

Centre for Science and Policy

Policy Workshop Report

Restorative Justice: pathways for the future

**22 June 2015
Faculty of Education, Cambridge**

Preamble

A Policy Workshop to discuss (1) the state of research into restorative justice, (2) future avenues for research, and (3) the means by which academic research could improve the work of restorative justice practitioners, service providers, commissioning bodies and communities took place on 22 June 2015. The workshop was commissioned by Dr Rupert Higham (Lecturer, Faculty of Education, Cambridge University), who also chaired the event, and the Restorative Justice Council (RJC), the independent third sector membership body for the field of restorative practice. The workshop was funded by the ESRC Impact Accelerator Account.

Aims of the workshop

1. To bring together participants from a range of disciplines to consider:
 - a. how existing research into restorative justice can be further developed,
 - b. how research conducted in other disciplines might be able to add new perspectives;
2. To consider how existing and future research might be applied to improve the work of restorative justice practitioners, service providers, commissioning bodies and communities affected by conflict and crime.

Questions addressed during the workshop

1. What do we mean by *restorative* justice? What are we seeking to 'restore' to victims?
2. How do we measure and evaluate the impact and effectiveness of restorative processes?
3. How do we 'restore' with sensitivity to cultural and community contexts?
4. How do national, societal experiences of restoration differ from individual experiences and processes? How can we mediate between these two levels?
5. What obstacles (conceptual, practical, political) are there to increasing the impact of the evidential case for the use of restorative justice at a policy level?
6. What is the nature of the discourse (popular, media, governmental) around restorative justice? What might we wish it to be, and how might we achieve that transition?

Presentations

Five minute presentations from selected inter-disciplinary speakers to provide context for the discussion, demonstrate the breadth of disciplinary perspectives on RJ, and suggest potential lines of further discussion.

- **Rupert Higham** advised delegates to place disciplinary expertise on the ‘backburner’ and to engage in exploratory talk, to discuss what we don’t know yet with an emphasis on responding to elements of the discussion which were unexpected.
- **Jon Collins** explained the role of the RJC, the independent third sector membership body for the field of restorative practice. RJC provides quality assurance and a national voice advocating for the widespread use of all forms of restorative practice, including restorative justice.
- **Lawrence Sherman** emphasized that despite better standards of evidence available for government action, evidence doesn’t have as large an impact on policy as it should – ‘it doesn’t have political oomph’.
- **Hilary Cremin** noted that for RJ to work we need to think about contexts. In education, we have to think of the role of schools and what is appropriate in that context. It is useful to see RJ as part of a spectrum of responses, as part of a process. RJ can never be an umbrella approach to discipline in school. A particular difficulty in this context is that RJ implies a reaction to a conflict, but schools need to build up a framework to prevent conflict in the first place.
- **Mónica Figueroa** works on racism in South America. There is the potential for RJ in addressing experiences of racism and racist practices. There is a potential role for RJ to help bridge academia and activism. In South American context, racism isn’t perceived as a problem, RJ could help build a case to challenge that perception.
- **Ewen McKinnon** noted ‘well-being’ is about ‘experience’; it’s people’s experience measured against their actual circumstances. He drew attention to the question of what RJ is seeking to ‘restore’. A lot of areas of government action are about ‘restoring’ people back to a ‘set point’ (e.g. family courts).

Break out session 1: How might an interdisciplinary approach best impact on theory, policy, practice and research in the field of Restorative Justice?

Delegates were divided into three cross-disciplinary groups:

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| • Group 1 | • Group 2 | • Group 3 |
| • Jon Collins | • Shailaja Fennell | • Marla Fuchs |
| • Hilary Cremin | • Alex Guilherme | • Loraine Gelsthorpe |
| • Robert Doubleday | • Thomas Miley | • Dani Gover |
| • Mónica Figueroa | • Luke Roberts | • Rupert Higham |
| • Johanna Riha | • Thomas Rodger | • Chris Kaplonski |
| • Lawrence Sherman | • Heather Strang | • Ewen McKinnon |

Summary of group discussions

RJ is for individuals, but also for communities. Poverty, identity, and culture all clash in RJ process which provides a space for dialogue and expression.

- **The meaning of ‘restoration’**

Restoration can be a political process, a process of bringing people together. Why do you get collective action in some cases, and not in others? There are separate ideas of restoration in civil law, in criminal law, constitutional law, and in ‘truth and reconciliation’.

- **Who do we 'restore'?**
 - Is it possible to provide restoration for a community, rather than an individual? How do people who are part of systemic generational disadvantage understand their loss?
 - 'Forgiveness' requires 'the forgiven' – the political issues can seem very different a generation down the line. There are two levels, the individual and the community who can benefit from RJ, but negotiating the two is difficult.

