

The Routledge International Handbook of Restorative Justice

Gavrielides, T. (2018). *The Routledge International Handbook of Restorative Justice*, London: Routledge. ISBN: 978-1-4724-8070-5

Table of Contents & Abstracts

Foreword

[Professor Howard Zehr](#) (Distinguished Professor of Restorative Justice, Co-Director, Zehr Institute for Restorative Justice, Center for Justice & Peacebuilding, Eastern Mennonite University, **USA**).

Preface: The Future of restorative justice

[Professor John Braithwaite](#) (Distinguished Professor and Founder of RegNet (the Regulatory Institutions Network) at the Australian National University, **Australia**).

Introduction & Acknowledgements

[Professor Theo Gavrielides](#) (Founder and Director of The IARS International Institute, **UK**; Co-Director of Restorative Justice for All, Visiting Professor at Bucks New University UK; Adjunct Professor at the School of Criminology, Simon Fraser University, **Canada**).

PART I: RESTORATIVE JUSTICE THEORY: THE NEXT STEPS

Chapter 1: Looking at the past of restorative justice: Normative reflections on its future

[Professor Carolyn Boyes-Watson](#) (Department of Sociology, Director of the Center for Restorative Justice at Suffolk University, Boston, **USA**).

Restorative justice is a contested term with a contested history because it has emerged within a context of social reform movements. The chapter will critically review the modern history of the restorative justice movement by deconstructing the legal, political and social agendas that have contributed to the programs, principles, practices and philosophy of restorative justice. It is common to note that the principles and practices of restorative justice are “not new” because elements of this contemporary philosophy can be found in indigenous and non-Western conflict resolution and within major religious traditions. This article will examine the reservoir of ideas retrieved from the past; demonstrate how these ideas are refashioned to serve diverse agendas; and provide an overview of the contemporary context within which restorative practices are situated.

Chapter 2: Pushing the theoretical boundaries of restorative justice: Non-sovereign justice in radical political and social theories

[Dr Giuseppe Maglione](#) (Lecturer in Criminology, School of Applied Sciences, Edinburgh Napier University, **Scotland**)

In times when the neo-liberal/neo-conservative political rationality increasingly structures multiple spheres of human life, radical political and social theories strive to envision alternative forms of resistance and disentanglement. These intellectual endeavours touch on critical subjects such as identity, power, justice and love. Particularly, reflections on the re-articulation of the relationship between ethics and politics have showed the capacity to generate a range of realistic utopias against the current state of global politics. These variegated efforts often share a critique of sovereignty as a paradigm of political action based on domination and offer implications of how to respond to transgressions of collectively established modes of conduct. Drawing on Michel Foucault, Maurice Blanchot, Giorgio Agamben and Judith Butler, this chapter aims to push the theoretical boundaries of restorative justice by exploring themes related to the idea of a non-sovereign justice. The chapter then proceeds to interrogate the actual and possible contributions that restorative justice can offer to such debates. Additionally, it reflects on how radical political/social inquiry can enhance this “new” frontier of justice, in the framework of imaging and practicing challenges against exclusionary political rationalities.

Chapter 3: Human rights and restorative justice

[Professor Ann Skelton](#) (Director of the Center for Child Law, University of Pretoria, and UNESCO Chair Education Law in Africa, **South Africa**).

This chapter explores contemporary debates about human rights and restorative justice, engaging with recent literature. The rights protections that victims and offenders have in the criminal justice system are identified, and the risks to rights that may occur in restorative justice processes are examined against them. The chapter differentiates between risks that arise from normative concerns and those that will only occur in instances of poor practice. The chapter observes that despite ambivalence about standard setting, it is part of restorative justice discourse and practice, and does resolve most of the risks to rights. The chapter then redirects the discussion about human rights away from a vertical, top-down, state-biased, criminal justice tethered, and individualistic conceptualisation. It points instead towards a horizontal, mutually respectful rights relationship which allows for dignified rights-conscious participants to be agents in their own justice processes. This reconceptualization can have real effects in practice through the way that standards are developed and by whom, and through the encouragement of a relational rights-consciousness in restorative justice.

Chapter 4: Beyond restorative justice: Social justice as a new objective for criminal justice

[Professor Nestor Courakis](#) (Emeritus Professor of Criminology and Penology at the National and Kapodistrian University of Athens, **Greece**; Faculty of Law and a full-time Professor at the University of Nicosia, **Cyprus**) and Dr. Theo Gavrielides.

Social justice constitutes an important, new challenge in criminal justice policy. Based on the concepts and principles of social solidarity and meritocratic fairness social justice has a double task: (a) to enhance the social rights that are considered to be essential for the decent living of citizens in a modern social state, and (b) to create the conditions needed in order to ensure that opportunities deemed necessary for a successful career are given to those who have the skills and ability to take advantage of them.

