

## Editorial

Firstly, congratulations to our Editor, Kerry Clamp, on the birth of Alexandra Ivy Wood, whose arrival a few weeks early meant that Kerry had more important matters on her mind than writing this editorial.

Special congratulations to Christa Pelikan who received the third European Restorative Justice award during the conference dinner in Belfast on June 13, 2014. Christa has kindly responded to a request to give her reflections on the award and her life in restorative justice. Christa shares with us her journey of understanding and what currently encourages her about RJ.

The first of our two main articles is by Anamaria Szabo who brings us up-to-date on 'Mediation in criminal matters in Romania.' She shares with us the history of mediation in Romania, the implications of the new Criminal Codes which came into force earlier this year and the challenges for mediation in Romania.

The second, by Niall Kearney and Bill Whyte, is based on a paper given at the Belfast Conference and describes the Scottish 'Restoration in Serious Crime' project. It outlines the background to the project and summarises the work done with a young driver, sentenced to 30 months imprisonment for causing the death of a passenger in a car accident, and the bereaved parents.

Eric Wiersma then treats us to his impressions of the Belfast Conference highlighting the contributions of

plenary speakers and workshop leaders and the overall ambience of the conference.

We have three book reviews, one by Eric Wiersma on the book by Shannon Moroney, who spoke at the Belfast Conference, and two by myself, one on RJ in Russia and one on work with young offenders in England. May I take this opportunity to invite you to send in reviews of books in English about restorative justice which you think should be more widely known or, failing that, send us suggestions for books and we will see if we can find someone to review them.

We have a number of articles from the Belfast Conference lined up for the next edition but, in the meantime, we welcome submissions of further articles whether from the Belfast Conference or from elsewhere. Please send them to Kris Vanspauwen ([kris@euforumrj.org](mailto:kris@euforumrj.org)). Don't worry if this is your first article; everyone has to start somewhere and the Editorial Board has a lot of experience of helping authors to get into print.

**Robert Shaw**

Member, Editorial Board

[robert.shaw15@virginmedia.com](mailto:robert.shaw15@virginmedia.com)

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## On winning the EFRJ Award

I am genuinely happy to have received the EFRJ award. Hearing the cheers of my friends from the EFRJ made me aware how lucky I have been to find restorative justice as my field of work as a social scientist and lucky to find so many people working in this field who are more than just colleagues, I consider them my friends. Many opportunities that I have been exposed to over the course of my career have enabled me to work towards developing restorative justice as a concept and practice within Europe. I want to share with you my story.

My work began with the foundation of the [Institute for the Sociology of Law and Criminology \(IRKS\)](#) which was an effort of a group of like-minded people.

Some of these people I knew from being part of the '68-movement' which sought to establish an 'anti-authoritarian' kindergarten education for our children.

We strived for an education without using punishment — any punishment not just corporal punishment. When the late Director of IRKS, Heinz Steinert who was also a friend of Nils Christie's, introduced the idea of conflict resolution as an alternative to punishment in the early 1980s it immediately appealed to me.

In 1984, I was tasked with conducting the research planned as an integral part of the pilot project that tried out conflict regulation (*Konfliktregelung*) in cases involving juvenile offenders at three Austrian courts. I performed — and partly invented — what I called 'accompanying research' (a literal translation of '*Begleitforschung*') — which is an approach which blends action research and evaluation research. I have described its beginnings and the favourable circumstances that led to its success in various contributions (Pelikan, 1992, 2000). To transcend the role of a researcher as a mere detached observer became one of my prime goals when conducting research and this approach is required and further elaborated in the ALTERNATIVE project that I am currently involved in.

