

PART I
Reconsidering Restorative Justice

Chapter 1

Prolegomena: Restorative Justice Philosophy through a Value-based Methodology

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Σα βγεις στον πηγαιμό για την Ιθάκη,
να εύχεται νάναι μακρύς ο δρόμος,
γεμάτος περιπέτειες, γεμάτος γνώσεις.
Τους Λαιστρυγόνες και τους Κύκλωπας,
τον θυμωμένο Ποσειδώνα μη φοβάσαι,
τέτοια στον δρόμο σου ποτέ σου δεν θα βρεις,
αν μέν' η σκέψις σου υψηλή, αν εκλεκτή
συγκίνησις το πνεύμα και το σώμα σου αγγίζει.

...

Κι αν πτωχική την βρεις, η Ιθάκη δεν σε γέλασε.
Έτσι σοφός που έγινες, με τόση πείρα,
ήδη θα το κατάλαβες η Ιθάκες τι σημαίνουν.¹

Kavafis' Ithaki, 1910

The Journey Begins

In his poem, *Ithaki*, Kavafis uses the story of Odysseus to remind us that the journey is as important as reaching our destination. After the 10 year Trojan War, King Odysseus set off to his homeland, Ithaki, only to encounter hardship and toil that cost him another 10 years. Ithaki stands for the ultimate objective and the final destination that we all seek through our actions and life. It also acts as the justification for what we do and achieve in our various roles. But the journey to Ithaki and the experiences during that journey are as important because it is through the people and challenges that we encounter on our way that we become ready to embrace and indeed appreciate Ithaki. It is also during this journey that we

1 'As you set out for Ithaki hope the voyage is a long one, full of adventure, full of discovery. Laistrygonians and Cyclops, angry Poseidon—don't be afraid of them: you'll never find things like that on your way as long as you keep your thoughts raised high, as long as a rare excitement stirs your spirit and your body ... And if you find her poor, Ithaki won't have fooled you. Wise as you will have become, so full of experience, you will have understood by then what these Ithakas mean' (Kavafis, 1910).

face our fears and weaknesses and that we learn how to think freely and creatively, surpassing what we are and transforming into what we should be. But the journey is also important for two more reasons. Firstly, it is not always certain that we will reach Ithaki. However, the journey itself should be enough for our transformation into a better being and thinker. Secondly, Ithaki is not the same for everyone. We all have our own personal destinations, and it is only through our journeys that we get to understand, embrace and support our respective destinations and together reach a joint purpose.

The writing of this book can only be described as our own personal journey to Ithaki. Although it didn't quite take us 10 years, the book's conceptualization, the discussions that led to its writing through the holding of a ancient Greek-style Symposium, its actual writing, editing and publication were the outcomes of many challenges that left all our fellow travellers transformed. Therefore, the purpose of this chapter is threefold.

First, we want to travel this journey with you, the reader, in the hope that some of our learning, successes and failures are shared and understood. Although your physical presence on our journey is not possible, we hope that, like a time machine, this chapter and book can transport you to the monasteries, beaches, myths and legends that the authors encountered during this voyage. For a philosophical book, this transportation is important not only for understanding its methodological underpinnings, but also for being able to grasp some of the key concepts and norms that it aspires to unravel. While hoping to explain our symptotic methodology, we neither aimed to enter the field of symptotic studies nor to reactivate symptotic cultures and activities. However, we used symptotic qualitative characteristics and values, such as egalitarian dialogue, respect, and team-building processes to achieve open-minded and constructive debates.

Second, this chapter aims to lay the founding values and principles on which the book and the journey were based. These values were agreed with all authors from the outset of our journey, and consequently served as a framework for our philosophical and creative thinking and writing. They are also married to the two disciplines that we aim to challenge through our philosophical thinking; the strands of restorative justice and human rights. As value-based systems of social control and power, restorative justice and human rights are contextualized and challenged through the value frameworks that we, the symposiarchs, adopted and challenged.

Third, as we set off to think normatively about restorative justice we expect, and indeed hope for, an intense debate. We know that this will most likely be critical and, on many occasions, negative. Therefore, it is important to acknowledge our limitations and state our positions from the start. It is paramount that we set the parameters of our work and acknowledge the caveats that any time-bound project with limited resources is expected to face.

The overall ambition of the chapter is to open up the debate on new methods of writing on restorative justice. Undoubtedly, over the last 30 years we have enjoyed an impressive literature on the practices and theory of restorative justice. And yet, creative and philosophical thinking that takes bold steps to move outside empirical

evidence from the bottom-up is still rare. Even less common are authors and researchers who leave questions unanswered. Much has been written on research trying to address questions of effectiveness and implementation. How often do we take the time to just ask and leave the reader to think freely and creatively?

As it will hopefully become obvious, each chapter was written by a leading expert in their fields. What is not so obvious is that these experts first became friends in the context of Greek Symposia. Symposium should mean neither academic presentations at conferences nor a social feast. Symposium, as analysed in detail later, should be understood as the life changing process of creating relationships through high level debates, unique life experiences of beauty and love for nature, each others' ideas and personalities, our mistakes and differences.

So, let the journey begin!