This chapter aims to advance restorative justice theory by linking it with social justice and by contesting that both can play an important role at three levels: legislative, judicial and correctional. The chapter argues that social justice can function as a model of criminal justice policy beyond restorative justice, especially in relation to financial crimes. Social

justice can also prove to be particularly effective for social prevention of crime by improving the standard of living, with emphasis on vulnerable social groups and, in this way, by preventing relevant criminality or delinquency against property. It can also cope with nepotism, bureaucracy and corruption, which may hinder meritocratic social mobility and the well-functioning of society's institutions in general and, hence, by reducing anomic situations which may conduce to civil disobedience and relevant criminality.

Chapter 5: Returning to indigenous traditions of peacemaking and peacekeeping: From Jirga (TDR) to restorative justice (ADR) in Pakistan

[Ali Gohar](#) (Founder of Just Peace Initiatives, **Pakistan**).

Peacemaking, peacebuilding and peacekeeping need different approaches in the contemporary world. Using original data from Pakistan, this chapter argues that we can achieve all three by using indigenous systems of justice. These systems are common practice throughout the world. However, for these systems to be truly effective one must combine them with restorative justice. Traditional systems are often side-lined in favour of modern ways of conflict resolution and peace building. The chapter contests that peacemaking problems tend to find their solution where they originated from. We use Jirga as an example. This is Pakistan/ Afghanistan's indigenous conflict resolution system. Restorative justice has now evolved from such indigenous systems. Our evidence from these practices suggests that when involving all stakeholders in peacemaking and peacekeeping the chances of achieving effective conflict resolution are increased.

Chapter 6: Differentiating restorative justice from peacemaking

[Robert E. Mackay](#) (Edan Resolutions, **Australia**).

This chapter presents a novel framework for analysing conflict and disputes resolution and management methods (hereafter for sake of concision, 'conflict responses') within a threefold typology of temporal focus, the socio-political locus of conflict and the axis of consent-coercion. It is grounded in a model of peacemaking which is based on a legal-ethical argument applying neo-Aristotelian theory and discourse ethics. It also draws upon a critical reinterpretation of Durkheimian sociology and an application of Buber's conception of inter-relatedness. It is argued that clarity about how different methods of conflict and dispute resolution and management fit into this framework allows us to take better decisions about which methods to employ in particular situations after an analysis of the issues in dispute and the motives and intentions of the parties involved. The chapter aims to contribute to the Volume's ambitions for a normative push of restorative justice by concluding with an application of the typology through the medium of the model of Law and Literature to a well-known story, not hitherto analysed for its illustration of conflict responses, leading to a reflection about motivation and recognition of the other in the resolution of conflict in family mediation.

Chapter 7: Recovery and restorative justice: Systems for generating social justice

[Anna Kawalek](#) (Associate Lecturer, Doctoral Researcher, Helena Kennedy Centre for International Justice, Law and Criminology Department, Sheffield Hallam University, **UK**), [Professor David Best](#) (Professor of Criminology, Sheffield Hallam University, **UK**), [Michael Edwards](#) (Visiting Professor, Sheffield Hallam University, **UK**).

Theories underpinning restorative justice (RJ) overlap significantly with work around addiction recovery, in particular, the concept of "recovery capital". Whilst both movements are relatively new, RJ has a longer-standing history and a greater application in practice settings, yet both are inherently 'relational theories' and should be evaluated as such. There

is great value in a comparative review of the concepts, assessing how the theories and practices align, as well as how each framework may inform the other. Recovery is enhanced by establishing previously non-existent social networks through building “social capital” to access support networks and resources in the community. Similarly, the third pillar of any legitimate RJ practice is a social process inclusive of dialogue and engagement with those who have a “legitimate interest or stake in the offense and its resolution”. A key component of recovery theory is “community capital” and the importance of community attitudes/resources as a predictor of recovery longevity, a model that draws on Braithwaite's reintegrative shaming theory from the RJ discourse. This chapter aims to advance thinking and the Volume's objectives of challenging the RJ field by contesting that the common implication is that the effective implementation of these principles may facilitate the generation of a virtuous cycle enhancing the wellbeing of disputants and their communities and providing sustainable pathways to effective reintegration by building capital in communities and creating a 'therapeutic landscape' for restoration and rehabilitation.

PART II: RESTORATIVE JUSTICE PRACTICE: THE EVIDENCE

Chapter 8: Victims and offenders' perceptions and experiences of restorative justice: The evidence

[Professor Theo Gavrielides](#) (Founder and Director of The IARS International Institute, **UK**; Co-Director of Restorative Justice for All, Visiting Professor at Bucks New University UK; Adjunct Professor at the School of Criminology, Simon Fraser University, **Canada**).