In 1989, a big conference took place in Bonn, attended by Richard von Weizsäcker, the President of Germany. Our colleagues there talked about victim offender mediation (*Täter-Opfer-Ausgleich*) as it was practised within various projects that had sprung up in many of the *Länder* in cooperation with the courts, with public prosecutors and judges. The report from Austria's *Außengerichtlicher Tatausgleich* (out-of-court compensation scheme), already a nationwide scheme for juveniles, generated much interest. In the aftermath of this event Horst Schüler-Springorum, Professor of Penal Law and Criminology, who had moderated the Bonn conference, recommended me as a speaker at events of the Council of Europe. The growing interest in VOM eventually resulted in the establishment of the 'Committee of Experts on Mediation in Penal Matters' within the Council of Europe in Strasbourg. I became the Chair of this Committee — and there I got to know Ivo Aertsen in November 1996 and I worked with Siri Kemeny whom I had already met in Barcelona in 1995. My further thinking and theorising was strongly influenced by the discussions that we had within this Committee.

Another significant influence for me was a visit to Colombia in 2005. I was invited by Professor Manuel Vidal Noguera of the Xavierian University (*Universidad Javeriana*) in Bogota, after he had read on a website that I was interested in using the work of Hannah Arendt in connection with restorative justice. Given our mutual admiration of Arendt's work, he invited me to attend and speak at a big conference that was planned on 'RJ and peacemaking' in Cali. I tried to convince Manuel that with my Austrian experience in restorative justice, I was hardly the person to contribute to the enormous problems of large-scale political violence in Colombia. He insisted and I learned during the course of this exciting event that restorative justice

has relevance both for Europe and for a country like Colombia which is ridden by armed conflict.

The horizon of thinking about and of practising restorative justice had become wider. My, albeit limited, involvement in the project that led up to the book on *Restoring justice after large-scale violent conflicts* (Aertsen et al., 2008) further increased my understanding of this application of restorative justice. Furthermore, getting to know about the *Zwelethemba* model in South Africa (see Froestad and Shearing, 2007) made me think about how restorative justice is being used beyond the confines of the criminal justice system. I started to consider a project 'Learning from *Zwelethemba* (in Europe)' and to explore sources of funding for this research but unfortunately, I was not successful. Nevertheless, a few years later, the Criminology Institute of the University of Leuven together with other partners including IRKS secured funding for the project entitled: 'Developing alternative understandings of security and justice through restorative justice approaches in intercultural settings within democratic societies' (ALTERNATIVE). This is a very exciting project for me, not only because (as I mentioned earlier) it uses a methodology which requires us, the researchers, to be more than detached observers, but also because it looks at the use of restorative justice to respond to everyday conflicts of people from different ethnic, religious and cultural backgrounds living together in Vienna's public housing estates. At the Belfast conference we had a great opportunity to present and discuss interim results.

There are a number of key points that I would like to make in reflecting on my journey as a researcher and proponent of restorative justice. First, I see it as a field that allows me — us — to become politically socially relevant — at least sometimes. Second, there is the unique relationship between science/research and practice that goes together with this kind of engagement (see Pelikan (2010) for more detail on this). In the course of working for ALTERNATIVE and in the countless discussions I have had with my colleague and friend Katrin Kremmel, I have somewhat sharpened the notion of action research and the standpoint and the involvement of the research with (political) practice. This is therefore another work and thinking in progress — one that is dear to me — and one that connects me with the practitioners and not least with the people on the ground. Finally, it is the people that I have worked with that I am most grateful for. I would like to venture the contention that we, the people working in the field of restorative justice, find a special brand of personal relationships — bypassing the 'rat race' that pervades life and relationships in the (scientific) world. Maybe we do indeed have more caring and supporting relationships with each other within the RJ-scene? I have experienced this time and again — and now, just a few weeks ago when spending my holiday in Ireland and enjoying the hospitality and generosity of our Irish

colleagues, of Tim and Hugh, I think and I feel that we are aware that the way we behave and live our lives should mirror those values we strive for and regard as important.

