework arises from the fact that government is looking at dealing with crime in a more focused and coordinated manner; there is a need to increase community participation in the criminal justice system” (DoJCD, 2010: 3). The Framework is intended to be used in conjunction with the 2009 “Restorative Justice Foundation Document”11. Both documents outline the values as well as the definitions that an restorative justice provider should use within the South African context. They also put an emphasis on the promotion of community based alternative dispute resolution mechanisms as well as the capacity building of civil

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10 This was later amended in November 2012.
11 Downloaded December 2013
Complimentary to the aforementioned document is the Services Charter for Victims of Crime. Published in 2004, the Charter enshrines a number of victims’ rights including being treated fairly and with dignity as well as the right to restitution and compensation (DoJCD, 2004).

Restorative justice is principally applied for juvenile cases although through its application by NGOs it has now attracted greater interest in the area of adult offending. It has to be pointed out that South Africa does not follow a principle of compulsory prosecution. If there is a prima facie case and there are no other compelling reasons not to prosecute, then the National Prosecuting Authority (NPA) has a duty to institute a criminal action. What is also worth noting is that, South Africa adopts a discretionary system where by a number of possibilities for diversion are available at a pre-trial stage. Another key feature of the prosecutorial system in South Africa is NPA’s notion of prosecutors “being lawyers for the people”. In practice, this means that the prosecutor is expected to become an active participant in decisions on whether cases should be referred at the pre-trial stage. Restorative justice can also be applied where the offender has pleaded guilty and the prosecutor is in a position to decide that the matter will not be withdrawn. What is important here is that the prosecutor has a responsibility to consult with the victim. If the victim wishes to enter into restorative justice then a meeting is arranged prior to the formal plea and sentence agreement.
• Department of Correctional Services (DCS) has the responsibility to provide processes and programmes in correctional facilities and for people under community correctional supervision post sentence level.

• Department of Justice and Constitutional Development (DOJ &CD) has the responsibility to coordinate the implementation of Restorative Justice within the JCPFS and to promote the use of RJ to presiding officers.

• Department of Social Development (DSD) has the responsibility to ensure provision of processes and programmes at a pre-trial and pre-sentencing level.

• South African Safety and Security (SAPS) has the responsibility to oversee conflict resolution that is undertaken by the Community Policing Forums.

• National Prosecution Authority has the responsibility to develop guidelines and directives for diversion of cases to Restorative Justice processes and programmes to promote the application of cases to Restorative Justice in the sentencing proceedings where appropriate.

• Department of Basic Education has the responsibility to educate children in dispute resolution skills.

**Table 3: Restorative justice responsibilities of South African government departments**
Levers and barriers for restorative justice

Our comparative analysis of restorative justice ’s development in South Africa and the UK has resulted in the identification of the following levers and enablers for the delivery of restorative programmes. Our research also pointed out that the same enablers can also act as barriers for any restorative justice service provider including the investigated case studies of Khulisa UK and Khulisa SA.

1. Diversion

A fundamental question for any restorative justice provider is who has the power to divert a case from its traditional route of prosecution, sentencing and imprisonment. More importantly, what are the levers that will enable an restorative justice service provider to divert the case to their practice? Resistance to divert or lack of knowledge of the potential for diversion are some of the barriers.

The overall aim of innovative approaches to justice that involve the community as well as the victim aim to offer a different experience of the internalisation and socialisation of justice. It is not just a question of justice being done or indeed being seen to be done, it is a question of all participants feeling that justice has been done. Evidence for this conclusion and the resultant preventative work done in reducing shame, fear and guilt can be seen in the reporting of entry and exit community scans in the South African Khulisa report on the Justice and Restoration Programme (JARP, 2012). Across 6 communities, over 70% of people from the perpetrator and his/her family and social system said they would want to participate in meeting a victim and 70% of victims wanted to meet their offenders with a third party (p.27). This contrasts with only 16% of respondents at the entry scan before the interventions knowing anything about such approaches (p.26). Further 45% of offenders before diversion initiatives felt justice had been done through court processes, contrasting with 72% after the interventions. These figures echo the satisfaction to both offender and victim of restorative justice processes as researched in the UK by Shapland (2004-2008).

If we consider, as this publication does, that restorative justice and other forms of diversion from retributive and court based justice involve examining the role the
different systems involved in the CJS as a whole, both similar and different pictures appear in the two countries.

Where the UK probation service and Juvenile social services staff are available to courts for referral for social case reports and interventions, the SA Office of Family Advocate and social workers are available for similar functions. However in SA the restorative justice national policy framework foundation document advocates the extension of the Civil and Regional Jurisdiction Bill, read together with the 2005 Children’s Act to promote the use of restorative justice “to achieve desirable outcomes in the best interest of the child.” (p.8). It also promotes the use of dispute resolution as part of a pre-trial exercise using mediation. (p.8-9) In the UK use of mediation processes is a voluntary activity that is managed by the protagonists with the assistance in some cases of recently established collaborative lawyers who are then barred from then representing them in court hearings and so from using information gathered from mediation in litigious court battles.

In the UK restorative justice services are offered alongside court disposals rather than as an alternative to them. The exceptions to this rule are the increasing use of community resolutions used by police, the court diversion schemes set out in the youth justice system and the mental health court diversion schemes.

Court diversion schemes with young offenders in SA typically can include: school prevention schemes, confidence building programmes, but may also involve receiving a police caution, writing a letter of apology participating in an alternative dispute resolution forum or being under supervision (Wood 2003, p.1). The National Institute for Crime Prevention and the Reintegration of Offenders (NIRCO) first used these diversion initiatives in Western Cape and KwaZulu-Natal in the 1990s. These programmes included the “Youth Empowerment Scheme (YES), and Pre-Trial Community Service (PICS) that later expanded with Family Group Conferences (FGC), Victim-Offender Mediation (VOM) and the Journey wilderness/adventure therapy experience and mentoring programme.” (p.2) These initiatives were enshrined in the 2003 Child Justice Bill that recognised the UN Convention on the Rights of the Child. This created 3 levels of offence each with different levels of intervention, and spelling out the roles and responsibilities of the Probation Officer, Prosecutor and Magistrate. Prior programmes of child advocacy and rehabilitation had resulted in a take up of
children diverted to NIRCO programmes from just over 5,000 in 1997/8 to just fewer than 15,000 in 2001/2.

These initiatives in the field of Child Justice from previous decades form the basis of subsequent development of wide ranging services including those of restorative justice services described in the JARP evaluation report. They also provide the basis for applying such approaches to the adult population not least where children need to be protected from violent disputes between parents.

When looking more closely at the impressive numbers of diverted cases that have been dealt with by Khulisa SA (e.g. 3930 in two years), we notice that in their vast majority they were prosecutorial referrals at the pre-court stage. In fact 89.35% of all 3930 cases (March 2010 – April 2012) across all sites were due to a referral by the local prosecuting authority. Unlike what some may expect, this diversion was not attributed to a statute or a top down authority. According to Hargovan (2012), the key reasons were:

1. The important role that prosecutors play in the administration of justice in SA
2. The considerable discretion that the NPA is given in determining which cases are suitable for a particular restorative justice process
3. The level of innovation and creativity on behalf of the prosecutors
4. The existence of strong community based and multi-agency partnerships at both strategic and local levels
5. High levels of awareness of the availability of restorative justice and Khulisa as an restorative justice local provider
6. High levels of caseloads (e.g. 300 cases allocated to one prosecutor).