Restorative justice is coming out of the shadows and this interest is expected to grow alongside a stronger victims' movement. In the UK, legislation now allows restorative justice at all stages of the criminal justice system, and as part of these developments, there is a need for an up-to-date evidence-based picture on victims and offenders' perceptions and experiences of restorative justice. This chapter aims to contribute to the Volume's ambition of presenting new evidence on the progress of restorative justice by reporting on the findings of a research project that was conducted in 2017 in London, UK. The findings are drawn from an online quantitative survey with 66 victims and 44 offenders, followed by 11 qualitative, in-depth victim interviews and a focus group with 7 victims and practitioners. The data point out a number of assumptions and caveats that persist within the restorative justice movement, and which must be addressed in order to ensure that further investment in restorative justice will yield benefits to all those whose lives are blighted by crime. The experiences and perceptions of London victims and offenders are used as a platform for wider learning.

Chapter 9: Victims and restorative justice: Bringing theory and evidence together

[Professor Arthur Hartmann](#) (Professor in criminal law and victimology, University for Public Administration and Applied Sciences Bremen, **Germany**).

The chapter aims to contribute to the Handbook's objectives by providing an up-to-date picture on victims' perspective and experiences of restorative justice, while also using new and unpublished data on victim-offender mediation in Germany. First, it starts by reviewing existing definitions, values and theories around victims and restorative justice, while also proving a historical account and an analysis of legal anthropology. Existing theories of restorative justice are critically reviewed from the perspective of victims, and new arguments and empirical evidence in this field are identified. Furthermore, critical and sceptical positions from the perspective of the victim support movement are explained and discussed. The chapter also looks at the EC Victims Directive, and its implications for

restorative justice. Subsequently restorative justice is confronted with victimological, criminological, legal and also ethnological thinking and evidence research on victims of crime. In order to obtain a multifaceted picture, the term "victim" is also analyzed. The merits and weaknesses of restorative justice are examined for victims of different crimes, gender, age and social class. The chapter concludes with an evidence-based proposition for new restorative justice directions.

Chapter 10: Restorative justice and child sexual abuse: Talking from evidence

[Professor Karen Terry](#) (John Jay College of Criminal Justice, Department of Criminal Justice, Interim Associate Provost of Research and Strategic Partnerships, **USA**).

Child sexual abuse is a serious and pervasive problem, which may lead to extensive, irreparable harm. Studies show those who were sexually assaulted as youths may exhibit increased levels of depression, anxiety, suicidal ideation, substance abuse, eating disorders, anger, resentment, low self-esteem, shame, and self-blame. Additionally, child sexual abuse victims-survivors often have difficulty trusting others and forming intimate, interpersonal relationships. These psychological, emotional, physical, and behavioural effects can be debilitating to some and permeate all aspects of their lives in both the short and long term. Theoretically, a restorative justice approach could help restore harm to victim-survivors of child sexual abuse through voluntary and honest dialogue between affected parties. Yet, while there are many restorative justice options available to assist crime victims generally, there are few options for helping the victims-survivors of child sexual abuse. The restorative justice programs that do exist lack consistency in definition, approach and application, and there is little research on the efficacy of these programs. This paper examines the research that does exist on restorative justice approaches for victim-survivors of child sexual abuse and discusses policy implications based on what is known.

Chapter 11: Complex cases of restorative justice after serious crime: creative and enabling spaces for those with disability

[Dr. Jane Bolitho](#) (School of Social Sciences, University of New South Wales, **Australia**)

Despite the prevalence of disability in both offender and victim populations and the obligations of signatory States to relevant human rights frameworks that make clear the right to access and effective participation in justice, little research explores what disability means for criminal justice interventions including restorative practices. This chapter begins to address this gap. From a study of 74 victim offender conferences in a government operated, post-sentencing programme for adults following serious crime in New South Wales Australia, an in-depth study of the 16 cases involving disabilities (in 15 cases for offenders, in 7 cases for victims, in 6 cases for both primary parties) was conducted using departmental case files (15), observation notes (7) and in-depth interviews with participants (35). While the nature of disability varied, mental health issues were present in all cases. In nearly all cases (15/16) adjustments were made to the preparation and process phases; these adjustments are described in the chapter. The chapter contests that if practitioners have the capacity to manage the inherent and complex power dynamics in cases involving disability, then a priority for the restorative movement is the sharing of knowledge, strategies and resources and the development of an evidence base around best practice. The creation of enabling spaces for those with disability is in keeping with the philosophy and aims of the restorative justice movement as well as human rights obligations.

Chapter 12: Restorative policing for the 21st century: Historical lessons for future practice

[Professor Kerry Clamp](#) (Assistant Professor of Criminology, Law and Social Sciences, the University of Nottingham, **UK**)

Restorative policing has experienced somewhat of a tumultuous journey within the criminal justice landscape. The practice first emerged in Wagga Wagga, Australia in the early 1990s where its architects drew inspiration from both the New Zealand conferencing system and Braithwaite's theory of reintegrative shaming. The chapter argues that the inspiring results of the 1990s-pilot project have not been replicated elsewhere. This chapter aims to contribute to the Volume's ambitions by interrogating the reasons for this and makes two key arguments. The first is that the operationalisation of restorative justice within contemporary policing environments with the pressures of austerity and public accountability naturally lends itself to quantity over quality resolutions. The second is that both the champions and evaluators of contemporary restorative policing schemes have prioritised learning from failure over success. The chapter also argues that if we return to the origins of the restorative policing model, we will remind ourselves that good practice takes time, investment and collegiality. Only once these internal resources are secured can true restorative policing that benefits the community take place. The chapter warns the international reader that limits to that realisation come from surprising quarters and raise some uncomfortable questions about the state of the field if restorative policing was 'allowed' to work.