With warm wishes,

**Christa Pelikan**

[christa.pelikan@irks.at](mailto:christa.pelikan@irks.at)

## References

- Aertsen, I., Arsovska, J., Rohne, H.C., Valiñas, M. and Vanspauwen, K. (eds.) (2008). *Restoring justice after large-scale violent conflicts: Kosovo, DR Congo and the Israeli-Palestinian case*. Cullompton: Willan.
- Froestad, J. and Shearing, C.D. (2007). Conflict resolution in South-Africa: a case study. In: G. Johnstone and D.W. Van Ness (eds.) *Handbook of restorative justice*, pp. 534–556. Cullompton: Willan.
- Pelikan, C. (1992). The Austrian Juvenile Justice Act 1988: a new practice and new problems. In: H. Messmer and H.U. Otto (eds.) *Restorative justice on trial: pitfalls and potentials of victim-offender mediation: international research perspectives*. Dordrecht; London: Kluwer Academic Publishers.
- Pelikan, C. (2000). Victim-Offender Mediation in Austria. In: European Forum for Victim-Offender Mediation and Restorative Justice (ed.) *Victim-offender mediation in Europe: making restorative justice work*. Leuven: Leuven University Press.
- Pelikan, C. (2010). On the efficacy of Victim-Offender-Mediation in cases of partnership violence in Austria, or: Men don't get better, but women get stronger: is it still true? *European Journal on Criminal Policy and Research* 16(1):49–67.

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# Mediation in criminal matters in Romania

## 1. Mediation as practice and profession

Mediation in Romania is regulated by Law no. 192/2006 (called from now on Law on mediation). The law covers mediation practice in civil and criminal cases, as well as the organisation of the profession at national level. Mediation is defined in Romania as ‘a way to solve conflicts through mutual understanding with the help of a mediator as third specialised party, in conditions of neutrality, impartiality, confidentiality and with the free consent of the parties’ (art 1, para 1, Law on mediation). The practice and the profession are organised by the Council of Mediation, which is an autonomous public interest body ([www.cmediere.ro](http://www.cmediere.ro)).

Mediation practice is conducted by professional mediators. In order to become a professional mediator, a person needs to have full legal capacity, to be a graduate, to have at least three years of prior work experience, to be medically fit to mediate, to have a good reputation and not to be convicted of an intentional crime, to complete an authorised mediation training program and to be certified by the Council of Mediation. There are approximately 9,300 professional mediators in Romania, out of which approximately 8,400 have the right to practice (e.g. are not suspended). In reality, fewer mediators practise.

Mediation is organised as a private profession in Romania, meaning that the parties to a conflict wanting to enter mediation have to pay for such services. Mediation offices establish their own fees, usually by direct negotiation with the parties. This is true also for criminal cases, offenders and victims having to agree among themselves on how the fees will be paid. In such cases,

most of the times the offender offers to cover the fees for mediation.

In 2013, 1,749 civil cases and 13 criminal cases were solved through mediation, according to the Superior Council of Magistracy's Report on the State of Justice (Cosiliul Superior al Magistraturii, 2014). Although the number of cases solved through mediation is steadily increasing one year to another, the figure is still ‘unrepresentative in relation to the workload of courts and prosecution offices’ (*idem*, 61).

## 2. Mediation in criminal matters

The Law on mediation has a section comprising special stipulations concerning mediation in criminal cases — Section 2, articles 67 to 70. According to these stipulations, mediation is voluntary for both victims and offenders. Parties have the right for legal assistance and to an interpreter during the procedure. Also, both victims and offenders under 18 years of age have the right for their parents or legal guardians to attend mediation sessions. If just the offender is under 18 years of age there should be a social worker present during the prosecution stage or a probation officer during the trial stage.

The new Criminal Code and Criminal Procedural Code (2010) that came into force on February 1, 2014 also include new stipulations on mediation, expanding the types of cases in which mediation can have an impact.

## 2.1. The referral process

One important modification to the Law on mediation was made in 2009, introducing the duty of legal authorities to inform parties about the existence of mediation. According to article 6 of the Law on mediation, ‘judicial and arbitration bodies, as well as other jurisdictional authorities shall inform the parties of the possibility and advantages of using mediation and direct them to use this way to solve conflicts between them.’ The same obligation of judicial bodies to inform both offenders and victims on their right to access mediation is stipulated by the new Criminal Procedural Code.

Besides being referred by judicial bodies, victims and offenders can access mediation services themselves. If only one party contacts the mediation office, the mediator can be mandated to invite the other party. In this case, the mediator will send a written letter of invitation via postal mail with a confirmation that it has been received. There is no standard letter, each mediation office having its own model. Mediation can start only after all the parties freely agree to enter the procedure and sign a mediation contract.