An Account of our Journey

The idea for the book and the journey that would lead to it were conceptualized in Athens when the two Editors met to present at a joint conference celebrating the 60th anniversary of the signing of the UN Convention on Human Rights. Following the publication of *Rights and Restoration* (Gavrielides, 2012), and the seminal work of Braithwaite and Strang (2000), it became apparent that more philosophical and critical thinking was needed in understanding the values, connections and foundations of restorative justice, especially within disciplines such as human rights.

It was agreed that this thinking should not be owned by two people. Thus, more travellers were needed. But inviting them to present at a conference simply would not work. We wanted to challenge the participants and indeed ourselves. We felt that the ideas that were planted in our heads needed something radical before they could be communicated. With no funding and while committed to our full-time jobs, we set off to organize an international event that would take the form of an ancient Greek Symposium. We had hoped that this would enable the participants to debate freely and without institutional and professional limitations.

The method of a Greek Symposium was selected not only due to the Editors' Greek background, but also because of its unique ability to create deep relationships through a love for thinking and the beauty of the mind. Symposia are also known for triggering self-observation leading to the betterment of oneself. They were originally treated as cultural institutions with their own formal and comprehensive rules, principally aimed at posing philosophical and rhetorical questions. Ancient Greek symposia were well structured in all their aspects. Formal symposium customs included the number of guests, the special room where the guests gathered (*andron*) and the type of food and drink that was served. For instance, the serving of wine (mixed with water) after eating, as well as the quantity of wine cups, were very important organizational aspects. Moreover, hymns and libations to the Gods before, during and at the end of the symposium were key aspects as they reflected

respect for the divine inspiration that was utilized as well as a part of the everyday life of ancient Greeks.²

The literature on symposia in ancient Greece and Rome is multidisciplinary and diverse, including rhetoric, philosophy, history, archaeology and humanities. However, there are certain problems of validity and hermeneutics, including the use of original sources and interpretation of ancient Greek. Epistemological issues are also obvious while trying to explain the very old concepts, notions and practices using current logical and theoretical schemes and frameworks. Thus, ancient Greek symposia must be placed within the context of their era and social circumstance.

Nevertheless, a recent trend in humanities focuses on the comprehensive study of the ancient symposium, defined as sympotic studies. This debate started with the publication of O. Murray's *Symptica: A Symposium on the Symposium* (1990). Likewise, we will use the terms *sympotic* or *sympotica* to refer to the actual cultural institution of the symposium, and *symposiac* or *symposiaca* to refer to the literary genre, which is the symposium.

Admittedly, the most famous symposium in history, Plato's Symposium (Birrell and Leslie, 1925), served as our inspiration:

The Symposium is a great love treatise which lies somewhere between the Song of Solomon and the Sonnets of Michael Angelo in the past and the works of Mr. Havelock Ellis in the present ... Right opinion or orthodoxy to Plato was insufficient to lead the soul which demands that true knowledge of truth, for which Pilate asked and asked in vain. Like a moving staircase, Plato's dialogue rises with the initiated and disentangles law from particulars and unity from multiplicity until suddenly eternal beauty is glimpsed and the soul stands in the real presence of beatific experience (Birrell and Leslie, 1925, p. 2–9).

Our symposium was held on the Greek island of Skopelos on 2–7 June 2012. Following closed invitations from the Editors, twenty international names participated.³ Our symposium was intended to be a closed scientific event, with no audience or external interventions. The participants came from various corners of the world (Canada, USA, Australia, Europe, Africa), with mixed backgrounds and experiences. This was important in order to achieve a multidisciplinary dialogue that would include all three levels of scientific ambition: academia, research and practice.

The symposium was also differentiated from other forms of scientific activities (such as conferences, seminars, congresses), where the participant usually presents their research findings during a short Powerpoint presentation. In our symposium each contributor had one hour to spend as they wished. There was no technology involved at all. The contributor had to explore and use old ways of debating and

2 See <http://www.ontology.co/biblio/ancient-symposia.htm> (accessed January 2013).

3 For a full list of participants see http://www.iars.org.uk/content/SkopelosRJ_HR

keep the participants engaged so that they could then put forward questions and help develop dialogue. Motivation of thinking, using pen and paper and semi-structured questioning, turned out to be our key symptotic techniques.

No papers were requested in advance of the symposium. In fact, the dialogue and questioning served as the vehicle for writing the chapters that are published as part of this volume. Therefore, the symposium sessions were not treated as presentations of new research but rather as an interactive and step-by-step, discourse-based, structuring process, aimed at driving the context of analysis.⁴

Węcowski argues that ‘we tend to consider the Greek symposium as a microcosm of the Greek life, especially that of the “Agonistic Age” of Greek civilisation, i.e. of the archaic period’ (2002, p. 337). Our symposium was a kind of microcosm of the restorative justice experts who attended, reflecting the *agonistic trends* in academia, research and practice.

Lasting for one week, our symposium turned out to be symbiotic and relational. All our days and evenings were spent in each other’s company. All participants shared the seven hour daily programme (four hours every morning and three hours every evening), as well as lunch, dinner and evening drinks. Some participants also brought family and friends who were welcomed to all the activities and in this way strengthened the relationships further. It was important that power was relinquished and a bottom-up debate encouraged.