Chapter 13: Restorative justice: When and what works with intimate partner violence

[Dr. Anne Hayden](#) (Research Associate of the Office of the Pro-Vice Chancellor, Auckland University of Technology, New Zealand, Winston Churchill Fellows Association member, Council of Elders, Restorative Justice Aotearoa member, **New Zealand**).

This chapter is based on a study that explored non-reporting of and gender differences in intimate partner violence (IPV) using non-randomised participants (eight victims, six perpetrators and fifteen key informants). None had experienced restorative justice, but a number of both victims and perpetrators expressed a wish that they had. None of the total participants excluded it as suitable for all cases of IPV. 79% of the total sample of victims, perpetrators and key informants (N = 29) considered that the availability of restorative justice for IPV would increase reporting. Using its original findings, the chapter contributes to the Volume's ambition by arguing that restorative justice is seen as a safer option for IPV cases as it appears to be speedier than the criminal justice system. The evidence also suggests that it could improve relationships sooner and could benefit children more. The chapter also points out qualities that made restorative justice less safe, but also ways of making it safer. These included participants having realistic expectations of the process, their partners' possible emotional responses and conference outcomes, the use of specialized facilitators, voluntary attendance, timing, commitment to honesty and the presence of support people. Power and reporting were reconceptualised, and the voices of men who are seldom heard were included.

Chapter 14: Evaluating the success of restorative justice conferencing: A values based approach

[Professor Jonathan Doak](#) (Law School, Nottingham Trent University, **UK**) and [Professor David O'Mahony](#) (Law School, University of Essex, **UK**).

Restorative justice conferencing (sometimes known as family group conferencing) differs from other forms of restorative justice in terms of both its practical operation and its theoretical underpinnings. Developed in New Zealand and Australia during the 1980s,

conferencing has rapidly grown in popularity on the international platform, and a growing number of jurisdictions now prioritise it as a premier type of restorative intervention. It is valued as a strong model for delivering restorative justice, because it brings together participants in an inclusive forum and allows for collective decision making. This chapter asks what constitutes 'successful' restorative conferencing. The evidence base relating to common measures of success, such as, participation, engagement, satisfaction, restoration and recidivism are considered. It is contended that there is no one single measure of 'success' in relation to restorative conferencing; indeed, the use of such labels can serve to simplify highly complex and nuanced processes which are difficult to quantify in terms of traditional social science methodology. Instead, we argue that it may be more useful to evaluate youth conferencing through a framework of values, calibrated to determine success or otherwise of conferencing interventions.

Chapter 15: Restorative Practice in Health and Healthcare Settings

Dr. Dan Reisel (NIHR Academic Clinical Fellow University College London - Obstetrics & Gynaecology, **UK**) and Janine Carroll (Director of Restorative Now, **UK**).

Restorative practice (RP) has the potential to provide a much-needed forum for dialogue, a space for those involved in a conflict or dispute. It has the power to change the narrative of powerlessness and failure, to one in which the event is transformed into a learning experience and an opportunity for growth. The healthcare setting offers unique challenges to an RP approach. This chapter aims to contribute to the Handbook's ambitions by exploring the opportunities and potential difficulties involved when applying restorative justice in the healthcare settings. Using original data from the authors' direct experiences in healthcare, the chapter argues that there are significant conflicts in the health sector that are often not adequately dealt with via the courts. Additionally, the spiralling costs of litigation indicates that more needs to be done to bring resolution earlier and without resorting to costly legal processes. For patients, the benefits would be timely attention to their complaint and the opportunity to affect Quality Improvement in the relevant setting. For clinicians, the benefits would also be significant: such cases could provide learning that would benefit them and their future patients. Finally, for Healthcare Trusts and hospitals, the investment needed to train staff in RP would be minuscule compared to even one case of litigation. The chapter concludes by arguing that restorative justice in the healthcare setting internationally would be valuable and have long-reaching beneficial effects.

Chapter 16: Traffic congestion and road rage: A restorative case study to road sharing

Dr. Marian Liebmann (Restorative Justice trainer and Honorary Research Fellow, University of Bristol, **UK**)

The chapter is based on original data that was collected from the innovative project "Road Sharing – A Restorative Approach", which was conducted during 2015 in Bristol, UK. Concerns had been raised about the increasing numbers of conflicts relating to road usage. Subsequently, a pilot project was undertaken by Bristol Mediation with support from the local government and police force. 71 people attended 11 small groups of mixed road users. The restorative model used was a peace-making circle, enabling everyone to have a voice. The pilot results were positive. For example, instead of regarding different road users as enemies and competitors, this project harnessed listening and consideration of other views, leading to a cooperative ethos. Aligned with the Volume's vision of pushing the boundaries of criminology and restorative justice, this chapter concludes that the Bristol pilot model of restorative working could be applied to other situations, such as focus groups, hard-to-reach groups with fixed views and incidents of road rage.