Using a small-scale qualitative study that she carried out with in-depth interviews with 18 prosecutors, Hargovan helps us to also understand the reasons that would lead a prosecutor to divert. These are:

- Willing parties to meet and to resolve the case outside of the formal criminal justice process
- High probability of resolving the case
- Where victims are no longer interested in pursuing the matter
- Less serious offences.
In South Africa there are increasing signs of the use of diversion schemes being enshrined, not just in law, but in the practice of prosecutors in a way that is absent as a development in the UK. In a report on the influence of the JARP interventions along with others, Hargovan (2012) demonstrates that increasingly prosecutors are being weaned away from the “trail ‘em, nail ‘em, jail ‘em” mentality towards re-defining their role advocated by the NPA of becoming “lawyers for the people”. (p.3) From March 2010 to April 2012 prosecutors contributed 89% of referrals to Khulisa restorative justice services. In 2012, of 18 prosecutors approached close to sites where JARP had been functioning, only 8 had received training in restorative justice, but 17 were familiar with its principles. They were also not beyond making use of mediation themselves to resolve disputes without the need for court hearings or criminal records for the offender.

In the UK restorative justice alongside other alternative court diversion approaches is potentially growing. Government support for reducing burdens on the court and penal systems is driven by value for money perhaps even more than by the desire for justice to be felt to have been done, even though the latter conclusion has been well researched.

In comparing the statistics from both countries comparison of crime conviction rates is also relevant in reviewing what each nation might gather from the other. In England and Wales conviction rates for murder are 56% compared with 11% in SA; for rape, 10% compared with 7% for SA and robbery 1% compared with 3% for SA. This suggests very different contexts and pressures to resolve different seriousness of different crimes and the importance of contextualising the value of life, property and safety in two countries with very different standards of living. (SALC 1995-1996 criminal case outcome research report p.22).

Looking at the UK, up to date there is no formal split between the provision of court-ordered restorative justice processes and those provided “informally.” Moreover, there is no systemic separation between statutory providers of restorative justice and community based, or “informal” providers. However, the fact that a restorative process was not specifically ordered as part of a legal code did not mean that it did not further the aims of the CJS. In fact, it could be considered that this unlegislated use of restorative justice is a continuance of the common law system. Therefore, a number of commentators have warned that we should be careful in how we use the word
“informal” in relation to restorative justice and the UK justice systems. Indeed, who does own, or order, a mediation or restorative process between, for example, a victim and an offender? Is this another state initiated justice process, or is one of the fundamental concepts of restorative justice that the process belongs to the parties involved rather than the state? It can be argued that in this respect the common law system can allow the restorative process to take place, so long as it does not interfere with the formal prosecution and court process.

A noticeable difference between the UK and SA is the role and indeed the willingness of the Crown Prosecution Service (CPS) to divert a case at the pre-court stage. Wright (2012) and our small-scale qualitative study seem to agree that if Khulisa UK is to increase its service provision, then closer and more strategic relationships with the CPS must be developed. This could start in the areas that it is already providing a service and slowly expand at national levels. Informal discussions with CPS London indicate that they would be open to the idea of partnering with local restorative justice service providers especially through their Community Involvement Panels12.

There is an opportune time to develop relationships with statutory criminal justice agencies more widely. Currently, there is a general political and budgetary desire to find alternatives to prosecution for less serious cases and for those who have no previous offending history. This is a diversionary use of restorative justice, which can often be formal in its structure (e.g. restorative conferencing). It can be used by police, such as the use of restorative reprimands for young offenders, or conditional cautions for adult offenders. It could be a case involving a child or young person at a school or care home, which might be resolved by the relevant professional authorities using a restorative process. Gavrielides (2008) reports on UK based examples where restorative justice is used for hate crimes while Gavrielides (2011) compares the use of restorative justice in the UK and elsewhere for riots and group youth violence including gang crime. restorative justice is also used post-sentence, by the probation or prison services, or by independent mediation groups or restorative practitioners.

In the UK it may be difficult to establish what a formal or an informal referral is. This is partially the result of a belief that restorative justice especially the formative

12 More details on the panel can be gained from http://www.cps.gov.uk/london/communityProsecutors/london_scrutiny_and_involvement_panel_members/ (accessed January 2014)
thinking underlying it, is not a process to be submitted to; rather a radical new approach to reclaim justice for those involved in the conflict and their community.

It should not be assumed that the implementation of restorative justice by the South African criminal justice agents is easier. According to a study on prosecutorial engagement with restorative approaches at the pre-trial phase the criminal justice system faces many challenges because of its relative inexperience in actually adopting restorative justice approaches and providing restorative justice services, particularly in the context of adult criminal justice (Hargovan: 2010). The development, application, and implementation of restorative justice have been haphazard, inconsistent, lacking consensus, and characterised not only by uncertain engagement by CJS role-players, but also by the hesitant support of victims and community members (Hargovan: 2010). Despite these initiatives, Skelton and Batley (2008) found that since the SALRC published its findings in 2000, there has been no move to implement any of its recommendations. Similarly, in SA further examples have included: victim-offender mediation in the Magistrates Court, Greyton (KwaZulu-Natal), The National Institute for Crime Prevention and Reintegration of Offenders (NICRO), Khulsia Project and Stepping Stones One Stop Youth Justice Centre, Port Elizabeth. It is step-by-step and case-by-case that restorative justice service provision establishers itself whether at a local or national level. Some, in fact, have argued that restorative justice is not a notion that is destined to be rolled out like any other criminal justice policy due to its strong community based and local nature. In order to be strategic with how much and what sort of resource is invested in developing relationships with the prosecuting authorities and other agencies, any restorative justice service provider must have a clear idea of the sort of cases that have more potential of being diverted. Looking at the South African example, the most common types of crimes that were referred to Khulisa SA were for; assault, theft, malicious damage to property, shoplifting, criminal injuries and vandalism. In terms of geography, where there were higher rates of violence, petty crimes and substance abuse (e.g. in Wentworth), there were also higher numbers of referrals. “The most common types of crimes referred for restorative justice were for “assault, theft, malicious damage to property, property, crimen injuria and vandalism” (p. 16). Common assault made up nearly 60% of referrals. Such referrals were indicated when there were

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13 See for instance http://www.rj4all.info/content/mcdonaldisationRJ (accessed January 2014).
“willing candidates, less serious offences, domestic violence where the victim wanted to drop the case and where relations between parties were involved. (p.24 JARP Evaluation).