No matter the type of referral (through judicial bodies or through self-referral), victims and offenders have to choose themselves the mediation office and to make the first contact. In order to do that, parties can consult the National Mediators’ Register published online by the Mediation Council or available in courts. Most courts also have information about mediation posted on their websites. Some courts in Romania also reserve a room for a so-called ‘on duty mediator’, where mediators take shifts to provide parties with information.

## 2.2. Types of criminal cases

Although the Law on mediation and the new Criminal Codes make a distinction between crimes for which ‘mediation applies’ and crimes for which ‘mediation doesn’t apply,’ in fact, when the parties come to the mediation office, the mediator doesn’t know what the legal classification of the crime will be, as this is first established by the prosecutor and it can change during trial. Also, the mediator will rely only on what the victim and the offender will tell, as the police, the prosecution and the court will not send information about the case to the mediation office. So, the mediator will actually mediate a conflict between two parties, a conflict that may or may not be a crime for which a mediation agreement would be able to influence the criminal process. It is up to the prosecutor or the judge to decide when and in what conditions a mediation agreement will be taken into consideration. Having said that, instead of referring to criminal cases for which ‘mediation applies,’ it is more accurate to refer to criminal cases for which ‘a mediation agreement can influence the criminal process.’

Thus, the new Criminal Codes that came into force on February 1, 2014, expand the ways in which a mediation agreement can influence the criminal process for different types of criminal cases. The following classification is developed by Danileț (2014) according to the new Criminal Codes.

1. Complainant cases or cases where parties’ reconciliation removes criminal liability

The new Criminal Code stipulates twenty-five crimes for which a complaint is needed from the victim in order for the criminal process to start, among which are hitting, threatening, harassment, rape (in the simple form), breaking and entering, invasion of privacy or breach of trust. Also, the new Criminal Code stipulates another five crimes for which parties’ reconciliation removes criminal liability, among which are domestic violence, theft or deception.

For these types of cases, if parties go into mediation before the criminal process has started, the term for filing the complaint is suspended for three months from the moment the victim became aware of the crime being committed. If a mediation agreement has been reached, the victim will no longer be able to file a complaint.

If parties go into mediation after the criminal process has started (meaning after the victim filed a complaint), the prosecution or the trial are suspended when the mediation contract is presented to the judicial body. The suspension lasts until the mediation procedure is finished, but no more than three months after the suspension was instituted. The criminal process restarts if parties don’t reach an agreement. But, if a mediation agreement is reached, it will immediately stop the criminal process.

2. Cases for which the punishment is fine or imprisonment up to 7 years

The new Criminal Code stipulates well over 100 crimes for which punishment is fine or imprisonment up to seven years. This means that mediation agreements could have a great impact in the near future on the workload of courts and prosecution offices.

For these types of cases, the criminal process continues as it would regularly do, even if the victim and the offender agree to enter the mediation procedure. In order for a mediation agreement to have an influence on the criminal process, it has to be reached prior to sentencing.

If a mediation agreement is reached during prosecution, the prosecutor has the discretion to decide to waive prosecution and establish a period of up to nine months for the offender to complete the agreement. If the offender doesn’t complete

the agreement during this period, the prosecutor also has the power to revoke the waiver and send the offender to trial.

If a mediation agreement is reached during trial or if it is reached during prosecution but the prosecutor decides not to drop the charges and sends the offender to trial, the judge can still take the mediation agreement into consideration when deciding the punishment, either retaining it as a mitigating circumstance and reducing the punishment by a third, or choosing a less severe sanction such as probation, absolute discharge or conditional discharge.

### 3. Any criminal case

If the victim and the offender don't enter mediation before sentencing or if they do but don't reach an agreement, there it is still the possibility of entering mediation after sentencing if they wish, no matter the type of the criminal case. The issue over which a mediation agreement could influence the criminal process concerns the fulfilment of the offender's civil obligations towards the victim. When such obligations aren't fulfilled, during the sentencing substitution of life imprisonment with imprisonment is not possible, nor is a conditional discharge or probation and parole is not granted. Also, after the sentencing is completed, the offender cannot apply for judicial rehabilitation. Thus, the offender is the one mostly motivated to ask to enter mediation if he or she is not able to fulfil the civil obligations towards the victim.