Chapter 17: Restorative justice in universities: Case studies of what works with restorative responses to student misconduct

[Professor David Karp](#) (Professor of Sociology, Skidmore College, New York, **USA**), and Megan Schachter (Skidmore College, New York, **USA**).

Universities are, paradoxically, institutions with ancient traditions and hierarchical power relations, but also the sites of progressive thought and proving grounds for emerging social movements. They allow for creative experimentation and academic freedom, but enforce rigorous compliance to academic standards and “politically correct” speech. What is the place of restorative justice in this sea of liberated students and challenging ideas? This chapter aims to assist the Volume’s ambitions for pushing the boundaries of criminology by presenting original evidence from a restorative justice project that was applied for student misconduct, ranging from academic dishonesty to violent assault. The project was run in the USA and this chapter will present some of its findings while also reviewing recent research on how restorative justice might meet the needs of harmed parties and fostering student development. Finally, this chapter will also explore promising applications of restorative justice to contentious campus issues including race relations and sexual assault as well as its potential to address faculty or staff conflict and misconduct.

Chapter 18: Restorative justice as a public health approach for increasing desistance of incarcerated people

[Dr. Lorenn Walker](#) JD, MPH (Hawai’i Friends of Restorative Justice, Public Health Educator, Trainer, Facilitator & Restorative Lawyer, **USA**) and [Dr. Janet Davidson](#) (Associate Provost, Academic Affairs Professor, Criminology & Criminal Justice, Chaminade University of Honolulu, **USA**).

In 2004, Hawai’i began experimenting with a re-entry planning programme that provides a group process for imprisoned individuals to promote healing and reduce crime. The circle process is grounded in public health learning principles and applies solution-focused brief therapy and restorative justice (RJ). The purpose of the circles is to repair harm, damaged relationships, and to address the desistance needs of individuals transitioning from prison. The process has been used for individuals in prison, on probation, parole, and formerly imprisoned, and has been replicated in part or total in other states and countries. This chapter is based on a study that reviewed recidivism outcomes for adult men and women imprisoned in two Hawai’i state prisons at least three years after their release. Self-selection bias by choosing to have a circle was reduced by comparing recidivism outcomes of individuals who applied for and had a re-entry circle with those who applied for a circle, but did not have one. The chapter aims to contribute to the Volume’s key objectives by presenting original results showing promising results with significantly lower recidivism for the 58 individuals in the experimental group that had circles compared to the 60 individuals in the control group who applied for a circle, but did not have one.

Chapter 19: Architecture and restorative justice: Designing with values and well-being in mind

[Dr. Barbara Toews](#) (Assistant Professor at the University of Washington, Tacoma / Designing Justice +Designing Spaces, **USA**)

The architecture and design of justice buildings, such as courthouses and correctional facilities, have long represented the ideals of justice philosophies. With each evolution of social understandings of justice and offending, the design of justice buildings has also changed. The increasing use of restorative justice raises questions about how the design of

spaces in which justice occurs can better reflect restorative values, such as respect, healing, and transformation, and there is growing interest and collaboration among restorative justice practitioners, architects, and landscape architects to design such restorative spaces. This chapter presents preliminary principles for the design of spaces informed by the restorative justice philosophy and used to facilitate restorative justice practices. These principles emerge following an examination of the values manifested in existing justice architecture and natural landscapes and draw on research findings regarding the impact of environmental design on health and well-being. The chapter includes examples of real world architecture and landscape architecture projects that either directly use restorative justice values and principles in the creation of the environment or offer insight into the design of spaces informed by restorative justice.

PART III: THINKING CRITICALLY ABOUT RESTORATIVE JUSTICE

Chapter 20: Restorative interventions in Chinese communities: Cultural-specific skills and challenges

[Professor Dennis S W WONG](#) (Professor in Social Work and Criminology, Associate Dean, College of Liberal Arts and Social Sciences, **Hong Kong**) and Wendy C.Y. Lui (Lecturer in Law, Department of Law and Business, Shue Yan University, **Hong Kong**).

In the past few decades, restorative justice grew rapidly with the emergence of new intervention practices, standards and skills in school initiatives, family welfare, and criminal justice. Currently, restorative practice, for handling conflicts and crimes with the aim of holding offenders accountable for their actions and reconciling relationships, is not only implemented in Australasia, Europe, and North America, but also in Asia and the Greater China Region. With real cases illustration, this chapter compares and contrasts programme goals, models, procedures, and skills central to restorative interventions in three Chinese communities, including Hong Kong, Taiwan and mainland China. The chapter aims to contribute to the Handbook's international targets and ambitions by opening a window into the specific developments of a range of restorative interventions for youth offenders in Chinese communities and argues that some culture-specific principles and skills are essential elements for the success of restorative practice. Our lessons from the implementation of restorative justice in Chinese communities are transferable across the globe.