After looking at those cases suitable for restorative justice in SA, we now analyse crimes that were given community sentences in the UK in an attempt to highlight cases where restorative justice could be used. In looking at overall sentencing statistics produced by ‘Open Justice’ a website managed by the Ministry of Justice. The below figures are based on experimental statistics released in May 2013 by the MOJ regarding the year 2012. Of drug offences, fraud and forgery, indictable motoring offences, other indictable offences, robbery, sexual offences, summary offences excluding motoring, theft and handling stolen goods and violence against the person. The top three with the highest percentage of all sentences receiving a community sentence were:

1. Theft and handling stolen goods (31.7%)
2. Robbery (31%)
3. Violence against the person (29.6%)

As the above displays, there are similarities with those crimes deemed suitable for community sentences in the UK and where restorative justice was used in SA. This is accepted in the understanding that community sentences are most restorative justice suitable in that they are low-risk and it is deemed to be unsuitable for offender and the larger community to enforce incarceration. Furthermore, in a report produced by Nicro (2011) (SA based service providing service to adults and children in conflict with the law) researched pre-trial diversion within the SA justice system by sampling 2,600 out of an overall 22,420 cases handled. It can be seen that the majority of 37% of the 2,600 clients had been arrested for ‘contact crimes’; crimes that have a direct victim who suffers physical harm. These are described in the report as crimes of a more serious nature involving a level of violence. Assault, GBH and common assault prove to be the highest prevalence, with a total of 727 individuals being arrested for assault in general. Following, a further 31% of clients were arrested for economic crimes, 409 clients were arrested for theft while 371 had been arrested for shoplifting.

Moreover, as the following Tables show below, of all sentences received community sentences were 12.1% of the total. In reference to the further crimes and their appropriateness to community sentences, we can see in Table 4 that at 31.6% of all sentences received community sentences are the second most used. This is
replicated in both sexual offences (including rape) and violence against the person. We can therefore see a link between the already established set of crimes popular for diversion in SA and the potential crimes for diversion, sentenced as community sentences in the UK. It is thus deemed that punishment in these types of crimes needs to address elements of rehabilitation, not just for offenders themselves but also for their victims and communities.

Total sentenced: 1,229,827
Total convictions: 1,231,586

<table>
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<th>Count</th>
</tr>
</thead>
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</tr>
<tr>
<td>Community sentence</td>
<td>149328</td>
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<tr>
<td>Conditional discharge</td>
<td>79911</td>
</tr>
<tr>
<td>Fine</td>
<td>823298</td>
</tr>
<tr>
<td>Suspended sentence</td>
<td>44644</td>
</tr>
<tr>
<td>Immediate custody</td>
<td>98047</td>
</tr>
<tr>
<td>Otherwise dealt with</td>
<td>27070</td>
</tr>
</tbody>
</table>

**Table 3: Showing all offences sentenced in 2012 (UK)**
Table 4: Showing sentences received for Burglary in 2012 (UK)

Total sentenced: 22,083
Total convictions: 22,427

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<td>Community sentence</td>
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<tr>
<td>Conditional discharge</td>
<td>341</td>
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<tr>
<td>Fine</td>
<td>270</td>
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<tr>
<td>Suspended sentence</td>
<td>2600</td>
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<tr>
<td>Immediate custody</td>
<td>11422</td>
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<tr>
<td>Otherwise dealt with</td>
<td>465</td>
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</table>

Table 5: Showing sentences received for Sexual offences including rape in 2012 (UK)

Total sentenced: 5,756
Total convictions: 5,769

![Pie chart showing sentence types for Sexual offences including rape in 2012 (UK)]
<table>
<thead>
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<th>Sentence Type</th>
<th>Count</th>
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<tr>
<td>Community sentence</td>
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<tr>
<td>Conditional discharge</td>
<td>92</td>
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<tr>
<td>Fine</td>
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<tr>
<td>Suspended sentence</td>
<td>488</td>
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<tr>
<td>Immediate custody</td>
<td>3423</td>
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<tr>
<td>Otherwise dealt with</td>
<td>130</td>
</tr>
</tbody>
</table>

Table 6: Showing sentences received for violence against the person in 2012 (UK)

Total sentenced: 36,433
Total convictions: 36,757
One of the key issues from this research is the range of views about whether restorative justice is suitable for cases involving domestic violence. The JARP report suggests that despite some research suggesting negative results, and that these cases took up more time in both preparation and in mediation processes, domestic violence can respond to restorative justice interventions, even if the recidivist rate is higher than for other offences.

In examining and evaluating the effectiveness of the JARP intervention, prosecutors were thought to be motivated by reduction in pressures on court time. However, prosecutors also articulated the need to recognise the potential in restorative justice for reconciliation and restoration coming from family disputes best handled outside court. In one area, Phoenix, the court roll dropped from 5567 to 2748 between 2006-7. In another, the plan to deal with court demands by appointing a third magistrate was shelved in view of alternatives to court hearings.

In a nutshell, in SA, although the growing use of referrals for restorative justice and mediated approaches by prosecutors is at an early stage, there are distinct signs
that the involvement and initiatives by the court prosecutors on behalf of the court system both relieve the courts and prisons of growing burdens while also involving members of the community in rehabilitative and preventative measures through justice being ‘felt to be done’ by victims and offenders. The reports seem to conclude that although there is the risk that involving established parts of the CJS and policing in restorative justice may water down their effectiveness in being motivated by the desire to reduce work load, nevertheless state bodies’ support for restorative justice services are crucial for their future development.

Special reference needs to be made to domestic violence cases. There is general consensus among feminists and victim advocates that restorative justice is not appropriate for these cases particularly when it comes to intimate partner violence (Stubbs 1997 and 2002; Acorn 2004; Hopkins and Koss 2005). Consequently, this area of practice remains under-researched and in the shadow of the law (Hopkins et al 2004; Gitana and Daly 2011). Nevertheless, this did not hinder passionate practitioners from piloting conferences, mediation and other restorative justice programmes, most of the times without any government support (e.g., Hudson 1998 and 2002; Julich 2010; Julich et al 2010). In fact according to the 2012 evaluation report for Khulisa SA, domestic violence cases represent a high proportion of their cases. These however were not initially diverted as domestic violence incidents but as aggravated assaults or GBH. The report noted: “Many of these cases are referred as common assault but upon deeper inquiry during the restorative justice process, reveals as domestic violence cases. While these cases involved violence and in some instances causing grievous bodily harm they were still referred” (Khulisa 2012: 9). It is worth noting that in South Africa the prosecutorial guidelines specifically exclude domestic violence cases for restorative justice processes. Progress however was made in 2012 when policy directives were added to the Prosecution Policy of the South African National Prosecuting Authority (1999) Part 7. This now allows diversion under the authority of the Director of Public Prosecutions.

This is a clear example where a top down approach not only did not facilitate diversion but also discouraged it (at least on paper). What really helped, and indeed, led to increased number of referrals compared to other types of crimes was the drive of the parties and the given prosecuting authority to bring resolution. Gavrielides and Artinopoulou’s (2012) comparative research on domestic violence in the UK and Greece
also agrees with this conclusion. Although Greece has introduced legislation allowing the diversion of domestic violence cases to mediation, the number of actual referrals was shockingly lower than the referrals that took place in the UK where no legislation or prosecutorial guidance on the matter existed.

