

DRAWING TOGETHER RESEARCH, POLICY AND PRACTICE FOR RESTORATIVE JUSTICE



The Open
University



IARS

Independent Academic
Research Studies

ABOUT INDEPENDENT ACADEMIC RESEARCH STUDIES (IARS)

IARS is an independent, social policy think-tank that was set up in 2001 to enable young people, especially those who are marginalised, to acquire a voice in society and engage with decision making structures and services as equal citizens.

Through the provision of high quality volunteering opportunities, youth-led work placements, training, skills-development programmes, accreditation, peer mentoring and research, IARS young people learn to inform and indeed influence practices that affect them at local, regional, national and international levels. Through a youth-led structure, young people from all walks of life learn to influence decision making, policies and the law and as role models participate in society and support their peers and youth-led organisations and groups in creating a tolerant and equal society where young people are respected and valued. IARS is unique in its structure and the only youth-led social policy think-tank in the UK.

IARS has expertise in the fields of restorative justice, criminal justice, youth justice, public legal education, human rights and equality.

ABOUT THE INTERNATIONAL CENTRE FOR COMPARATIVE CRIMINOLOGICAL RESEARCH (ICCCR)

The International Centre for Comparative Criminological Research (ICCCR) is an Open University centre of research excellence. It was established in December 2003. It is a unique multi-disciplinary and cross faculty initiative drawing on expertise from Social Sciences (social policy & criminology, psychology and sociology), Arts (history), and Health and Social Care (youth justice). It incorporates the European Centre for the Study of Policing based in Arts and the Rethinking Criminology and Forensic Psychology Research Groups based in Social Sciences.

The ICCCR unites contemporary practice-based research and critical policy analysis in crime, policing and criminal justice with an awareness of historical, psychological and social contexts. ICCCR has developed three substantive (but inter-related) areas of expertise: policing, justice, rights and regulation, prisons/penology.

Author

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CONTENTS

<i>About Independent Academic Research Studies (IARS)</i>	1
<i>About International Centre for Comparative Criminological Research (ICCCR)</i>	1
1. <i>Introduction</i>	3
2. <i>Project background information & methodology</i>	4
3. <i>Findings from the 2010 IARS- ICCCR expert seminar</i>	5
3.1 <i>Implementing restorative justice in a punitive paradigm</i>	5
3.2 <i>Standardisation vs innovation</i>	5
3.3 <i>Restorative justice practitioners and researchers: a relationship break down</i>	6
3.4 <i>The restorative justice academic and research agenda is narrow</i>	6
3.5 <i>Policy gaps in the implementation of restorative justice</i>	7
3.6 <i>Genuine investment in restorative justice</i>	7
3.7 <i>A cost-benefit analysis of restorative justice</i>	8
4. <i>Bridging the gaps in the Restorative Justice movement</i>	9
<i>Appendix A: Agenda</i>	11
<i>Appendix B: Seminar delegates</i>	12



Image: Restorative Justice experts at the conference

1. INTRODUCTION

On the 22nd November 2010, Independent Academic Research Studies (IARS), a UK based independent think-tank with expertise in restorative justice research and policy launched its new programme “[Drawing together research, policy and practice for restorative justice](#)”.

IARS understands Restorative Justice as “an ethos with practical goals, among which to restore harm by including affected parties in a (direct or indirect) encounter and a process of understanding through voluntary and honest dialogue. Restorative justice adopts a fresh approach to conflicts and their control, retaining at the same time certain rehabilitative goals” ([Gavrielides 2007](#)).

The key aim of the IARS project is to initiate an international debate that will assist the development of improved practices, better informed policy and more grounded research on restorative justice. The project will lead to a publication and the production of evidence based policy recommendations at a time when governments, the EU and international bodies such as the UN are seeking for effective, low cost, non-traditional crime reduction options that also serve the victim and the sense of justice and fairness in society.

Another aim of the IARS project is to bring together key names in the field of restorative justice who are working on research, practice and policy but have not been able to communicate with each other before. Finally, the project explores any gaps in the area of accreditation and standards of restorative justice. Pulling together the excellent work that has been done by a number of organisations will allow the movement to reflect on what has been done and, in consultation, decide what remains to be achieved.

This paper reports on the findings of the first year of the project as well as the key recommendations from the November seminar which was organised in partnership with the [International Centre for Comparative Criminological Research](#) (ICCCR) at Open University. Over 40 experts in the restorative justice field attended the seminar. The Home Office, Youth Justice Board, Victim Support, Ministry of Justice, Prison Reform Trust, Probation and several universities were among the organisations represented.