What really made a difference, however, were the chosen locations for our sessions. Skopelos is one of the most beautiful and unspoilt islands of the Aegean, famous for its blue sea, light, and rich flora and fauna. The locations for each session were different, chosen for their symbolism and unique beauty. For example, the beach-based sessions symbolized the open horizon of the Aegean Sea, encouraging an open mind and creativity. The session held at the old Monastery of Panagia Leivadiotissa, owned by the Monastery of Sinai in Egypt (fourteenth century), represented the continuum between the past and the present, not only in history, but in linking the different countries and cultures present. The Minoan Style villa, designed and painted by the artist Mrs Vasso Kosma reflected the technique and colours of the Minoan Palace at Knossos, Crete, symbolizing the continuum of influence of the Greek civilization through time and space.

The Santa Barbara Monastery, founded in Byzantine times, cut off from other parts of the island and adorned with Byzantine icons, represented peace, calm and self-reflection. We saw Byzantium as the link between ancient philosophies, both Greek and Arab, as well as modern Western thinking. Our selected locations symbolized the continuum in philosophy and spirit, from the past to the present and from East to West, including the values of fairness and justice.

Our closing ceremony at the Ancient Asklepeion of Skopelos, which is referenced as the centre of energy, healing and revealing, was symbolic of our plans to take a step forward in restorative justice and human rights thinking. Healing and revealing social bonds from crime violation and restoring communities,

4 For meaning and forms of symptotic dialogue, see Konig, 2008.



while remaining faithful to our core aims in academia, research and policies were emphatically symbolized. Similar to a Greek tragedy's *catharsis* the closing ceremony encouraged further self-reflection, exploration and a transformation into something better. The Orphic Hymns to Dionysus, Dias, and Apollo sung by Iphigenia Kovani, a mezzo lyric singer, and ancient style libations by the host organizers closed the event in an inspiring way.

The event was followed by a painful comedown and countless emails and conversations about the aftermath of our experience and the ideas that flowed from it. Then the writing started, resulting in further debates and, of course, editing. The ultimate Ithaki was the creation of this book, which we hope will encourage the reader to take their own journey of exploration and questioning.

Limitations and Ways Forward

In attempting such a journey and book we were mindful not to be seen as romantic or utopian. Our goals were grounded in academia and the furtherance of philosophical thinking. It was also important that we were not seen as detached from reality. Although the questioning of current models of practice and thinking was encouraged, we did not subscribe to any school of abolition.

Arguably, due to 1970s literature, restorative justice has often been confused with abolitionism and the replacement of the current justice system with something radically different. None of the participants had such an intention. Our writings, questioning and postulation aimed to challenge current ways of thinking about



reality, harm and crime control and the reasons justifying our criminal justice sanctions, practices and ethos. The chapters in this volume may be seen as radical but their intentions are reconcilable, as they aim to help us reposition ourselves in the pursuit of justice for others and ourselves.

Being Greek, both Editors were also anxious to avoid being viewed as promoters of an ancient Greek lifestyle. Although the ideas of Classical Greek thinking and ethos were used, the event was placed within a cultural context that represented its international delegates. It was important that everyone felt comfortable and safe in each other's company. Such is also the power of restorative justice and the universality of human rights.

We acknowledge that the small number of participants in our symposium is not representative of all the trends and perspectives in restorative justice theory, research and practice. However, given the different scientific backgrounds of the participants, the various fields of their work and their diverse professional ideology, we achieved an interdisciplinary dialogue. The multidisciplinary background that we all shared (practitioners, criminologists, philosophers, policymakers and so on) allowed a mixed approach to our critical thinking and to the questions that were raised. The figures of Socrates, Agathon, Phaedrus, Pausanias, Aristophanes, Eryximachus and Alcibiades were used as an inspiration, not an imitation.

What we were also clear about was our ambition to push the theoretical boundaries of restorative justice in order to support current and future practice. Thus, we were determined to draw norms out of practice and the real world as interpreted by the Symposium's international participants. We acknowledge the geographical limitations of our endeavour since not all countries where restorative justice is exercised were represented. We also highlighted the significance of building on what has already been achieved in restorative justice philosophy. Therefore, we were honoured when leading restorative justice theorists, John Braithwaite and Howard Zehr, accepted our invitation to open this volume. Although they were unable to attend the symposium, we believe that their contribution was key in ensuring the continuity of our philosophical thinking.

We encouraged all authors not to be afraid to ask questions. In fact, issues that they were previously not able to ask about due to institutional and other limitations were of particular interest. We were determined to challenge power in all its forms and particularly that between researchers and institutions. In her work *Hope, Power and Governance*, Valerie Braithwaite (2004) speaks of 'collective hopes' that are created through our interactions with others. This interaction, she says, creates shared ways of being and seeing the world. This was the foundation of our Symposium, debates and presence at Skopelos.

Our questioning was also mindful of current social reality and the needs of our times. We did not want to be abstract in our thinking and contribution. We all agreed that both restorative justice and human rights are characterized by an evolving nature and are contextualized by the social, political, financial and cultural environment in which they belong. While developing our thinking we were also

mindful of each other's expertise and limitations and through this knowledge we attempted to push our own barriers further out by learning from each other.

We hope that our work reflects current social reality and that most of its limitations lie in the fluidity of societal change and needs. The margins of generalization have been set by these social changes in a rapidly changing world. As Heraclitus said: 'Τα πάντα ρει' (everything moves). Of course, this is the case for every scientific activity. The era of encyclopaedists is long gone. We are now living in the era of universality and globalism of theories and ideas. Relativism and analysis in context are the limits of our work.