From the above one must conclude that the areas of domestic violence, restorative justice service providers must look at gender violence and family abuse more closely. Increased understanding of the potential of restorative justice for these cases as well as the establishment of an evidence based approach will further help restorative justice service provision in this grey area. At this critical point in time any restorative justice service provider with a strategic step to invest in domestic violence referrals will be positioning himself or herself strongly in a difficult and competitive market. The caseload in this area continues to increase and the CPS has acknowledged that it needs to look elsewhere for solutions. The British Crime Survey 2010 reported that over 1 million women experience at least one incidence of domestic violence while on average two women are killed each week by their partner or ex-partner. 76% of all DV incidents are repeated causing serious concerns of recidivism, effectiveness and costs.

Advocates and opponents of restorative justice have called for further research in this grey area of limited practice (Yantzi 1998; Stubbs 2002; Penell and Francis 2005; Gavrielides and Coker 2005). There are not too many evaluated practices that can be investigated but some examples do exist and have been identified by the literature. For instance, in South Africa, a large victim-offender conferencing project with female victims of domestic violence occurring in three districts near Johannesburg reported positive outcomes. Twenty-one women who had agreed to take part in a small scale study reported that they felt that mediation had provided a safe space where their personal safety was not threatened, and where they could tell their stories, speak their minds and be heard, often for the first time (Dissel and Ngubeni 2003). According to this research, the restorative justice dialogue and the intervention of the mediator helped female victims feel safe again, and able to speak on an equal basis to their partners. Follow-ups to assess whether there had been any changes in the victims’ views and the offenders’ behaviour showed that in all twenty-one cases, the female victims remained positive while reporting changes in the behaviour and conduct towards them with no further assaults or verbal abuse (Dissel and Ngubeni 2003).
In the UK, further research must be conducted alongside evaluations of real case studies. Khulisa UK and any restorative justice service provider who adopts such approach will be placing themselves ahead of many others. A new project funded by the European Commission is expected to shed further light in what constitutes good practice in this area. Titled, “Restorative justice in cases of domestic violence: Best practice examples between increasing mutual understanding and awareness of specific protection needs”. The project is due to start in February 2014 and will be carried out as part of a consortium of 7 European Organisations under the lead of the Verwey-Jonker Institute (Netherlands). The project aims to break the cycle of victimization for victims of Domestic Violence. It will aim to develop an understanding of how restorative justice can be implemented in cases of domestic violence in the best interest of the victims14.

2. Legislating restorative justice

Looking at the issue of legislation and policy reform more closely, this report argues that no restorative justice service provider should assume that diversion, implementation and funding go hand in hand with top down provision of restorative justice including those that are now on statute in the UK. In fact, many have argued that the very ethos of restorative justice is not to be found in formalised criminal justice structures but in the community where it was born. Christie (1977) reminds us where it all began for contemporary restorative justice when criminologists and sociologists searched for alternative approaches outside of legal structures and which give “conflict back as property” to the parties. Zehr (1980) spoke of changing lenses while Gavrielides and Artinopoulou’s (2013) reconstructed restorative justice philosophy speaks of an alternative paradigm that sits alongside the traditional way of dealing with crime.

Independently of whether one subscribes to the abolitionists, conformists or even realist’s movements of restorative justice, we have to accept the evidence. Legislation for restorative justice in European countries such as Germany, Greece and Ireland did not encourage its implementation. When considering the field of adult justice in the UK and any areas for strategic direction and thinking for restorative justice providers one

must remember that the concept of concessionary implementation applies and will continue to apply independently of the passing of the Crime and Courts Act. The courts always had the power to offer a restorative element in their overall sentence. We also need to remember that the purposes of sentencing will always be defined as: punishment, reduction of crime (including deterrence), rehabilitation, and protection.

Regarding the diversion to restorative justice at the sentence stage, we know that punishment is usually based upon a pre-sentence report written by the probation service. The probation services’ primary role is the rehabilitation of offenders, they are not legally required or directed to consider restorative justice interventions, nor do they consider themselves funded to do so. Given this structure of sentencing it will come as no surprise that there are still very few restorative justice interventions in the adult sector.

A key question in exploring the integration of restorative with retributive justice frameworks involves how competing needs may be addressed in both countries. On the one hand are the demands of justice-prosecutorial approaches, including individual accountability, protecting individual rights and the violation of the rule of law. On the other hand there are the demands of a rehabilitative preventative and victim inclusion dimensions. Proportionality is seen as a central requirement in sentencing (Skelton and Batley 2008). Judges and sentencing officers in both SA and UK have traditionally resisted interference with their sentencing discretion, which they regarded as a fundamental aspect of judicial independence (Sloth-Nielsen and Ehlers: 2005). However, both do have prescriptive mandatory sentences. The seriousness of the offence is further refined in the following terms: “The seriousness of the offence committed is determined by the degree of harmfulness or risked harmfulness of the offence and the degree of culpability of the offender for the offence committed. In place of the current four ‘purposes of sentencing’, (deterrence, prevention, reformation or rehabilitation and retribution) the SALRC proposed that every sentencer should attempt to find an optimal combination of restoring the rights of the victim, the protection of society and a crime-free life for the offender”.
3. Collaboration

Identifying current restorative justice service providers as well as those who we know will be expected to become restorative justice providers due to statutory or other reasons is a key step for any future strategy in the UK. The limited scope of this this report does not allow a detailed list of all the individual key practitioners and service restorative justice providers in the UK, therefore the main agencies are listed below. It is important to note that there are no state-run organisations of practitioners. There is also a mutual understanding that a “restorative movement” exists, across all backgrounds and agencies (Gavrielides, 2008). The situation is complicated by the open market culture and provision, which can lead both to opportunity and creative tensions on one hand – and competition over influence, funding and contracts on the other.

- **Community mediation schemes:** Mediation providers divert cases from prosecution and latterly undertake casework for the CJS agencies e.g. Southwark Mediation Centre, CALM, Maidstone Mediation, Scheme.
- **Police:** Here, restorative justice provision is dependent upon local policy
- **Crown prosecution services / procurators fiscal:** The prosecuting authorities are critical to any matters related to the discontinuance of cases related to restorative justice.
- **Youth offending agencies:** These multi agency teams (YOTs) provide the great majority of restorative input in England and Wales. Some services outsource casework.
- **NGOs and Third Sector:** There is a long and successful tradition of restorative justice provision by third sector agencies but no mapping exercise has ever been attempted.

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15 For instance, see SACRO, which provides restorative justice provision and support for Scottish government. SACRO was responsible for the development of: *Best Practice Guidance for restorative justice Practitioners and their Case Supervisors and Line Managers (Scotland) 2008.* Also see the restorative justice Council (RJC) which provides quality assurance and the national voice for the field of restorative practice. The RJC is the independent third sector membership body for the field of restorative practice. Our members are practitioners, training providers, organisations providing restorative practice across the country, and individual supporters. The Restorative Practice Scotland fulfills a similar role in Scotland. The Association of Panel Members (AOPM): The AOPM is a membership organisation for the 5400 community volunteers supporting Youth Offending Teams (YOTs) in England & Wales in Referral Order panels.
- **Youth Conferencing Service:** This is the Northern Ireland statutory agency for restorative justice conferencing.