## 3. Challenges for mediation in criminal matters in Romania

The main challenge that mediation in criminal matters faces in Romania is the low number of referrals from judicial bodies. This is reflected in the low figures of mediation agreements (see the above-mentioned statistics). The low referral is due to different factors, such as the fact that judicial bodies (police officers, prosecutors, judges, lawyers) aren't informed about mediation and have a low understanding of the advantages

of using mediation for victims and offenders and for the criminal justice system as a whole. Also, the general public has a low understanding of the new institution of mediation and relies mostly on the traditional 'going to court for justice.' Other factors that impact the referral numbers are the facts that mediation is not a free service, and communication between judicial bodies and mediation offices is non-existent. These latter factors are a direct consequence of the organisation of mediation as a private profession. On the one hand, if such an organisation of the mediation profession is maintained, the increase in referrals will be slow. On the other hand, if an increase occurs, it will be an indicator that judicial bodies, victims and offenders have naturally come to the conclusion that mediation is a trustworthy and effective alternative to the traditional criminal justice process. Time will tell.

### Anamaria Szabo

Lecturer, PhD, University of Bucharest,  
Faculty of Sociology and Social Work  
[ana.szabo@sas.unibuc.ro](mailto:ana.szabo@sas.unibuc.ro)

### References

- Cosiliul Superior al Magistraturii (2014). *Rapoart privind starea justiției 2013*. Bucharest: Cosiliul Superior al Magistraturii. Report on the state of justice.
- Danileț, C. (2014). Aspecte de procedură privind medierea penală. [Procedural aspects of criminal justice mediation.]. In: C. Danileț, A. Szabo, I. Dedu and A. Răduț (eds.) *Ghid de mediere penală. Conform noilor coduri*, pp. 28–93. Bucharest: C.H.Beck. Guide for criminal justice mediation, according to the new codes.
- Official Gazette of Romania (2006). Law no. 192 on mediation and organisation of the mediator profession. *Official Gazette of Romania* Part 1(441).
- Official Gazette of Romania (2009). Law No. 286 of 17 July 2009 — The Criminal Code of Romania. *Official Gazette of Romania* Part 1(510).
- Official Gazette of Romania (2010). Law No. 135 of July 1, 2010 — The Criminal Procedure Code of Romania. *Official Gazette of Romania* Part 1(486).

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## Peacebuilding and the development of a Scottish model for Restorative Practices in Justice

### Introduction

This paper provides an overview of the RiSC (Restoration in Serious Crime) project, a three phase action research project and collaborative venture between the University of Edinburgh (formerly the Criminal Justice Social Work Development Centre for Scotland (CJSW) and [Sacro](#)

(Safeguarding Communities Reducing Offending — Scottish NGO).<sup>1</sup> The project was inspired by the plenary talk of Nils Christie at the Conference of the European Forum for Restorative Justice in Helsinki 2012.

The general aim of the project is to develop a practice model, drawing on restorative practice values and principles, that addresses the harm caused in serious incidents in which those involved know each other and the behaviour resulted in death or serious injury.

## Background

The benefits of selective practices in justice are well attested to in the literature but are not widely recognised or available in Scotland.<sup>2</sup> The reality is that, other than for young people, restorative practice remains a significantly small scale, low tariff operation available on a limited basis in three urban parts of Scotland within the context of diversion from prosecution. Research identifies a key principle that restorative practices in justice are best applied where there is significant harm, that is, violent crime (Umbreit et al., 2002; Ruge et al., 2005).

We know that existing services struggle for a variety of reasons to meet the medium to long term complex emotional needs of people affected by crime related death (Paterson et al., 2006). Research on restorative approaches in justice relating to severe crime suggests positive outcomes for those who participate with particular regard to the need of those harmed to obtain information about the crime and the person responsible and the need of all parties to move towards emotional ‘closure’ and peace-making (Sherman and Strang, 2007).