Chapter 21: Is changing lenses possible? The Chilean case study of integrating restorative justice into a hierarchical criminal justice system

[Dr. Isabel Ximena González Ramírez](#) (Director, Centro de Mediación y Arbitraje, Universidad Central de Chile, **Chile**).

The purpose of this chapter is to test whether Howard Zehr's 1980 call for "changing lenses" is ever possible for restorative justice by evaluating its strengths and weaknesses in a hierarchical, top down criminal justice. To this end, the Chilean criminal justice system was used as a case study. Restorative justice in Chile appears in the form of penal mediation but it has neither been institutionalized nor normatively regulated. Nevertheless, penal mediation has been applied for over ten years in an incipient form. Innovative pilot projects have been developed, but these have not had enough diffusion to be validated by legal operators and the citizenry. The chapter is based on original research using an exploratory descriptive design and qualitative methodologies. Secondary sources were also combined with data from fieldwork using a sample drawn from Chile's legal operators. The chapter confirms that penal mediation is the most appropriate mechanism of restorative justice to be implemented in Chile. However, the Chilean culture of community development is weak and due to the legalistic tendencies of our criminal justice system, restorative justice is

hampered. We argue that in order for penal mediation to materialise its true potential an effective establishment of normative legislation is needed. We believe that this must also be the case for any hierarchical inquisitorial criminal justice system.

Chapter 22: Is restorative justice possible through the eyes of lay people? A Polish evidence-based case study

Anna Matczak (Department of Sociology, London School of Economics, Department of Sociology, **UK** and Collegium Civitas, Warsaw, **Poland**).

This chapter brings to light the Polish context of a post-socialist, post-transformation society of peasant roots which greatly contributes to the comparative criminological scholarship. The findings of this study challenge the scope and viability of restorative justice and encourage examining its preconditions through lay people's understandings of punishment and justice. One of restorative justice's central hopes was to establish an alternative system of crime resolution that would eliminate the infliction of pain. However, the nature of lay people's views might indicate that the functioning of a majority of restorative practices is, and will remain, dependent on the criminal justice agencies and that there is a need to address better the notion of punishment in restorative encounters. This chapter is based on original research findings that were collected through in-depth interviews and focus groups with 69 lay Polish people. The chapter contributes to the Handbook's international ambitions by arguing that lay Polish people shall be seen as Homo post-Sovieticus, whose perceptions of punishment and justice need to be analysed along with the legacy of the previous socialist system, the hasty transition from socialism to democracy and from a centrally-planned to free market economy. The chapter demonstrates how participants' perceptions of the Polish justice system, the police and unpaid work can assist to understand a number of factors that might influence the development of restorative justice in the Polish context and point to directions for future research elsewhere. The Polish experience is transferable across the restorative justice movement.

Chapter 23: Restorative justice as a colonial project in the disempowerment of Indigenous peoples

[Dr. Juan Tauri](#) (University of Wollongong, **Australia**).

Indigenous peoples' experience of the restorative justice industry has been marked by a number of strategic decisions and practices that have made the relationship uncomfortable for both parties, including a) that members of the industry purposely utilise elements of Indigenous life-worlds to enhance the marketability of their restorative justice products, and b) that the industry has become a significant colonial project within the settler colonial state's ongoing regulation of Indigenous peoples. Utilising the findings of recent research projects on Indigenous experiences of the imposition of restorative justice programmes in Canada and New Zealand, this paper offers an Indigenous critique of the settler colonial state's current reliance on the importation and dissemination of restorative justice policies, and conferencing forums as its preferred response to the related wicked problems of Indigenous over-representation in the criminal justice system, and critique of settler colonial crime control. This chapter aims to contribute to the Volume's key objectives by arguing that recent Indigenous experience of the globalised restorative justice industry and its parasitic relationship with the settler colonial state, challenges oft-made claims about the transformative properties of restorative justice policies and interventions, most especially the myth that it is capable of meeting the justice needs of Indigenous peoples.

Chapter 24: Restorative Justice and Reoffending: a "user's guide" to the assessing the research and claims about restorative justice and recidivism

Dr. William Wood (Senior Lecturer, Griffith University and Associate Editor of Victims & Offenders, **Australia**) and Ellie Piggott (School of Criminology and Criminal Justice, Griffith University, **Australia**).