- **Courts and Judiciary:** There are separate youth courts who have worked with restorative justice related youth law for the last ten years (UK). Adult courts and sentencers have shown a reluctance to engage with restorative justice involved sentences.

- **Probation Services:** Probation officers write the pre-sentence reports that advise judges as to the most effective sentence. They are also responsible for the supervision of offenders on community sentences, which can include restorative justice input. The Victim Liaison Service has a fine record of victim-initiated restorative justice in serious cases.

- **Prison Services:** A recent mapping study by Gavrielides (2012) identified a number of restorative justice projects that are currently run in the UK and SA. While some are delivered by the prison themselves (and their chaplaincies), others invite local restorative justice service providers to provide ad hoc services to them. Most of these projects are run with surrogate victims and they are based on key paradigms such as the Sycamore Tree project and SORI.

- **Judiciary:** The judiciary of all three countries are independent of government. Any increase in the use of restorative justice will need precise guidance to enable their consideration.

- **Ministry of Justice (MOJ) and Home Office:** The Government ministries involved in the forming policy, the drafting of legislation and regulation of restorative justice matters. The MOJ has recently taken over the role of the former Youth Justice Board, and is responsible for regulation and support of restorative justice provision.

- **Northern Ireland Office Northern Ireland Assembly & Scottish Parliament and Scotland Office:** Much legislative power has been devolved to the Scottish Parliament and the Northern Ireland Assembly respectively. Any restorative justice development in the UK will be carried out under the auspices of each independent CJS.
4. Training and accreditation

Undoubtedly, during implementation, a number of limits unavoidably have to be placed upon the restorative justice norm. These may stem in part from organisational constraints on what can or should be achieved within the existing punitive operational framework of our criminal justice system, and in part from popular understandings of what criminal justice means for the offender, the victim and their communities. There is no reason to believe that the training of restorative justice facilitators falls outside of these organisational constraints. What is important to note, however, is that the evidence may suggest that the problem of training has already been extended far beyond this commonly acceptable level of pragmatism.

The lack of uniformity of training courses seems to have resulted in the appearance of a range of different quality levels of restorative practices. These may differ in the way they are carried out, their effectiveness and outcomes. More importantly, however, they can vary in the level of their ‘restorativeness’. This encourages different tensions in the field. The lack of uniformity also seems to allow some practices to be gradually exposed to ‘foreign agendas’ which are often used to ‘enhance their efficiency’ and improve their target measurement.

Furthermore, there is a lack of widely accepted training standards and procedures. The way the restorative justice concept was originally approached by trainers and practitioners did not show the need for the introduction of comprehensive standards that would have guided implementation. However, it now appears that this oversight has led to a number of implications for restorative justice, among which is inconsistency. Past attempts to address this problem showed that it might have become more complicated than originally thought. One question that this invites is, how and who will bring implementation back in line with the normative principles. The other danger is thinning down the principles to fit current means of delivery. The examples of Thames Valley Police training and the results of studies such as the Youth Justice Board 2004 national evaluation suggest that practice most often precedes training and that during application many facilitators are found to be non-qualified or needing follow-up training. As the evidence suggests, this is usually done in a fashion that serves the immediate needs of the given programme or provider.
We also have evidence to believe that most training courses seem to teach either little about the normative restorative justice principles or nothing at all. Even where such teaching is provided, it is most often inadequate, as trainers are not clear about the theory and its significance (Gavrielides, 2007). In consequence, many trainees are left unaware of the theoretical framework in which they need to place their practices. The danger from this is that as such practitioners facilitate more and more programmes, the character of restorative justice practices will be affected.

Looking at Khulisa SA, according to Lai Thom (2012) one of the most important success factors of JARP is the superior training that practitioners receive prior implementation. This claim is triangulated through the extant literature including the 2012 evaluation report of Khulisa SA and our small-scale fieldwork study. This training is grounded upon universally accepted restorative justice principles while it also takes an ad hoc form that is relevant to the organisation. A nationally accredited body does not provide it, nor does it seek the approval of any university of governmental body. This is a model that could be considered by Khulisa UK and other restorative justice providers in the UK.

However, it must be noted that the current climate in the UK around training and accreditation is difficult. There is a general belief that to achieve consistency and higher quality in restorative practice, that training and accreditation must be controlled from the top and centrally. In its Action Plan, the Ministry of Justice identified one single organisation for creating, enforcing and monitoring standards and quality control restorative justice. In March 2013, this organisation announced on behalf of the government the consultation on what they called “Restorative Service Standards” and Restorative Service Quality Mark Framework. Alongside these documents they also produced the “restorative justice monitoring and data collection templates as a requirement for the quality mark”. In order to qualify for a mark, restorative justice practitioners will need to “complete an online portfolio to show how each to these indicators are met. This will be followed by a formal assessment by a consultant”. In order to enter into the process of assessment, a fee ranging from £3,000 to £1,500 will have to be paid. According to the consultation document, an “expert steering group” drafted the standards and quality mark. How and who selected its members remains

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unknown. What is certain, however, is that victims were not included. What is also certain is that organisations representing and advocating for victims were also excluded from the process.

The government through the Ministry of Justice also funded and encouraged a scheme of registration, which is highly questionable both in terms of its objectives and practicalities. It requires practitioners to pay for their practice to be inspected and registered by the very same body that they are asked to subscribe to, so that they have their voice independently represented in government. What the actual impact of this initiative will be remains to be seen. Hence, a number of restorative justice service providers chose not to engage with it having also seen its political influences. This is an approach that is recommended by restorative justice providers with a strategy to remain independent and faithful to their organisational values. Practice must be involved in formulating qualifications; “It is not good to have people with qualifications but no practical experience while it would be a mistake to exclude those with experience but no formal qualifications”(Gavrielides 2011). Braithwaite (2002, 565) notes: “While it is good that we are now having debates on standards for restorative justice it is a dangerous debate. Accreditation for mediators that raises the spectre of a Western accreditation agency telling an Aboriginal elder that a centuries old restorative practice does not comply with the accreditation standards is a profound worry”.

5. Funding limitations

Funding for restorative justice services has always been a challenge (Gavrielides, 2007). This must now be considered against a background of spending cuts. Moreover, CJS agencies do not generally see restorative justice provision as one of their core priorities. The major funding for restorative justice services has been from existing CJS agency budgets. There have been government pilot schemes and these have created periodic and localized anomalies of funded provision. In some agencies, such as individual Police Services, restorative justice interventions have become policy and hence provision has been implemented. In many agencies, restorative justice has been seen as a beneficial tool for general work, but has received no separate budget, so that restorative justice workers provide their services on a pro bono basis. Some case
workload has been provided by workers on a completely free basis, simply on ethical grounds, on the same basis that legal aid and advice is sometimes provided in poor arrears. There is a concern that there is an impression amongst CJS agencies the restorative justice can always be bought in cheaply, or even free, from voluntary groups. It should also be noted that some practitioners believe that it is a fundamental concept that no person should be denied free and open access to this restorative justice system; accordingly they are prepared to offer free, pro bono, facilitation when they are able.