Image: 2010 Conference Leaders

2. PROJECT BACKGROUND INFORMATION & METHODOLOGY

Over the last forty years, restorative justice has caused a phenomenon of global interest stemming from a number of different stakeholders within the criminal justice system. The increasingly fast pace in which different theoretical claims and normative aspirations have been generated to support restorative justice practices has been unprecedented.

Concurrently with the increase of these numerous volumes of theoretical debates, fears have been created that they might not be in accordance – or at least at the same speed – with the practical development of the restorative notion. More importantly, they seem to pay none, or little attention to the alarming warnings principally coming from experienced practitioners in the field, who become increasingly concerned about a developing gap between the well-intended normative understandings of restorative justice and its actual implementation.

It has been almost 3 years since the European Institute of Crime Prevention and Control affiliated with the United Nations (HEUNI) published [Gavrielides T \(2007\) “Restorative justice theory and practice: addressing the discrepancy”](#). This book was written to give the opportunity to people who had experienced restorative justice in practice to identify problems that they faced and which could help understand the gap that is claimed to exist between the theoretical and practical development of restorative justice. To achieve this, original fieldwork was carried out that did not merely observe the space that the gap creates, but also looked down into it in the hope of finding its causes and the practical problems that continue to encourage it. This was achieved through the carrying out of two international qualitative surveys that questioned leading practitioners, researchers, evaluators and policymakers through the methods of in-depth, face-to-face interviews and postal questionnaires. The findings were then combined to reach a better understanding of the examined gap, and posit academic and policy suggestions that could help to address it.

There is consensus in the literature that there is still a long way to go before the restorative justice movement can safely claim that its practitioners, researchers and policy makers are all moving in the same direction. At the same time, the new UK coalition government has expressed its keen interest in restorative justice. On the 7th December 2010, the Ministry of Justice published the [“Breaking the Cycle”](#) Green Paper announcing its intentions for key reforms in the adult and juvenile sentencing philosophy and practice. This consultation set out the resulting proposals which aim to break the destructive cycle of crime and protect the public, through more effectively punishing and rehabilitating offenders and reforming the sentencing framework (Ministry of Justice 2010).

To collect new and additional evidence that will help bridge the persistent gap in the restorative justice movement, the IARS project will deliver a series of expert, international seminars. These are carried out in partnership with the [International Centre for Comparative Criminological Research \(ICCCR\)](#) at Open University. Partners for the future seminars are also sought.

3. FINDINGS FROM THE 2010 IARS- ICCR EXPERT SEMINAR

The seminar was held at the London, Camden campus of Open University. The event was opened by Dr. Theo Gavrielides whose presentation was followed by three expert lectures by Prof. Gerry Johnstone (Hull University), Ben Lyon (Register of restorative justice Practitioners) and Graham Robb (Youth Justice Board)¹. An open discussion was followed giving a chance to the delegates to express their views and suggestions (Appendix A). The key findings from the seminar are summarised under seven headings:

3.1 IMPLEMENTING RESTORATIVE JUSTICE IN A PUNITIVE PARADIGM

There is a good body of evidence suggesting that restorative justice can generate a number of benefits for the victim, the offender and the community (e.g. victim satisfaction, victim material and other compensation, reduction of reoffending, offender satisfaction, community impact). However, the participants pointed out that once introduced into the current criminal justice system, restorative justice poses some serious threads. Particular attention was given to the relationship between restorative justice and human rights (e.g. risks to suspects, double jeopardy, re-victimisation, power imbalances, risks to child defendants, principle of proportionality). Participants asked how does restorative justice fit within specific circumstances e.g. after the establishment of facts and penal conviction. Does restorative justice carry the risk of establishing a second set of facts? Should restorative justice be mainstreamed or should it be referred to community organisations?

3.2 STANDARDISATION VS INNOVATION

The issue of accreditation and standards was discussed. Some asked whether accreditation in the field of restorative justice may be against innovation. Some practitioners reminded researchers that restorative justice is a bottom-up, community-led approach to conflict resolution. Gavrielides quoted Braithwaite “While it is good that we are now having debates on standards for RJ 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” (Braithwaite 2002). After much debate, there was a consensus that innovation, standards and accreditation are complementary. However, practitioners stressed that restorative justice is community born and that this must be accommodated. Top down approaches will fail. It was recommended that practitioners must be involved in formulating qualifications. Finally, it was pointed out that is not good to have people with qualifications but no

¹ The speaker’s presentations can be downloaded from <http://www.iars.org.uk/content/drawing-together-research-policy-and-practice-restorative-justice-0>

practical experience while it would be a mistake to exclude those with experience but no formal qualifications.