This chapter contributes to the Handbook's key objectives by critically examining the question of whether or not restorative justice (RJ) can be demonstrated to reduce reoffending. Since the 1990s, RJ has emerged as a popular alternative to more traditional or conventional criminal justice responses to crime. In its growth and increasing institutionalisation there has been a growing focus by policy makers and interest by researchers on the ability of RJ to reduce reoffending. To date, however, evaluation research has failed to report consistent findings. These mixed results can be attributed to substantial variation in RJ programmes. Currently there is little consensus on what defines RJ and, therefore, an RJ intervention. As a result, many programmes differ in ways that are theoretically and empirically related to offending. The conflicting results found in RJ evaluations can be further attributed to the wide variation in study design and significant methodological limitations, largely pertaining to how best to: (i) control for potential bias and form a fair and equivalent comparison group and (ii) measure reoffending. Through a concise but thorough exploration of existing findings reported in available RJ evaluation research from English speaking countries, we provide readers with a "user guide" for understanding and critically assessing current evidence on effects of RJ in reducing reoffending. We conclude that, given the considerable heterogeneity in programme and research design, there remains limited evidence that RJ interventions demonstrate methodologically rigorous results in terms of reducing reoffending, and that the promising conclusions reported in some reviews and meta-analyses may be overly optimistic within these limitations.

Chapter 25: Restorative Justice Compared to What? Contextualizing the Supreme Court of Canada's Restorative Aspirations in *R v. Gladue*

Professor Annalise Acorn (School of Law, University of Alberta, **Canada**).

It is impossible to say whether restorative justice is good or bad in any given context without looking at the alternatives. One must always ask the question: restorative justice compared to what? One context in which restorative justice is decidedly better than the alternatives is that of Indigenous criminal offenders in Canada. In this chapter, I test the judgment of the Supreme Court of Canada in *R. v. Gladue* (1999) that strongly endorses restorative justice in sentencing of Indigenous offenders against what I consider to be generally persuasive and principled objections to restorative justice. I give reasons why neither the objection that restorative justice is insufficiently retributive; nor the objection that restorative justice is an abdication of state responsibility are persuasive in the Indigenous context. I aim to contribute to the volume's ambitions of challenging the restorative justice movement by examining two collaborative experiments where Canadian courts and Indigenous communities have partnered in seeking restorative solutions. The first is the case of *R. v. H.G.R.* (2015) that was, in my view, a failed collaboration. The second example, however, provides a ray of hope. The BC First Nations Courts support restorative processes which, compared to everything else on offer for Indigenous people in Canada, appear to hold a possibility of genuinely healing and suggest a genuine opportunity for reconciliation not just between the victim, offender and communities but between Canada's Indigenous people and its criminal justice system.

PART IV: THE FUTURE OF RESTORATIVE JUSTICE

Chapter 26: Restorative justice and the therapeutic tradition: Looking into the future

[Professor Gerry Johnstone](#) (Professor of Law, Course Director, MA in Restorative Justice, Law School, University of Hull, **UK**).

If asked to explain the essence of restorative justice in one or two sentences, many advocates and practitioners might employ Nils Christie's formula about the state and its actors stealing conflicts which belong to crime victims and offenders and explain how restorative justice returns these conflicts to their rightful owners. This chapter aims to contribute to the Handbook's ambition of pushing the boundaries of restorative justice by arguing that such an account involves a serious misplacement of restorative justice: it misrepresents the role which treatment professionals and their working ideologies have played in shaping the discourse and practice of restorative justice. The chapter starts by looking more closely than has become usual at Christie's renowned remarks about the state stealing conflicts, and in particular at what he has to say about treatment. It then argues that the therapeutic tradition in penal practice has suffered from being mischaracterised, and offers a revised image of this tradition. On this basis, the chapter goes on to argue that restorative justice can be located firmly within the therapeutic tradition in penal practice, albeit it makes some important innovations within it. Whilst critical of the notion that restorative justice emerged from outside the therapeutic tradition and is sharply opposed to it, this chapter is intended not as a critique of restorative justice, but as a more accurate placement of it. Crucially, it suggests that the restorative justice movement can benefit from a better understanding of its affinities with the treatment tradition in penal practice.

Chapter 27: True representation: The Implications of restorative practices for the future of democracy

[Ted Wachtel](#) (Founder and former president of the International Institute for Restorative Practices, **USA**)

Just as Christie, in his landmark essay "Conflicts as Property," accused lawyers and court professionals of stealing our conflicts, professional politicians have stolen our decision-making. Throughout the world, politicians pursue wealth and power by selling favourable decisions to the highest bidder. The remedy to rampant corruption may lie in filling our legislatures with randomly selected citizens—a process called sortition or election by lot—which has its origins in Athenian democracy. The critical question is whether groups of ordinary people can make good decisions, better than the professionals. This chapter aims to contribute to the Handbook's ambitions by arguing that restorative practices such as family group conferences, restorative conferences and circle sentencing provide significant evidence that ordinary people can make good decisions in issues which affect them and their community of care. Using evidence from the extant literature combined with the author's decades of restorative justice observations, the chapter argues that along with similar outcomes from business management research and deliberative democracy experiments, restorative practices can point to the potential of making governance more truly representative.

Chapter 28: The best is yet to come: Unlocking restorative practice's true potential

[Terry O'Connell](#) (Director, Real Justice, **Australia**).