Obviously, it was important that the international nature of our venture be put in the context of pre-agreed international conventions and standards while remaining ambitious in taking the next step in proposing new milestones for the construction of a values framework for restorative justice.

Key Terms Explained and Agreed

In order to create a common conceptual framework for the symposium, book and journey, some key terms had to be agreed from the outset. Here we explain their meaning.

Philosophy

Attempting to define *philosophy* is a philosophical task in itself! A linguist would look at the etymology of the word, which derives from the Greek words φίλος (friend) and σοφία (wisdom). They would probably say that it is the act of being or becoming a friend of wisdom. A more conservative approach would be to quote the various definitions in the extant literature. For instance, for Hospers, 'Philosophy is the study of justification' (1990, p. 6). The truth is that 'many people who have been studying and teaching the subject for years wouldn't agree on a definition. And a definition wouldn't tell you much anyway. It would give you some words which you could memorise and copy down in notes and spew forth on tests.' (Hospers, 1967, p. 6)

Indeed, the only way to experience the thrill of driving is by driving. Therefore, in our minds, philosophy was the act of questioning with which we engaged before, during and after our journey to Ithaki. But what did we mean by philosophy of restorative justice and what is restorative justice?

Restorative Justice

Admittedly, there are more definitions of *restorative justice* than anyone can remember or quote. According to the literature, the term was coined by Eglash (1977) who distinguished three types of criminal justice: retributive, distributive and restorative. According to Eglash, retributive and distributive justice focus on

the criminal act, are informed and dependent on the law, deny victim participation in the justice process and require merely passive participation by offenders. On the other hand, restorative justice, he said, focuses on restoring the harmful effects of these actions, is not dependent on the law and actively involves all parties in the restoration process. Restorative justice provides 'a deliberate opportunity for offender and victim to restore their relationship, along with a chance for the offender to come up with a means to repair the harm done to the victim' (Eglish, 1977, p. 2).

Braithwaite (1999; 2002) and Zehr (1990) spoke about the transformative potential of restorative justice and the 'changing lenses' of how we view crime. Barnett spoke about a 'paradigm shift', claiming that we are living a 'crisis of an old paradigm' and that 'this crisis can be restored by the adoption of a new paradigm of criminal justice' (1977, p. 294). Christie (1977) argued that restorative justice returns conflict as property to the parties involved, taking them away from lawyers.

Restorative justice is now seen by many as an integrated approach rather than as an abolitionist concept. The various definitions in the literature are usually divided into two groups. The first places an emphasis on the process of restorative justice, while the second highlights restorative outcomes. There are also the wider, value-based definitions including, 'Restorative justice is 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, p. 139) Gavrielides argues that restorative justice 'adopts a fresh approach to conflicts and their control, retaining at the same time certain rehabilitative goals' (p.139).

Gavrielides (2011) argued that by introducing restorative justice as a radical concept, its proponents were hoping to make the then new concept of restorative justice appealing and interesting enough for writers and politicians who knew nothing about it. However, once the excitement was over, and while restorative justice was leaving the phase of innovation to enter one of implementation, its advocates (like Braithwaite, 1999) started to talk about the need to combine its values and practices with existing traditions of criminal practice and philosophy.

Philosophy of restorative justice

Putting the two terms of *restorative justice* and *philosophy* together, we understood them as being integral to our journey to Ithaki. This aimed to explore, understand and master the reasons for and against holding a certain view on restorative justice. While doing so we did not expect to reach any definite conclusions. Indeed, in philosophy, the reasons we can adduce for or against a conclusion are as important as the conclusion itself. There is a saying, 'if you gave me the choice between the truth and the search for the truth, I would take the search'.

Of course we appreciate that not everyone shares our sentiments since our modern society and the bulk of the literature prefer definite conclusions and tend

to be impatient with complex arguments. Therefore, we have to warn our readers that most of the issues that are discussed in this volume do not involve definite conclusions that everyone would accept (including those who have thought and written about them for years).

Take for instance one of the key questions of philosophy: ‘What is the meaning of life?’ Such questions can never be answered and yet their posing triggers a much-needed process of reflection for the appreciation of the good and bad that is to be experienced while living. The study of the search for the truth in such matters helps us understand our own questions. Therefore, it is for you, the reader, to absorb, accept or reject our philosophical thinking and arguments. But ensure whilst doing so you reflect on your own questions and thinking on the issues raised. Then you will also join us in our journey to the realm of philosophical thinking for restorative justice.

Theory

The word *theory* and the act of theorizing are often confused with philosophy and the act of philosophizing. They are not the same, otherwise this book would have been titled *Reconstructing Restorative Justice Theory*.

Aristotle understands theory as the opposite of praxis (practice). *Theoria* (θεωρία) was to look at, view, behold. In a more technical context, it also meant to refer to speculative understandings of natural beings as opposed to practical knowledge.

Nowadays, theory has come to mean a rational type of generalizing, to think or indeed the results of such thinking. Theories are treated as necessary analytical tools that help us understand and explain or even sometimes be able to make predictions about a given subject matter.