3.3 RESTORATIVE JUSTICE PRACTITIONERS AND RESEARCHERS: A RELATIONSHIP BREAK DOWN

It was suggested that a number of practitioners in restorative justice see researchers ‘feeding’ on their case-work and then dictating how they should do their work. Ben Lyon pointed out that there is an imbalance that urgently needs to be addressed and that research should be carried out only into those areas which support original hypothesis. Conversely, practices which haven’t been properly researched should be condemned by policy makers and funders. Lyon warned against arriving at a state of orthodoxy which threatens the growth of knowledge. There was a consensus that there is a need for practitioners to publish and promote their work and be involved in teaching and supervision. Research in partnership needs to be pushed even further and indeed encouraged by government. It was agreed that there is a need to bring together practitioners and agencies and that more networking within the field was needed. The future IARS/ ICCCR seminar were welcomed by the delegates.

3.4 THE RESTORATIVE JUSTICE ACADEMIC AND RESEARCH AGENDA IS NARROW

Johnstone argued that the extant literature on restorative justice can be grouped into three broad categories: Exposition (overlap with advocacy), scientific Evaluation and (internal / external) critiques. Johnstone argued that researcher’s should not just focus on matters of immediate policy and practical relevance. Instead, he proposed a broader academic agenda and to become more detached. He also pointed out the need for distance between goals of restorative justice and goals of academic research. He asked: What is the political and cultural character of restorative justice and how would society be affected by the spread of the restorative justice ethos? Johnston proposed to look at the rise of restorative justice in a broader context and in tune with key aspects of the cultural mainstream. There is a need, he said to explore further the political and cultural contexts which underpin and shape the implications of restorative justice. He concluded by warning that true progressive implications of restorative justice cannot be taken for grants nor read off from intentions.

3.5 POLICY GAPS IN THE IMPLEMENTATION OF RESTORATIVE JUSTICE

Robb argued that those involved in restorative justice have not yet had sufficient argument and analysis of what the movement has to contribute to the wider narrative in a. Wider social goals b. Child development c. Understanding the dynamics of communities d. Leadership of institutions, communities and groups. Robb pointed out several dangers of modern culture such as the encouragement of the view that to be happy you have to be wealthy and beautiful (consumerism), the encouragement of a violent model of human relationships and physical inactivity and unhealthy living. He asked how does the restorative justice discourse position itself in relation to wider social goals? Robb argued that is easy to look at restorative justice as being around one problem. A narrow analysis of the problems in children's lives misses the chance to examine the complexity of the problems they face. He concluded by saying there is a need to place it in an overall objective of improving the 'every child matters' outcomes in Britain.

3.6 GENUINE INVESTMENT IN RESTORATIVE JUSTICE

The seminar raised concerns around the factors that drive social policy and criminal justice reform. A number of participants made reference to the government's past commitment for a national strategy on restorative justice. The discussions were made within a climate of disappointment and suspicion.

Specific reference was made to the 2003 Home Office consultation document on the government's strategy on restorative justice (Home Office 2003). The debate and promises that were made at the time raised the restorative justice movement's expectations (Gavrielides 2003). Soon after the publication of the draft strategy and despite the plethora of evidence it collected through submissions from individuals and organisations, the flurry of activity and interest in restorative justice waned. The restorative justice unit that was set up within the Home Office was dismantled and the majority of the strategy's recommendations were left in draft format.

In 2010, the House of Commons Justice Committee said: "We are surprised by the cautious approach that the Government has taken towards RJ but we welcome its current commitment to revive the strategic direction in this area. We urge the Justice Secretary to take immediate action to promote the use of RJ and to ensure that he puts in place a fully funded strategy which facilitates national access to RJ for victims before the end of this Parliament" (Justice Committee 2010). In drawing up a strategy for a wider implementation of restorative justice, commitment needs to be made for proper investment into the infrastructure needed by practitioners.