- **How we 'restore'?**
 - If you live in poverty for a generation, then you learn to accept it. How do we know the process of being disenfranchised hasn't changed what they will accept? In aftermath of South Asia tsunami, individuals wanted the nature of their restoration to take account of their status within the community. RJ is always relative – is it *better* than what we do now?
 - Language of restoration can in an educational context criminalise students, bringing in legal language to the schoolroom.
 - You need to be careful about how RJ is positioned in communities to avoid it being seen as another tokenistic activity in 'participation'. Need to rethink 'public spaces' (schools, parks, etc.) to enable wide participation with emotional restoration.

- **What do we restore?**

Focus on 'emotional', rather than 'material', restoration. Research suggests emotional restoration is by far the most important thing for victims (though they accept material, if RJ process fails).

- **How can we measure RJ?**

Possibility for new measures for well-being. How can we measure the 'distance travelled' in harm reduction.

- **How can we implement RJ?**
 - National Citizenship Service could be useful in promoting social mixing and positive belonging.
 - What can we think of as a 'restorative community'? 'Community of care' created by participants.
 - Should RJ be activated pre or post-conviction?

- **Who do you target RJ at?**
 - How is a victim defined? Local/social definitions? There is a scope of victimhood – how large can the circle be?
 - Perpetrators may have been victims themselves in turn. The *prima facie* problem may not be the underlying problem.
 - What is the inter-generational impact of violence?

Other questions emerging from the discussions

1. Can RJ be used to create/convene a community?
2. Are we 'restoring' or 'transforming' through RJ?
3. Who has the authority to 'restore'?
4. Can we think of RJ as a preventative measure, rather than an early intervention?
5. Who is a victim?

Plenary discussion: What different strategies might we pursue in advancing RJ theory, policy, practice and research?

The discussion focused on practical solutions:

- **RJ at different levels**

We need to think across scales, from national to individual. The difficulty is creating one big theory which accounts for national and individual scales of RJ.

- There are similar basic principles in RJ and transitional justice, the desire to put things right.
- There can be a disjuncture between national narrative of reconciliation and community reconciliation.
- The criminal law level and wider political/sociological level aren't divided, they're answering different questions.
- There is a tension between thinking about criminal justice and the individual involved, against the structural injustices. If you were to look hard at what would make the intervention effective for individuals, the broader political/sociological context must be reflected as well – what are the different ways people are required to admit their crime, where do they position their question in the broader context?

- **How to conduct RJ**

- Trust is important (between people; with state), with wide-ranging impacts. There is an impact on, for example, the economy (transaction costs high if low trust). RJ could add trust to the system.
- Northern Ireland peace agreement transformed culture, with highly visible RJ among young people. Trust was perhaps a part of that transition.
- How can RJ be made safer? There is an issue of 'shaming', particularly in the context of schools. There are ways of making language better and more familiar in education systems so that RJ is something people feel they have more recourse to, or respect for.

- **Measuring success of RJ - what are the indicators of RJ beyond classic offender outcomes?**

- 'Well-being' – more difficult to measure increase of positive factors than reduction of negative factors – how do you capture a sense of 'thriving'? Could be a useful avenue of research. Government is interested in the impact of RJ on the offender. There is an issue of timing in this, RJ impact on offender can be cumulative.

- **Obstacles to implementing RJ**

- Criminalising communities: elite crimes aren't dealt with restoratively – need to guard against a situation where RJ is used to hold the disenfranchised accountable for their crimes.
- We need to think about who the victim is – is a victim of domestic violence a child who has witnessed it – how does RJ support them?
- Legal requirement to sign a full confession can stop people from accessing RJ (i.e. the incentive for not commenting at all and stonewalling the process until the case is dismissed is too high).

- **How do we transition between research and policy outcomes?**
 - Research needs to be done on how we can broaden access to RJ for victims, and that needs to start with changing statute. What are the barriers to the use of this evidence in policy, to preventing its twisting?
 - Associated research could be useful into how government provides areas of opportunity to get new thinking implanted into the policy-making process – what are the structural requirements we need to account for?

Breakout session 2: Consideration of next steps and joint action

Discussion groups focused on the existing and future state of (1) evidence for RJ; (2) RJ and the national discourse; and (3) RJ and issues of equality.

Summary of group discussions

Where is the national discourse at the moment? Where would we like it to be? How can we assist the transition?

- **Perception of RJ**

RJ is portrayed in the media as the 'soft' option which will lead to mitigation and reduced sentences.

- **Barriers to progress**

- Government reluctance to take radical steps. For example, speed awareness courses replacing traditional prosecutions is opposed, partly on account of cost. Politicians are interested in tapping into what they think people want, over the evidence.
- Larger issue that if the Civil Service can't achieve change, it rhetorically demotes the issue and hopes it dies down. In terms of RJ, you get a situation where people say they want to put victim at centre of the justice system, but nothing is done.