Generally, it is easily argued that reaching justice ideals is costly both organisationally and economically. In fact, it would be naïve to believe that ideals of any origin (punitive or restorative) can ever come first in organisational routines and professional interests. This seems to be particularly relevant to restorative practices where the time and labour to organise a meeting appear to be greater than the construction and disposal of criminal cases by traditional procedures. In a high-volume jurisdiction that uses conferences as a matter of routine, the implementation of an ideal restorative justice practice sounds unrealistic. Organisational shortcuts are therefore inevitable. Therefore, a certain degree of realism has to be maintained by any restorative justice service provider.

Research has also shown that funders’ priorities are not always consistent with restorative justice ‘s normative principles, as these are understood by its extensive theoretical literature (Gavrielides 2007). For example, the bulk of the interest is mainly in reducing re-offending, while less significance is given to a holistic approach that also increases victims’ satisfaction, healing and meaningful reintegration. Any restorative justice service provider should accept that while a certain level of impact should always be expected from the uneven relationship between restorative justice and traditional punitive traditions of criminal procedure, this cannot alter the practices’ central character. This concern is mainly attributed to the control that funding bodies often want to have over the nature and process of programmes. As funders control resources, many practitioners are given fixed target agendas which they need to satisfy, even if that means adapting their practices. Khulisa UK must pay particular attention to this pitfall as more funds become available under the banner of recidivism and rehabilitation.
Practitioners have also reported that they often received pressure from their funders to deliver within timeframes that were not consistent with restorative justice’s principles (Gavrielides 2007; 2008). In particular, funding bodies appeared to have demanded immediate results, and introduced timescales and performance measurement targets that were difficult to reach.

Research can also be hampered, as funders are most often interested in seeing results that, according to the literature, should have been of secondary importance. Restorative justice service providers tend to deliver restorative justice in such a way that it addresses the funders’ priorities, moving away from its normative framework. There is one note of caution that should be noted in respect to informal referrals, the matter of statistics and accountability. Restorative justice processes generally are difficult to evaluate or monitor because they are usually confidential and generally outside the normal CJS network. This is part of their nature. It also means that they are often not recorded, or that the community agencies that provide them have not developed the capability to record them and their outcomes. In turn this makes it more difficult to prove their value and potentially more difficult to hold the process to account, in the manner which a justice process must be accountable.

Furthermore, some funders reject applications because they are confused about the real strengths, potentials or dangers associated with restorative justice programmes (Gavrielides 2007). For example, applications have been turned down because funders would take restorative justice to be a religious practice or a radical concept that supposedly aims to bring fundamental revolution to the criminal justice system. Funding applications were also rejected because funders were not aware that restorative justice could be used for adult offenders and serious crimes. Restorative justice has, for so long, been applied solely for juveniles and minor crimes, which made people believe that these are its only potentials. Finally, various practices tend to label themselves ‘restorative’ in order to attract funding from bodies that have resources specifically allocated to restorative justice. Many of these schemes succeed in getting this because a number of these funding organisations are not equipped with the necessary tools to identify abuse of the concept.

In going forward in a tough financial climate any restorative justice service provider must be alert not to become funded driven. Adhering to organisational values and the underlying ethos of restorative justice will be key for the survival of existing
practice. This will also mean being honest with our own organisations as restorative justice service providers. As an example we could consider a prison, within which several inmates become involved for a variety of reasons. One inmate is involved in a chaplaincy led project which leads him to wish to apologies and make amends - this project is completed by a church based restorative justice provider. The second prisoner is approached via the victim service of a distant probation area and a mediated meeting with his victim ensues. The prison probation manager does not believe in restorative justice so ignores it. The third prisoner is involved in an restorative justice process through the prison officers and a prison governor is informed and supports the process. Only one of these processes is likely to be recorded by the prison management. At this time it is highly doubtful that statistics are held on a local, regional or national level on the various aspects of restorative justice. Clearly it would be good for all concerned if restorative justice interventions were given the same status as court disposals and thus counted. They have real value and need to be both counted and accountable. The ultimate test is who the restorative justice provider, or their practitioner, believes “owns” the restorative process? Is it theirs? Or the CJS agency that commissioned it? Or do they acknowledge that it belongs with the participants and that the purpose of restorative justice is to give the power of settlement back to them?

6. Victim centred services

The criminal justice system and governments across the world are realising and slowly acknowledging significance of victims in the justice process. Long battles have been fought by the victims and restorative justice movements to move the victim from the margins to a more central position in the criminal justice process. Following the new EC Victims’ Directive\textsuperscript{17}, European governments now have no other option but to become more responsive to victims’ needs and voices.

In particular, the Directive establishes minimum standards and safeguards that must be enforced by all criminal justice service providers to protect victims of crime as well as family members of victims killed by a crime. Restorative justice and the

development of appropriate standards and protocols feature prominently in the Directive’s articles. The directive was designed to ensure that:

- Victims are treated with respect
- Police, prosecutors, judges and criminal justice agents are trained in sensitivity to victim
- Victims are entitled to be kept informed of their case, in a manner that is clear and understandable to them
- Each member state shall have a designated victim support service
- Victims can take part in proceedings and will be helped to attend the trial
- States must identify vulnerable victims, such as victims of sexual assault, disabled victims or children, and must properly protect them
- Victims are protected while police investigate the crime and during court proceedings.

The Victims’ Directive provides a new EU policy framework for the treatment of victims, reflecting the commitment of the union ‘to improve legislation and practical support measures for the protection of victims.’\(^{18}\) The review of the UK’s Victims Code and the investment of £29 million to deliver victim driven restorative justice at PCC level shows that change is coming. This cannot be ignored by anyone aspiring to continue providing restorative justice services in the UK.

And there is one more fundamental reason why restorative justice service providers should look more carefully at how victim centred their services are. Arguably, one of the factors that put restorative justice back onto the criminal justice agenda is the theoretical importance that it gives to victims of crime who, according to the literature, tend to be left out of traditional criminal proceedings (Ashworth 1986; Elias 1993; Group 1984; Hoyle and Young 2002; Kelly 1987). In theory, restorative justice does not give precedence to any of the primary parties, placing emphasis on establishing an honest communication and understanding between them, which will eventually be to the benefit of all. Therefore, restorative justice’s victim-related principles could constitute one of its strongest cards against the already deep-rooted punitive traditions of utilitarian and retributive goals.