There are many theories in a number of fields of study including criminology. There are even theories within restorative justice. One of the most famous restorative justice theories is Braithwaite’s reintegrative shaming (Braithwaite, 1989), which has served as the centre for testing and piloting for years through the RISE experiments in Australia. Thus, a formal theory tends to be syntactic in nature and is only meaningful when given a semantic component by applying it to some content.

The authors of this volume were discouraged from trying to prove or disprove a certain theory. Instead, they were pushed to philosophize by stepping outside the world of empirical evidence and piloting. We wanted them to ask open-ended questions. We were ambitious in our goals of breaching the barriers of both theory and praxis.

Human rights – values – standards – rights – principles

Finally, it is also important when talking about *human rights* that we are clear what we mean by rights, values and principles. According to the Universal Declaration

on Human Rights (UDHR), ‘Human rights refer to the basic rights and freedoms to which all humans are entitled,’ or as Article 1 UDHR literally states, ‘All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.’ Human rights are minimum standards that are available to everyone simply because of their humanity (Gavrielides, 2005b). For instance, concepts such as citizenship and democracy are not prerequisites for someone’s right to be human nor does the enjoyment of those standards protect this qualification.

Similar to restorative justice, definitions for human rights are hardly helpful in unravelling the complexities of its living notion and practices that have travelled through centuries to finally play a role in society’s law and order today. For instance, Johnstone (2001) has argued that to develop an understanding of restorative justice, it is necessary to ‘engage with accounts of its use in historical societies and contemporary indigenous communities’ (p. 10). This is also true for human rights, whose history is rarely explored (Klug, 2000). It is not the intention of this chapter to discuss the definitional ambiguity of restorative justice and human rights. This has been done extensively in the literature, which still strives for further clarity and agreement.

Human rights as legal articles are ‘by definition justiciable parts of a statute that form the main basis for legal claims in a court of law. They also inform jurisprudence and provide a clear framework for enforcement.’ (Gavrielides, 2012) In the case of human rights statutes, some articles are procedural while others are substantial (substantive guarantees). Procedural articles (like Article 1 ECHR, European Convention on Human Rights) are those that define the process that the state and the agents of the law have to follow when a substantive article is engaged. Substantive guarantees (like Article 2 ECHR) refer to the rights and entitlements of an individual under human rights.

Rights may or may not be justiciable. For instance, as argued by natural law and liberal theories, human rights are natural rights given to everyone because of their humanity (George, 1994). However, this does not make them automatically enforceable. They become substantive guarantees when protected by the *legal articles* found in human rights treaties (as in right to life under Article 2 ECHR). Put another way, they give context to legal articles within human rights conventions. Similarly, some rights are procedural (like right to a fair hearing under Article 6 ECHR) while others are substantial (right to life under Article 2 ECHR).

Standards may or may not be legally enforceable but they may be found in a justiciable context. Standards generally suggest that an agreement has proceeded on the minimum level that the practice or notion in question has to be respected or protected. They also suggest that a wide margin is left for the discretionary development of a practice that not only respects the standard but also builds on its minimum protection. Human rights, as standards, signify their evolving nature as they progress and adjust to the realities of the given society and time.

Principles may or may not be justiciable but, when used in the context of legal rights, they constitute the underlying values characterizing them. For instance,

being treated with dignity and respect is a key principle underlying the European Convention on Human Rights (ECHR). This principle encompasses: a) respect for the person; b) right to be free from inhumane or degrading treatment; c) recognition of a person's dignity because of his/her humanity; and d) respect for a person's home and family (Gavrielides, 2008). The first three are mainly protected by Article 3 of the ECHR, while the last principle is protected by Articles 8 and 12, though a number of other articles may come into play.

Finally, in relation to *values*, as Klug (2000) argued, it is important when talking about them (as opposed to the legal articles and rights) that we accept, 'they can never be more than a set of broad principles. Although they challenge many assumptions, they are not a substitute for a fully-fledged ideology or belief system which speaks to every facet of human life.' (p. 148) Harvey's argument (2012) is particularly pertinent as he stresses Western democracy's obsession with the legal dimension of human rights and the missed opportunity to read them as shared values that can inform not only our exchanges with the executive, but also how we treat each other.

The Symposium: A Values-based Methodology of Philosophy

We now turn to the values and principles on which the Symposium, this book and our journey to Ithaki were founded. The purpose is twofold. First, it will allow the identification of the values framework within which the event and thus the debates were structured. This framework may then be reproduced for similar future events and the production of new knowledge. Second, it will place the chapters and ultimate objective of this volume within a shared values framework. As Valerie Braithwaite (2004) notes, through collective hopes and shared ways of being we create a values-based framework of further exploration and thinking.

Birrell and Leslie (1925) claim that Plato's Symposium bears the most thorough and in-depth proof of the power and contribution of the method of the Greek Symposium in deconstructing complex notions and norms of life. Furthermore, they argue, 'In form it presents the Platonic Dialogue at its brilliant best. In it may be discerned the germ of the after dinner speech, the modern Essay and the Freudian analysis of the mind.' (p. 2) Using Plato's Symposium we unpick the values that originated from this Greek Symposium methodology and which informed the Skopelos Symposium. Birrell and Leslie (1925) note that one of the most interesting features of Plato's Symposium is 'its treatment of the question of sex, a treatment that is at once faithful and frank, far-fetched and far-searching and in places fantastic' (p. 2). This was also the premise of the Skopelos Symposium.