RiSC builds on the experience of the [Sacro TASC project](#) (Talk After Severe Crime) which demonstrated proof of concept that an intervention based on restorative principles can be used for the benefit of those harmed and those responsible in cases of severe violent crime within a post sentencing context. TASC is a reactive intervention that requires a person harmed or those responsible for the harm to ask to participate; RiSC is a proactive outreach to those harmed in certain kind of incidents/crimes.<sup>3</sup>

RiSC is victim-led, that is, if it is deemed safe to do so, outreach is made first to the victim (person harmed). If, after first outreach, the person harmed considers it to be in their interests to engage in the process, then contact is made with the person responsible for the harm at a time in the process that best suits the victim. A primary consideration throughout the process is the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm (European Parliament and Council, 2012).

The RiSC project focused on a case in the public domain in which a young driver was sentenced to 30 months imprisonment for causing the death of a passenger in a car accident. Both the driver and deceased passenger were known to each other. The comparatively short sentence and the fact that those involved knew each other were factors which highlighted the case for consideration of suitability for the project.

### Phase 1 Develop appropriate outreach

In this case, links were established with Victim Support Scotland and with local Police to assess the risks of approaching the bereaved family with information on the possible benefits of the project and to discern how best to minimise the effect of re-victimisation and to maximise the potential for their participation. Victim Support Scotland confirmed that the bereaved family had not accessed their services. The Police were not only aware of the bereaved family but they had established strong relations with them throughout the time of the incident, the court process and subsequently. The local Police Inspector approached the family and they agreed to a first meeting with the restorative worker in a local Police station.

Outreach was made to the person responsible through contact with Scottish Prison Service (SPS) at a time in the process that suited the bereaved family. As with the Police, there was total co-operation from SPS and the necessary permissions were given for the restorative worker to meet the person responsible.

### Phase 2 Provide an intervention

Work began with bereaved parents in October 2012. Thirteen meetings took place in preparation for the face-to-face meeting. Each meeting lasted approximately one hour and took place in a local Police station. In addition to providing a meeting venue, the Police also provided transport for the bereaved parents. The following broad areas were addressed: assessment of their capacity to participate, identification and management of risk, details of first hearing of the death, funeral preparations and burial, ongoing impact of the

<sup>1</sup>This paper is an adaptation of a workshop paper presented at the European Forum for Restorative Justice Conference in Belfast June 2014.

<sup>2</sup>Sherman and Strang (2007) draws on 36 studies to illustrate the positive impact of RJ. The UK government funded research led by Professor Shapland (2007) indicates that RJ can provide a high degree of victim satisfaction and reduces re-offending

<sup>3</sup>The terms ‘victim’ and ‘offender’ are sometimes replaced in this paper with the words ‘person harmed’ and ‘person responsible for the harm’ — the changes reflect the broader peacemaking paradigm that restorative practices in justice offers when compared to the traditional criminal justice.

crime, issues relating to loss and mourning, ongoing support needs, the Victim Notification Scheme, issues regarding the person responsible. Their networks of supports were explored. An additional meeting was held with the grandmother of the deceased.

Work began with the person responsible in late November 2012. Ten meetings took place in the home of the person responsible while he was subject to home detention curfew. Each meeting lasted approximately one hour. Areas addressed during the preparation included what happened before, during and after the incident, the experience of court and prison, awareness of the impact of the crime on the bereaved family, post traumatic stress. An additional meeting was held with the mother of the person responsible.

On 30 May 2013 a face-to-face meeting took place between the mother of the deceased and the person responsible in a Sacro regional office lasting approximately two hours. The father of the deceased opted not to participate in the face to face meeting. Issues covered at the meeting included the lead up to and the aftermath of the incident for both the bereaved family and the person responsible, the impact of the harm that was caused. An action plan was agreed to promote peace and safety which required the person responsible to visit the site of the incident and for both sides to simply acknowledge each other and walk on by if they should accidentally meet on the street.

In addition to at least two follow up phone calls, individual follow up meetings took place on 18 June 2013 with the bereaved parents and the person responsible.