\(^{18}\)Directive 2012/29/EU, recital (2).
Over the last two decades a number of evaluations have been carried out focusing on restorative justice’s effectiveness for victims. Practitioner’s fears of letting recidivism targets overshadow the rest of restorative justice’s normative aspirations are recorded by its extensive literature. For instance, the sentencing stage of restorative meetings can often be completed without any substantial victim participation. This leads practices to fall back into the vicious circle of traditional criminal proceedings in which offenders are not aware of the reasons they were convicted for and victims are not heard or taken into account. Some courts have not yet been prepared to adjourn for the victim to be contacted and a proper assessment to be made of the offenders’ suitability. Outcomes might indeed sound to be ‘restorative’, but in the end, procedures can be far from it. Khulisa UK and any restorative justice service provider will need to pay particular attention to how genuinely inclusive they are of victims in the design, monitoring, delivery and evaluation of their practices.

7. Research and evaluation

One of the strongest messages coming out of our review is that the key lever of success for the South African based Khulisa projects was their ability to use hard data to show their effectiveness. Funding bodies and the academic community need to be convinced that interventions such as those based on restorative justice, deliver good results. Evidence based practice is now a pre-requisite for further funding.

However, how research and evaluation are conducted remains a controversial area and a potential barrier that must be carefully considered. Evaluation of restorative justice programmes can often be hampered. Some of the reasons are associated with the role that has been bestowed on restorative justice and the impact of the retributive and utilitarian traditions of justice. Others believe that it has to do with the general confusion that exists in the restorative justice field and beyond, regarding the use and meaning of restorative justice, or the lack of commonly accepted standards and accreditation processes. These findings are reflected in a number of recent evaluation and research studies. “Funding bodies need to be more specific about the nature of the interviews they are funding, or else they risk funding non-restorative activities” (Wilcox and Hoyle 2004, 54).
The truth is that evaluation has traditionally been associated with the question of ‘what works’, and therefore it generally aims to prove or disprove the predefined targets of the given organisation that is funding it (let that be public or private). However, this question is relative and to a great extent misleading, as it can involve virtually anything in the appropriate conditions. That is why many researchers like Marshall and Merry have insisted that “the approach should change from ‘what works’ to ‘what exactly happened’ (in certain specific instances)” (Marshall and Merry 1990, 20)

In order to build a stronger evidence base for its programmes, Khulisa and any other restorative justice service provider must focus on collecting information relevant to all the identifiable aims, which different parties may have. Its evaluators need to include all its targeted audiences: victims, offenders and communities. Most often evaluators are supplied with predefined tasks that are set out to prove or disprove, having to move within the retributivist and utilitarian understanding of the given funding bodies. These tasks usually involve the reduction of re-offending, saving police time, the reduction of costs and prison population. This narrows the scope of the evaluation and its chances of reflecting practical reality.

Evaluation needs to embrace a range of other factors apart from programmes’ outcomes, including:

- **Participant satisfaction**: In victim-offender mediation, this should refer to both victims and offenders. In family-group conferences, circles and boards, this could also extend to secondary and tertiary participants. Satisfaction, on the other hand, should be measured not only in terms of the process in the narrow sense, but also in terms of the whole restorative experience (e.g. overall satisfaction with the facilitator, the preparation, the venue, timing, procedural features strictu sensu, etc). It could also include questions such as recommending the process to others or choosing to participate again.

- **Outcomes**: These need not only be the ability of the programme to reduce re-offending and save police time or financial resources, but could include the effects on victims and offenders and their families. For example, reduced anger and fear, improved quality of life, benefits to the community.
o ‘Restorativeness’ of the process: Undoubtedly, this factor will constitute one of the greatest challenges for future evaluation particularly since its measurement will require a certain level of agreement around the essential restorative values. These could include, for example, expressions of feelings, genuine remorse and asking/giving of apology, consensus and understanding, honest and productive dialogue, sense and willingness of reintegration.

o Delivery: This could just focus on the ability and competence of facilitators to carry out meetings according to the generally accepted restorative values and the nationally established training standards.

8. Winning the cost-benefit argument

Implementing restorative justice in a difficult financial climate instantly brings up the question of cost and benefit. Although data on the financial viability of restorative justice are extremely limited, it somehow managed to convince that it is a cheaper option for governments. However, what is clear from our South African based research is that if restorative justice service providers in the UK fail to show that they reduce court and CPS caseload as well as cut down the costs of justice, the current interest will soon wane.

In the UK, keeping each prisoner costs £41,000 annually (or £112.32 a day). This means that if there are 85,076 prisoners at the moment, prisons cost as much as £3.49bn. According to Home Office statistics, it costs £146,000 to put someone through court and keep them in prison for a year (Prison Reform Trust 2010). Moreover, according to a 2010 report by the New Economics Foundation, “a person that is offending at 17 after being released from prison will commit on average about 145 crimes. Out of these crimes about 1.7 are serious crimes (homicides, sexual crimes or serious violent offences). Given that a prison sentence is estimated to increase the likelihood of continuing to offend by 3.9 per cent, this translates into an average of about 5.5 crimes caused, out of which about 0.06 are serious” (Knuutila 2010, p. 40).

The scarce evidence on restorative justice suggests that the savings that flow from the contribution made to reducing reoffending rates are impressive; According to
Shapland et al. restorative justice can deliver cost savings of up to £9 for every £1 spent (2008). Victim Support also claims that (2010, p. 29), “if restorative justice were offered to all victims of burglary, robbery and violence against the person where the offender had pleaded guilty (which would amount to around 75,000 victims), the cost savings to the criminal justice system – as a result of a reduction in reconviction rates – would amount to at least £185 million over two years”. Furthermore, according to Matrix Evidence (2009), restorative justice practices would likely lead to a net benefit of over £1billion over ten years. The report concludes that diverting young offenders from community orders to a pre-court restorative justice conferencing scheme would produce a lifetime saving to society of almost £275 million (£7,050 per offender). The cost of implementing the scheme would be paid back in the first year and during the course of two parliaments (10 years) society would benefit by over £1billion (2009).

Time as a ‘unit cost’ has also been recorded in the scarce available literature. For instance, according to the 2010 Association of Chief Police Officers (ACPO) survey on restorative justice, the average time taken by Hertfordshire police officers dealing with minor crimes through ‘street restorative justice’ was 36 minutes as opposed to 5 hours 38 minutes spent on issuing reprimands. Translating this into cost meant £15.95 for restorative justice and £149.79 for a reprimand. Similar savings were found for Cheshire police (£20.21 vs £157.09) (Cheshire Operation Quest 2 2009).

The belief that restorative justice can cut down costs had an impact on funders’ intentions and priorities. For instance, the 2012-13 NOMS Business Plan states: “We will compete fairly in open markets ensuring expansion of work across the estate at no additional cost to the taxpayer and including financial contributions to victims’ services” (NOMS 2012b). The Ministry of Justice also seem to have taken a more cautious approach and a different philosophy on how funds are spent on criminal justice. One of the results of this new approach was the introduction of what is now called ‘Payment by Results’ policy. According to the Ministry of Justice:

“Introducing payment by results means that we want to reward providers when they are successful in reducing reoffending levels, rather than providing upfront funding regardless of outcomes achieved. By implementing a payment system based on achieving actual reductions in reoffending – rather than meeting input/output targets – we think we can
deliver improved public services at the same or less cost. This represents a radical departure from the justice policies of previous governments”.19

The Ministry of Justice stated their intention to contract out probation services for low and medium-risk offenders to private companies and charities. This will most likely include restorative justice based practices as well as other rehabilitation and reintegrative interventions. Winning the cost benefit argument while backing it up with solid evidence of impact and effectiveness will be the two pillars of future commissioning.