From the outset, and using the Opening Ceremony of our Symposium as the vehicle of communication, the Symposiarchs (the Editors) laid down the principles to which all participants had to subscribe. These principles can be characterized as the expression of Platonic Love which is synonymous with the affections of the

unimpassioned and a metonym for the disaffection or distemper of the virile. So what were those principles?

Equality

The participants were asked to remove their institutional hats while being encouraged to see each other not as professionals filling certain positions of hierarchy within their fields but as equal participants in a joint venture of self-exploration and questioning. Given their diverse backgrounds, we acknowledged that this request demanded a shift in their hearts and minds, and thus we focused on developing personal relationships that would allow us to see each other as friends rather than through our roles in society. Through equality and the absence of institutional hierarchy we hoped to encourage bottom-up thinking for restorative justice's community-based ethos.

Respect and Diversity

We also accepted that our debates would lead to disagreements. We agreed that these would be respected and used to push the boundaries of our thinking. Adversarial models of dialogue that aim to win arguments were discouraged. We promoted the value of respect for each other's strengths and limitations and the acknowledgement that it is through these differences that diversity of opinions, answers and explanations can be achieved. Respect for each other's cultures, religions or non-beliefs, background, sexual orientation, race, political direction and economic status was agreed.

Voluntariness, independence and interconnectedness

The event was structured in a manner that allowed participants to take part in the structured programme freely and independently. Most of them came to the island with their families and friends who were also welcomed to observe. The social events were open to everyone, but were not obligatory. Each participant was independent to make their own choices and decide the manner of their participation and presentation. Forced and formal outputs and outcomes were avoided. Instead, we all felt interconnected with each other's critical and constructive interpretation of our thinking and work. Our views and presentation did not exist in a vacuum but were developed and contextualized within the framework of each other's critical thinking and questioning. This helped the Editors to lay strong foundations for a cohesive volume of chapters that are interlinked and complementary.

Brotherhood and solidarity

The success of the symposium and the context within which its principles were going to be implemented relied on relationship building, trust and mutual

understanding. Therefore, a sense of brotherhood and solidarity was pursued right from the start. The participants shared accommodation, introduced their families to each other, ate together and shared their own personal stories. Platonic love and friendship were quickly pursued and achieved in an organic and subconscious manner. It was also hoped that these relationships would endure beyond the actual event and during the drafting of this book. However, it was not expected that all relationships would be equally strong or lasting.

Due process

It was also agreed that despite the relaxed and informal style of our debates that the participants would respect the due process of the symposium proceedings. This referred to practical issues such as being prompt, respecting the timeline and programme, asking questions but being mindful of the time restrictions and adapting to the locality chosen for each presentation. The participants also agreed to be recorded and on certain occasions filmed, while notes were taken by the Symposium Secretariat.⁵ It was also agreed that the opening and closing ceremony would adhere to ancient Greek customs including a libation and Orphic Hymns.

Freedom of speech and freedom from fear

Given that most of the participants were attached to an institution, it was important to agree that their presentation, participation and questioning would take place within a safe environment that would not compromise their position and work. Respect for their freedom of speech was agreed. Fears of being judged, criticized or threatened to be referenced as unscientific were addressed from the outset. The only restriction to these agreed freedoms was respect for others. It was important that creative thinking that goes beyond the boundaries of conservative presentations was encouraged.

Confidentiality

Despite the discussions being recorded, all participants signed confidentiality agreements while accepting that the information shared will be used only for the purposes of the Symposium and this book. As real cases were discussed and interim research data was revealed, it was important that this principle was implemented throughout the proceedings while ensuring that once the event was completed the information gathered was secured and controlled.

⁵ The Editors are grateful to Ero Michael who acted as the Symposium Secretariat keeping us organized and on time.

Symposium Values – Human Rights and the Restorative Justice Ethos

Reading the Symposium values and their underlying principle of platonic love, we now ask about their relationship with the universal principles of human rights and then their relationship with the restorative justice ethos. Looking at human rights as an umbrella concept encompassing the various values that now underlie it, captured by the Enlightenment and the French Revolution as *Liberté, Egalité, Fraternité*. These watchwords were used by René Cassin and the other drafters of The Universal Declaration of Human Rights (UDHR) to construct its four pillars of human dignity, liberty, equality and brotherhood (Ishay, 2010). According to Gavrielides, human rights are broken down as:

Equality
Dignity and respect
Fairness, justice and the rule of law
Liberty and individual empowerment
Equity and proportionality
Brotherhood and solidarity
Effectiveness, transparency and confidentiality
Community duty and individual responsibility and
Freedom from fear (2012).

Moving on to restorative justice, a number of international and national documents attempted to identify the key principles underlying its ethos. Some examples include the *UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters 2002*, the *Canadian Department of Justice Restorative Justice Values 2010*, the *New Zealand Principles and Values for Restorative Justice 2004*.