- **Means of progress**

- You can change cultural perception of RJ so that it doesn't seem a 'soft touch' in a way that avoids policy. Consider Citizenship lessons, you seed a concept of accountability to the community. Start early at school, create 'muscle memory', kids will bring language of RJ into the home
 - Issue: it would end up in the elite schools. Applying RJ to troubled schools might have large benefit, but difficult convincing teachers who have a huge number of challenges already.
 - On-going trial of pre-sentence RJ. RJC running an event for judiciary in October, hope to build a good argument for pre-sentence RJ by then.
 - Possible to use the probation department to initiate an RJ conference, instead of the judiciary. You need an RJ unit – it should be attached to probation, but it could also be the judiciary.

Final discussion

• How to change discourses

- There is a new government emphasis on values-based education, building in empathy early, but framing will be important – the term ‘grit’ is now better than ‘well-being’.
 - Capturing the transmission of ‘values’ in transcripts, videos, etc to show Minister what’s effective and popular is a good approach.
- Sciencewise has a budget to investigate areas of controversial policy to evaluate public perceptions.
 - Perhaps role for ‘deliberative polling’ – create focus groups which can be informed over the course of a weekend on a policy/subject area, and track how their opinions change – distinction between value responses, and those informed by evidence.
- To counter-act narrative of ‘soft touch’, ideas of ‘catharsis’ and/or ‘healing’ could be used. There is a public understanding of high emotion and drama which could be used.
 - Sciencewise would be a keen partner for this research. Would need another sponsor inside or outside of government – Ministry of Justice?
 - Could we use friends in the media? Guardian sponsored an inquiry into the riots?
 - Problem of playing into the ‘soft v. hard’ narrative. It plays into the public imagination/understanding, but RJ’s place in that is hard to articulate clearly and simple. RJC try to tell the story of putting the victim at the heart of the justice system.

• Reconciling communities

- Could RJ be used to break cycle of BAME communities caught in the justice system?
- The need to reconcile community and sense of self. Need to look at how communities want hierarchy, and how RJ plays into it.
- Devolving justice to communities - there is a big push to devolve power to communities, e.g. planning.
 - Trust in system is important – in South Africa, the government lacked legitimacy, and so delegated authority to informal courts.
 - Similar in UK. Volunteers take part in neighbourhood justice panels, though there is a question of the representativeness of the volunteers – are perpetrators looking at the same kind of people as they do in regular courts.
 - Problem of devolving:
 - ‘Trojan Horse’ effect. You devolve down and communities take responsibility, but what do you do when their actions don’t chime with your value systems.
 - Problem in consistency. Common Law based on precedent, RJ based on context – RJ outcomes can vary, while society might require consistency.
- In Mongolia, ‘restoring’ is about overturning the court case. It’s a process which recognizes the justice system works, but that it is being abused. RJ is too personal for the context – the victims of repression will not have been involved (e.g. taking of daughter’s teddy bear).
- From perspective of communities, practitioners say it’s best not to go in assuming they have the answer. Often, communities have their own RJ mechanisms, e.g. Somali community.

Attendees

- Dr Rupert Higham (CHAIR), Lecturer, Faculty of Education, University of Cambridge
- Jon Collins, Chief Executive Officer, Restorative Justice Council (RJC)
- Dr Hilary Cremin, Senior Lecturer, Faculty of Education, University of Cambridge
- Dr Robert Doubleday, Executive Director, Centre for Science and Policy
- Dr Shailaja Fennell, University Lecturer, Centre of Development Studies
- Dr Mónica Figueroa, Lecturer, Department of Sociology, University of Cambridge
- Marla Fuchs, ESRC Impact Accelerator, Account Coordinator
- Professor Loraine Gelsthorpe, Deputy Director, Institute of Criminology
- Dani Gover, Senior Policy and Public Affairs Manager, RJC
- Dr Alex Guilherme, Lecturer, Department of Education Studies, Liverpool Hope University
- Dr Chris Kaplonski, Lecturer, Department of Social Anthropology, University of Cambridge
- Ewen McKinnon, Well-being and Big Society Policy, Analysis and Insights Team, Cabinet Office
- Dr Thomas Jeffrey Miley, Lecturer, Department of Sociology, University of Cambridge
- Dr Johanna Riha, Africa Together, University of Cambridge
- Luke Roberts, Head of External Affairs, RJC
- Thomas Rodger, AHRC Policy Intern, Centre for Science and Policy
- Professor Lawrence Sherman, Director, Institute of Criminology, University of Cambridge
- Dr Heather Strang, Director, Police Executive Programme, Institute of Criminology, University of Cambridge.