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The wind of change

Restorative justice is back on the agenda. It now appeals to the contemporary politician, the legislator and even the journalist. The re-defining of "community" and the focus on locality spark a new debate that sees “conflicts as property” of local people and not so much of the all-powerful, centralised state. The interest of the UK coalition government in restorative justice may present its proponents with a unique opportunity to take the debate on its implementation forward. However, in progressing, the levers and barriers that this report has identified must be considered.

As governments around the world continue to take interest in restorative justice and set up new strategies, legislation and funds to promote it, their role must be clear. Restorative justice exists in small neighbourhoods, in homes, churches, schools, tents, humid mediation centres and, yes sometimes, in criminal justice agencies and institutions. And this is what makes restorative justice special. It is the community's way of understanding and dealing with conflict. The SA governmental strategy honestly and openly acknowledges the role of the community in the design and delivery of restorative justice services. This was not introduced in the first draft of the strategy despite the strong community led ethos that characterises dispute resolutions methods in the country. Mistakes had to be made while arguments around recidivism and cost are yet to be won.

Anyone with an interest in criminal justice reform can feel a strong wind of change for restorative justice. This wind brings challenges, opportunities and risks that must be considered by anyone aspiring to be an restorative justice service provider. The wind also creates power interest battles, tensions and the demise of both good and bad practice. How and whether one engages with these trends is fundamental for survival.

By definition, any government has an expiry date and this creates political tensions that changes must be done quickly. There is evidence to believe that restorative justice is being explored for its potential to bring about change that is quick and on the cheap. Ready-made packages are introduced and fast training is being rolled out. Leading commentators in the international field of restorative justice have warned that these initiatives will ultimately harm restorative justice ’s delivery in the long-term. Mainstreaming restorative justice on the cheap is not the answer. Providing 1-3 day
training packages to police officers, probation staff and prison guards will not deliver the restorative vision. Funding the usual suspects to control a top down register for people who are practising restorative justice will not increase public confidence in restorative justice; it will destroy it. It will also alienate the ‘big society’ of volunteers giving their time to keep local justice balanced.

By adopting an evidence-based approach to the development of practice and organisational strategy, restorative justice service provision can be protected and strengthened. The argument that must be won by restorative justice providers is that they reduce court load, help prosecutorial authorities and take into account the needs of victims while addressing recidivism. Independence and high quality training that is detached from agendas and centralised control are also key recommendations from this report.
Annex I: About the Restorative Justice for All Institute

*Restorative Justice for all (RJ4All)* is a UK-based international institute with the following non-profit aims:

- **increase public awareness** of restorative justice and address misconceptions about its potential and pitfalls
- **carry out evaluations and research** on restorative justice and help build a stronger evidence base for further development
- **carry out information campaigns** in the interest of communities, victims and users of the justice system
- **challenge the restorative justice movement** and help build bridges between practitioners, policy makers and researchers
- **increase academic knowledge** and push the boundaries of restorative justice especially in the areas of domestic violence, sexual abuse and hate crimes
- **bring people together to network** and share best practice
- **make restorative justice more accessible** to junior researchers, students, practitioners, policy makers, the public and the media
- **disseminate** key events and news that are of international, regional and local interest
- **influence** international, regional and local policy, legislation and practice
- **provide** expert and independent advice on restorative justice.

The RJ4All website and concept was founded by Dr. Theo Gavrielides and the Institute’s co-Directors are Professors Gavrielides and Artinopoulou.

RJ4All is a joint international initiative, which works with a number of associates from around the world to deliver its mission.

**RJ4All is based on the non-profit principle of providing justice and education to all.** The key features of the RJ4All website are:

- the **Internet Journal of Restorative Justice (IJRJ)**, the free peer-reviewed e-journal publishing scientific papers on restorative justice
• the **free online library** with downloadable material on restorative justice including training manuals, conference presentations, research papers and book reviews
• **case studies** on restorative justice
• free **videos and audio** on restorative justice
• the EU funded "**Restorative Justice in Europe**" (RJE) project
• the **RJWiki** a free encyclopedia on restorative justice
• its ground breaking research and awareness raising **restorative justice projects**
Annex II: About the authors

Dr. Theo Gavrielides is the Founder and Director of Independent Academic Research Studies (IARS) and the Restorative Justice for All Institute (RJ4All). He is also an Adjunct Professor at the School of Criminology (Centre for Restorative Justice) of Simon Fraser University as well as a Visiting Professor at Buckinghamshire New University.

Professor Gavrielides is a Trustee of the Anne Frank Trust, an Advisory Board Member of the Institute for Diversity Research, Inclusivity, Communities and Society (IDRICS) and a Member of the Scrutiny and Involvement Panel of the Crown Prosecution Service (London). Previously, Professor Gavrielides was the Chief Executive of Race on the Agenda, a social policy think-tank focusing on race equality. He also worked at the Ministry of Justice as the Human Rights Advisor of the Strategy Directorate. There, he led on the Human Rights Insight Project, which aimed to identify strategies that will further implement the principles underlying the Human Rights Act 1998 and improve public services. He also advised on the Ministry’s Education, Information and Advice strategy.

Dr. Gavrielides obtained a Doctorate in Law from the London School of Economics and Political Science (PhD, 2005) and a Masters in Human Rights Law from Nottingham University (LL.M in Human Rights Law, 2000). He graduated from the Faculty of Laws of the National University of Athens and practised law at Gavrielides & Co. Dr. Gavrielides has published extensively on social justice issues, restorative justice, equality and race equality, human rights and youth justice. His 2007 book “Restorative Justice Theory and Practice” was published by the European Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI). His 2012 book "Rights and Restoration within Youth Justice" was published by de Sitter Publications while the 2013 Reconstructing Restorative Justice Philosophy is due to be published by Ashgate.

Grace Loseby developed a passion for Criminology whilst studying Politics and Sociology at the University of Sheffield, culminating in a dissertation on the use of restorative justice in post-genocide Rwanda. After working for a year in Westminster as a Researcher and assisting in a program helping young people to get back into work she
continued her studies at Birmingham City University. Her post-graduate dissertation was on the West Midlands Police Force’s conceptualisation of the role of community in their use of restorative justice and is published in the Internet Journal of Restorative Justice.

Whilst studying for her Masters, Grace was involved in pressure-group activity working as Student Voice Coordinator at Birmingham City University, this is where she recognised the importance of involving service users at every point of research and policy application. She also has previous experience of working with young people, who have or are at risk of being, involved in gangs and is currently a volunteer for Newbridge, who run a be-friender and mentoring service for those in the secure estate. Alongside her role at the organisation Grace works as a Visiting Lecturer in Criminology at Birmingham City University where she lectures in Gender and Crime, Core Issues in Crime and Punishment and Policing.
Bibliography