These international documents were complemented with volumes of writings. For Braithwaite (2002) and McCold (1999) the principles underlying the restorative justice ethos are victim reparation, offender responsibility and communities of care. McCold argued that if attention is not paid to all three concerns then the result will only be partially restorative. Gavrielides understood this ethos in a broad way, 'Restorative justice, in nature, is not just a practice or just a theory. It is both' (Gavrielides, 2005a). 'It is an ethos; it is a way of living. It is a new approach to life, interpersonal relationships and a way of prioritizing what is important in the process of learning how to coexist'. (Gavrielides, 2007, p. 139) In a similar vein, Daly (2000) said that restorative justice places 'an emphasis on the role and experience of victims in the criminal process' (p. 7), and it involves all relevant parties in a discussion about the offence, its impact and what needs to be done to repair it. The decision-making, Daly said, has to be carried out by both lay and legal actors (see also Zehr, 1990).

It is not the intention of this paper to look at each restorative justice and human rights principle in detail nor to engage in a thorough evaluation of definitional projects in the literature. We conclude with a summary of the common principles

underlying our value-based symposium methodology, restorative justice and human rights:

Equality
Respect and Diversity
Voluntariness, independence and interconnectedness
Brotherhood and solidarity
Due process
Freedom of speech and freedom from fear
Confidentiality.

The common ground of these values reminds us of the prerequisite environment that needs to be in place in order for them to manifest themselves and achieve their practical outcomes. Human rights, restorative justice and dialogue-based methodologies of research and philosophy must be developed in a climate of democracy and with genuine intentions of dialogue-based reasoning. For instance, where a participant is silent or fearful to share their thoughts, the values of the symposium should guide the Symposiarchs and indeed the other participants to encourage participation. Where a member of society is marginalized in decision-making processes, human rights values, legal articles and civic society should come into play in making their voices heard. Where a victim is silenced in the process of pursuit for justice, restorative justice should provide the vehicle for sharing, questioning and cleansing.

The contribution of these common values as empowering tools for democratic participation and dialogue-based explorations of justice and ourselves reminds us that even if we do not achieve all our outcomes (Ithaki), the mere process of empowerment is enough to help bring balance.

Structuring Value-based Debates and Reasoning

Sen said: ‘To understand the world is never a matter of simply recording our immediate perceptions. Understanding inescapably involves reasoning. We have to read what we feel and seem to see, and ask what those perceptions indicate and how we may take them into account without being overwhelmed by them.’ (2009, p. viii) Merely recording the author’s perceptions of restorative justice and then expecting to achieve the book’s title would have been a naïve exercise and an insult to the reader. The value-based methodology described in this chapter and involving a journey which may or may not lead us to Ithaki, was the Editors’ way of achieving this book. We acknowledged the limitations of our chosen method. While some were anticipated, others were unexpected and remained unaddressed. If indeed the reader never reaches Ithaki with us, then the Editors take full responsibility. But as noted, reaching Ithaki was never an expectation.

So, how did we structure our philosophical debates and the reasoning that led us to new paths of knowledge? It is important to stress that each author was given complete freedom to think and write in the style they thought appropriate. To ensure consistency and flow throughout the volume, the authors were encouraged to follow four basic steps in the construction of their normative ideas and the writing of their chapter. These steps were loosely defined.

The first step aimed to build from the extant literature and debate on our selected topics. We hoped that this step would help them elaborate on the conceptual framework of restorative justice rather than remain focused on certain theoretical and/or research aspects. Although we encouraged them to look at the extant literature we also hoped for a critical account of their own achievements and writings. We encouraged them to present state of the art restorative justice theory, research and policy levels, without being limited by geography and by putting this description in the context of their own chapter. Authors were also encouraged to reconstruct restorative justice with material that has never been used before, such as their own personal accounts of restorative justice, practitioners' testimonies and writing and generally writing not considered to be in the mainstream literature. The use of non-English sources was also encouraged.

The second step involved raising key and complex questions on restorative justice as these are informed by its philosophical underpinnings, justification and modern reality. We expected that certain global trends (like the economic crisis) and local challenges would be used as direct or indirect influences on these questions. Putting forward new questions was also seen as a dynamic and interactive process for knowledge production. Pre-constructed models of thought and empirical thinking were discouraged. The questions that were raised during the Skopelos Symposium were reiterated to the authors in the hope that they could act as stimuli for their chapters.

The third step was the most creative part of our thinking and involved deconstructing notions relating to restorative justice theory and practice. *Deconstruction* was approached in two ways. Firstly, it was used as a very broad concept, seen as a process of unravelling some of the restorative justice issues in theory, research and practice. We did not want to use it *stricto sensu*. In other words, we saw it as the process of illuminating some of the colours of the restorative justice spectrum, in our complex postmodern societies, which are characterized by deep social transformations. Secondly, it referred to the process of the Editors re-reading the authors' chapters with the aim of unravelling issues raised by authors' questions and answers. Hermeneutic attempts in authors' views were strictly avoided.

The fourth step involved the reconstruction of notions and ideas that had been challenged by the authors. *Reconstruction* referred to the rebuilding of the deconstructed notion, namely the reformulation of questions and/or presenting new questions for discussion. The authors also hoped to use the concept as a means for a new synthesis, based on previous analyses of authors' chapters. We did not see this synthesis as choosing parts of the chapters and putting them together in a

mechanical or logical order, but rather as a process of building and/or restoring the foundations of the restorative justice concept. This was attempted in the Epilogue of the book. Reconstructing restorative justice philosophy does not just refer to the title of the book, but also to the interactive and dynamic process that all authors needed to engage with, and had engaged with, during the Symposium.