3.7 A COST-BENEFIT ANALYSIS OF RESTORATIVE JUSTICE

In a climate of funding cuts, questions were raised in relation to available economic data that would allow the drafting of a solid business case for restorative justice. In June 2010, the Justice Secretary said that prison often turns out to be “a costly and ineffectual approach that fails to turn criminals into law-abiding citizens” (Travis 2010: 1). He also indicated the new government’s appetite for seeking new and more cost effective ways of reducing reoffending and serving justice. To determine the cost-benefit analysis of restorative justice we need to establish: (1) The cost of diversion (2) The cost of the alternative sentences (3) The economic impact of changes in re-offending both during and after sentence. Finally, the way restorative justice is funded needs to be aligned with the principles of independence. While certain goals need to be achieved, the restorative justice values and principles need to be maintained.



Image: Meeting of experts in the Restorative Justice field

4. BRIDGING THE GAPS IN THE RESTORATIVE JUSTICE MOVEMENT

After talking with several practitioners in the restorative justice field at home and abroad, the study observed that despite their many disagreements around a number of issues (such as what constitutes a genuine restorative practice, what the primary restorative justice principles are or even what restorative justice really is), there was at least one view that was shared by everyone: the normative restorative concept, as it is currently reflected in the numerous volumes of theoretical writings, is not in accordance with its practical dimension.

Various issues identified by practitioners do not seem to fit with the impressive literature in the field and the many theories that have been developed, many of which portray restorative justice as the new ‘big thing’ in the policy agendas of our Western societies and the basis for a paradigm change in the way we view and approach justice. Therefore, the practitioners’ fears and the theoreticians’ proclamations of a new criminal justice era do not seem to add up. “There is an imbalance that needs addressing. And addressing imbalances is what restorative processes do best”, Ben Lyon said at the seminar.

While carrying out the desk research and fieldwork, we witnessed a power battle within the restorative movement, which included not only different professionals (e.g. practitioners vs theoreticians), but also types of practices (e.g. mediation vs family group conferencing) as well as fundamental restorative justice principles (e.g. voluntariness vs coercion). Although constructive debates are always essential for the advancement of criminal justice doctrines, it is my conclusion that if the restorative movement does not restore its own power struggles, the consequences will be severe.

The gaps that have so far been identified by the research can be summarised as follows:

- The roles of restorative justice research and practice have become separated and as a result policy is less evidence based and more reactive
- Implementing restorative justice in a punitive paradigm creates:
 - conceptual problems at the *micro level* (i.e. restorative movement)
 - conceptual problems at the *macro level* (i.e. public, the community)
- There is a need to agree national/ international accreditation processes to supervise the delivery of training, accreditation services, manuals/textbooks and training standards
- The restorative justice academic and research agenda is too narrow
- There is a need to improve the standards, ethics and processes that relate to the evaluation of restorative justice programmes
- The way restorative justice is being funded needs improvement both in terms of its independence but also its sustainability and viability. There is a need for finance data to inform a solid business case for restorative justice.
- Despite a plethora of evidence, the investment of policy makers in restorative justice has so far been piecemeal and patchy.

Identifying gaps in socio-legal discourses is never enough; these should hardly even be surprising. How, then can the gap be minimised? A possible way forward may be found in the following statement by one of the survey's interviewees:

“I think the challenge right now is that there are lots of ‘movements’ within the restorative justice field, lots of research, people such as yourself that are trying to reconcile all these different aspects of restorative justice, and this, I think, is crucial. All these people are moving, but not together. ...People are grappling with their research [to find] where and how restorative justice [can] fit in the criminal justice system, what kind of offenders [it can engage], [what] type of offences [it can deal with], periods of time [needed]...etc and there needs to be a real joined thinking about all these matters ...In fact, we are all grappling with where, and who, and for what restorative justice should be used, and I think there needs to be a pulling together. We still don't have all the answers, but this step should help to bridge the gap...Besides, this was one of the reasons I was attracted to this field...and I think this should be the next step for restorative justice, to pull it all together...”.

Restorative justice was reborn not out of formal structures and legislation, but of voluntary action by enthusiastic and dedicated practitioners from around the world. As the restorative tradition is now expanding to deal with crimes, ages and situations that it has never addressed before – at least in its contemporary version – and as it starts to make sense in national, and also regional and international forums, then the responsibilities of both restorative practitioners and academics redouble. Bridges must be built in order to synthesise.