During the last four decades, we have seen restorative justice evolve from a specialized criminal justice reform policy — bringing victims, offenders and others together in response to a crime — to a generalized range of practices, proactive and reactive, formal and

informal, that unlock the potential to enhance all human social interaction. The chapter explores the history of the restorative conference process that the author pioneered in 1991 in Wagga Wagga, Australia to argue that “restorative justice” and the more comprehensive term, “restorative practice,” will achieve their greatest and most enduring impact by becoming increasingly explicit — integrating diverse possibilities within existing restorative terminology and practice — but at the same time expanding the paradigm. The methodology used to develop the key argument is a combination of experimentation, related experience as well as primary and secondary research sources. The chapter contributes to the International Handbook’s ambitions by emphasizing the critical importance of explicit practice if the restorative movement is to achieve its true potential. By adopting the most fundamental, yet broadest hypothesis — that doing things “with” people is better than doing things “to” them or “for” them — we recognize that relationship-building is not just a technique for effective restorative justice, but provides the underlying rationale for a healthier civil society.

Chapter 29: The new generation of restorative justice

[Professor Carl Stauffer](#) (Eastern Mennonite University, Center for Justice and Peacebuilding, Assistant Professor of Justice & Development, Co-Director of the Zehr Institute for Restorative Justice, **USA**) and Professor [Johonna Turner](#) (Assistant Professor of Restorative Justice and Peacebuilding, Center for Justice and Peacebuilding, Eastern Mennonite University, **USA**).

The field of Restorative Justice (RJ) remains a contested terrain. The notion of RJ has its origins in practice and has only recently started solidifying its research agenda and theoretical underpinnings. RJ as an academic and professional discipline is facing at least three critical transitions: defining its identity, expanding its transformative practice, and sustaining its adaptability. While controversial, a critical number of voices are predicting that RJ may either fade away, or be co-opted by the established legal system. At the centre of this concern is the danger of viewing RJ as only one of many “professional services” in our menu of social welfare responses to criminal justice reform. In this chapter, the authors argue for an understanding of RJ as a “social movement”. As such, this chapter aims to contribute to the Handbook’s key objective of pushing the boundaries of criminology by highlighting popular, bottom-up expressions of RJ emerging from communities around the world who find themselves at the margins of mainstream justice. These approaches reflect new/old forms of accountability, prioritize healing and recognize that communities have the capacities to sustain their own satisfying justice in-context. A new generation of RJ is being carried by a movement of “collaborations of just-practice”, which are addressing personal violations, historical harms, and structural violence in an integrated way.

Chapter 30: Transforming powers and restorative justice

[Professor George Pavlich](#) (Professor of Law and Sociology, Canada Research Chair in Social Theory, Culture and Law, University of Alberta, **Canada**).

Thinking about the growth of restorative justice initiatives over the past decades, one might easily neglect potentially vibrant paths not taken. Exploring prospects of a politically transformative future tied to a restorative past, this chapter returns to three unfulfilled promises in the movement’s past. First, it recalls how restorative justice called for ‘changing lenses’ and diverting people away from an exclusionary, disempowering and increasingly vast criminal justice. Secondly, it scrutinizes the critique that restorative justice has tended to deploy power relations paradoxically tied to the very criminal justice arenas that its moral claims abjured. Finally, it examines restorative justice as a critique of sovereign justice that silenced pre-modern and indigenous forms of conflict resolution. Working with key insights

generated by these critiques, the chapter proposes that restorative justice could in future reclaim a fresh transformative moral and political role; namely, as a social movement in search of inclusive, non-criminalizing governance that renovates entryways to criminal justice systems. Its express aim might then be to reduce the number of people selected and admitted as 'criminals' to growing criminal justice arenas, and to renew the pursuit of wide-ranging ways to govern wrongdoing that augment, rather than disrupt, social bonds.

Epilogue: Restorative justice with care and responsibility

Professor Theo Gavrielides (Founder and Director of The IARS International Institute, UK; Co-Director of Restorative Justice for All, Visiting Professor at Bucks New University **UK**; Adjunct Professor at the School of Criminology, Simon Fraser University, **Canada**).

The Epilogue has a dual objective. First, it brings together the key normative and empirical contributions of the Handbook's chapters. Following the structure of the Volume, the Epilogue first presents the theoretical and normative proposals of Part I. Subsequently, it summarises the new empirical evidence that is presented under the various themes of Part II on new and contested areas of restorative practice such as child sexual abuse, intimate partner violence, road rage, healthcare, student misconduct, disability and architecture. It then proceeds with a reflection on the critical analyses of Part III, and concludes with a discussion on the various aspirational visions of restorative justice presented in Part IV. The Epilogues' second objective is to identify a clear path for restorative justice as this is paved through the Handbook's latest evidence-based propositions. As the volumes on restorative justice continue to grow and governments from around the world invest more by drafting new policies and legislation, the Handbook uses its original data, normative contributions and critical analyses for new directions with care and responsibility.