The book is introduced by Braithwaite and Zehr. It is generally accepted that their work laid the first foundations for a philosophy of restorative justice. As Zehr notes in this volume, 'Indeed, the [restorative justice] field can be said to have emerged from practice more than theory. As one of the early articulators of the philosophy, I often think of the philosophy as emerging from a desire to conceptualize and communicate what we were doing in practice.' Zehr's statement helped us put the book's chapters in context, keeping them focused and grounded in reality. Normative thinking without a purpose and a contribution to practice was not in our interest.

Braithwaite also agrees with this statement as his publication with Strang concludes: 'There is nothing as practical as a good philosophy and the best philosophy is informed by practice'. (Braithwaite and Strang, 2000, p. 203) They also point out: 'The [restorative justice] philosophy now struggles to keep up with the pace of bottom-up innovation'. Braithwaite's introduction to this book is therefore key to unlocking the paths that we then explore through our journey and chapters. The reader will also realize that the publisher for Braithwaite and Strang (2000) is also the publisher for this book.

The book is broken down into three Parts. Part I takes a more general approach by reconsidering restorative justice through philosophy, law and criminology. Following this introductory chapter, the Editors delve into Classical Greek philosophy to identify the places (τόποι) where Aristotle, restorative justice and human rights meet. The notions of equality and fairness help us reconsider current concepts of justice and the application of human rights by modern institutions. Johnstone then proceeds with an account of restorative justice as a set of teachings or doctrines. He asks: To whom are these teachings addressed? What do they concern? How coherent are they? Would it be prudent to follow these teachings? Would it be ethical to follow them? Maglione then attempts to demythologize explanations and justifications of restorative justice, sketching out a contextual framework for 'interrogating ourselves' while sharpening our intellectual understanding as a preliminary step towards the critical development of new possibilities in the theory and praxis of restorative justice.

Part II moves on with case studies of contemporary issues that are questioned and re-examined in the light of restorative justice philosophy. Although these issues are not extensive and do not reflect the depth and breadth of normative challenges that restorative justice faces in modern society, this part of the book should help the reader contextualize how the book's general objective has practical significance. Mackay uses examples such as that of clergy sexual abuse to ask, what is the nexus between rights and restorative justice, especially where justice is denied? Yiallourides takes a step back by putting restorative justice in the context of

universal peace and the reality of international politics. How can restorative justice be pursued at the local level when issues of power and domination overshadow our individual actions at international and state levels? Schiff complements this thinking by looking at the broader institutional power structures within which restorative justice is situated. She argues that Western culture's delicate economic, social and political bases of power require the existence of corresponding class and status imbalances. Sharpe then proceeds to argue that the strength and consistency of benefits such as participation and negotiation arising from restorative justice point to an overlooked relational dimension of human rights. She reminds us of the work of Collectivists in an attempt to understand and use relational and value-based approaches to justice and restorative justice. Morrison continues the reasoning and theorizing of human rights as tools for restorative justice as she looks at the example of Canada and the interplay between the rule of law and restorative practices. Hadjipavlou concludes this part of the book by reminding us that restorative justice is not only an ethos applicable to interpersonal conflicts but also state-to-state and inter-community tensions. She draws learning from the sphere of conflict resolution, which she also connects with restorative justice philosophy.

Part III brings restorative justice back to its basics. In our journey, we were fortunate enough to meet non-Western-based experts who reminded us that the values and norms that have now become the backbone of restorative justice are deeply rooted in traditions such as the Aboriginal peoples of Canada (Oudshoorn's chapter) and practices such as peacemaking circles (Zellerer's chapter) as well as the African concept of *ubuntu* (Schoeman's chapter) and Ancient Greek catharsis (Gavrielides' chapter). This part of the book includes some of its most radical proposals as purist approaches to restorative justice are attempted in the hope that new stimuli can be created for further questioning. We ask that these chapters are read with an open mind and we welcome challenges that continue our philosophical thinking. As explained, this book does not subscribe to the abolition of current models of justice.

The book concludes with an attempt by the Editors to reconstruct restorative justice philosophy by critically analysing and synthesizing the key arguments and reasoning that were developed in its chapters. This attempt should not be seen as the ultimate contribution of the volume but as a summary of what was raised by the authors. The Epilogue also aims to act as a link between the work carried out here and what we hope will follow. As more questions are raised and new methods of thinking and writing for restorative justice are introduced, hopes are raised in encouraging further attempts that follow our paradigm.

It is worth pointing out that although for some authors justice was defined in terms of institutions, for others justice was seen as a fairness set within the context of lives and freedoms of the people involved. As it will become obvious, the issue of power and the imbalances that are experienced in the pursuit and application of justice was repeatedly raised by the authors. This did not just involve power imbalances between the state and the individual but also between the various

parties in restorative justice, the parties and the facilitators, the parties and society, society and the state, communities and mainstream justice agencies.

Another common feature is the value-based and relational-based connections that all authors made between restorative justice and the reasoning for its existence. In our exploration of the reasons of what justifies restorative justice, it became clear that most of them are found in the bonds that bind us all. Our interconnectedness, our shared values (such as human rights), our shared ways of being, our collective hopes and our resistance to institutionalized hope and power are all common threads running through the chapters. As a community-born and community-led ethos, restorative justice relies on these connections. It is therefore no surprise why relations and values ended up being the dominant features of our philosophical thinking.

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