To find out more about the 2010 seminar, IARS or the future seminars that are being planned under the topic please contact Dr. Theo Gavrielides, T.Gavrielides@iars.org.uk



Image: 2010 Conference delegates

APPENDIX A: AGENDA



AGENDA

“Drawing together research, policy and practice for restorative justice”

The Open University, Room 2, 1 -11 Hawley Crescent, Camden Town, London, NW1 8NP

22nd November 2010, 12:00 – 16:00

12:00 – 13:00:	Lunch & Networking
13:00 – 13:15:	Welcome & purpose of the seminar (Dr. Theo Gavrielides, IARS Director & Visiting Senior Research Fellow International Centre for Comparative Criminological Research, Open University)
13:15 – 13:30:	Restorative justice: practice gaps & aspirations (Ben Lyon, Senior restorative justice practitioner & Board member Restorative Justice Consortium)
13:30 – 13:45:	Restorative justice: research gaps & aspirations (Prof. Gerry Johnstone, Professor of Law, University of Hull, Director, MA in Restorative Justice)
13:45 – 14:00:	Restorative justice: policy gaps & aspirations (Graham Robb, Board member Youth Justice Board)
14:00 – 15:00:	Discussion (All)
15:00 – 15:30:	Coffee break
15:30 – 16:00:	Conclusions & Next steps (Dr. Gavrielides & All)

APPENDIX B: SEMINAR DELEGATES

Name	Affiliation	Role
Amy Harris	Independent Academic Research Studies (IARS)	Research Assistant
Anwara Ali	Independent Academic Research Studies (IARS)	PA and Research Assistant to the Director
Barbara Tudor	West Midlands Probation Service	Senior practitioner, Development Manager
Ben Lyon	Independent, Register of Restorative Justice Practitioners	Senior practitioner
Bill Kerslake	Youth Justice Board	Restorative justice expert
Clare Williams	Home Office	Senior advisor
Clifford Grimason	HMP Hewell	Restorative Justice Manager
Dave Walker	Southwark Mediation Centre	Co-ordinator, senior practitioner
Deborah Drake	Open University	Lecturer in Criminology
Dr Helen Flanagan	Restorative Approaches in Lancashire	Restorative justice expert
Dr Karen Jochelson	Equality and Human Rights Commission	Director of Research
Dr Karim Murji	Open University	Senior Lecturer
Dr Martin Wright	Lambeth Mediation Service	Senior practitioner
Dr Theo Gavrielides	Independent Academic Research Studies (IARS) & ICCCR, Open University	Founder and Director Visiting Senior Research Fellow
Dr. Kimmett Edgar	Prison Reform Trust	Head of Research
Dr. Stylianov Katherine	South Bank University & College of Mediators	Lecturer, Board Member
Elena Noel	Southwark Mediation Centre	Senior practitioner
Frances Crook	Howard League for Penal Reform	Director
Gillian Walnes	The Anne Frank Trust UK	Director
Graham Robb	Youth Justice Board	Board member
Javed Khan	Victim Support	Chief Executive
Jessica Sondhi	Ministry of Justice	Head of Youth Justice Research



		Strategy
Jon Collins	Criminal Justice Alliance	Campaign Director
Mathew Shaer	London Serious Youth Violence Board	Inspector
Kate Aldous	Clinks	Programme Director
Katelynn Schoop	Independent Academic Research Studies (IARS)	Research Assistant
Laura Ellis	Ministry of Justice	Senior Policy Advisor
Lewis Parle	Independent Academic Research Studies (IARS)	Programme Director
Lucy Glennon	The Anne Frank Trust UK	Head of Education
Matina Marougka	Independent Academic Research Studies (IARS)	Research Assistant
Neena Samota	NACRO	Policy Director
Nicky Gunter	Independent	Restorative justice expert
Peter Brown	Ministry of Justice	Policy Advisor
Prof. Gerry Johnstone,	University of Hull	Professor of Law
Rachel Cass	Independent Academic Research Studies (IARS)	Research and Policy Coordinator
Rod Earle	Open University	Lecturer in Youth Justice
Ros Earis	Independent Academic Research Studies (IARS)	Research Assistant
Sarah Swash	Home Office	Anti-social behaviour and youth crime unit, Advisor
Selma Chalabi	BBC Radio	Journalist
Sherrelle Parke	Ministry of Justice	Senior Research Officer
Sule Kangulec	Home Office	Senior Advisor
Toby Hamilton	Ministry of Justice	Restorative Justice expert, Youth Justice Policy Unit
Tony Shepherd	Inspire Management Associates	Managing Director
Vince Mercer	Assessment Intervention Moving On Project	RP & Sexual Behaviour expert
Zarina Ibrahim	Youth Justice Board	Lead on restorative justice

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