### Phase 3 Develop a practice model.

Further evaluative in-depth, individual interviews took place in autumn 2013 to explore with the bereaved family and the person responsible issues relating to the invitation to participate in the project with particular reference to the timing and method of the invitation, any needs arising from their circumstances, any objections, concerns, needs or barriers they had to participation, and what benefits they were seeking. The material coming from the interviews, the preparation meetings and other sources are being analysed for themes and theories and will be used as a basis from which to produce a practice model for this intervention in Scotland and an outline of the required training to do this work.

A number of points are already emerging as crucial for the development of a practice model:

- RiSC contains the seeds of a positive way forward for restorative justice in Scotland that directs resources where the need is greatest and draws on the ancient Scots legal principle of *assythment* [indemnification for injury] and *peacemaking*.
- Fundamental to the process is clinical supervision, that is, consultative support from someone

familiar with not only the psychodynamic concepts of transference, counter-transference, etc. but also knowledge of the justices system and restorative practices.

- The facilitator needs to have sufficient training and experience to evidence the necessary knowledge and skills to create a safe place to enable participants to ‘walk over hot coals and survive’.
- Working at this level within a post sentencing, victim-led context requires strong partnership working across a range of agencies and a supporting infrastructure that reflects the cross cutting nature of this work.

If funding is secured, the practice model will be tested and further refined.

#### Niall Kearney

Restorative Justice Tutor  
LLM/MSc Criminal Justice & Penal Change  
Strathclyde University Law School, Glasgow.  
Lead practitioner in RiSC  
[n.kearney@virgin.net](mailto:n.kearney@virgin.net)

#### Bill Whyte

Professor of Social Work Studies in Criminal and Youth Justice  
Edinburgh University  
Clinical supervisor for RiSC  
[Bill.Whyte@ed.ac.uk](mailto:Bill.Whyte@ed.ac.uk)

### References

- European Parliament and Council (2012). Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. [EUR-Lex](#).
- Paterson, A., Dunn, P., Chaston, K. and Malone, L. (2006). *In the aftermath. The support needs of people bereaved by homicide: a research report*. London: Victim Support.
- Rugge, T., Bonta, J. and Wallace-Capretta, S. (2005). *Evaluation of the Collaborative Justice Project: a restorative justice program for serious crime*. Ottawa: Public Safety and Emergency Preparedness Canada.
- Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Dignan, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2007). *Restorative justice: the views of victims and offenders: the third report from the evaluation of three schemes*. Research Series 3/07. London: Ministry of Justice.
- Sherman, L.W. and Strang, H. (2007). *Restorative justice: the evidence*. London: Smith Institute.

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## Impressions of the Eighth Conference of the European Forum for Restorative Justice ‘Beyond Crime: Pathways to Desistance, Social Justice and Peacebuilding’ Belfast, 11–14 June 2014

To give a full impression of a conference with so many interesting plenary speakers and workshops in 600 words is quite impossible and at the same time a dilemma: what is worth mentioning without the risk of forgetting an interesting topic or connection? Besides, a lot of interesting experiences and insights were shared during the many personal encounters arising out of the conference which I could not witness however much I might want to.

Nevertheless, I will give it a try by giving my personal impression, which of course might be influenced by my enthusiasm and dedication to this conference as a volunteer on the organising committee.

The conference took place in the beautiful city of Belfast, Northern Ireland, a city with a burdened history, still visible in the many murals around the city, picturing the struggle between the protestants and the Catholics. And also this history was one of the reasons that this conference was being held in Belfast, since Restorative Justice played an important role in establishing peace between the parties, and it still does. This history and the role of Restorative Justice was also mentioned in the welcoming speech of the conference by Prof. Kieran McEvoy. one of the hosts of the Queen’s University — situated in a beautiful Victorian architectural style building in the university district of Belfast He also welcomed all the participants by saying that Irish people are very friendly people with a positive mind; they are even proud of the fact that the Titanic was built here, although it sank after hit by an iceberg on its maiden trip!

One of the plenary speakers who really inspired me was John Braithwaite, who elaborated on the theme peacebuilding in relation to restorative justice, focusing on the importance of viewing restorative justice as a social movement able to play an important role in transcending conflicts, such as in the recent past of Belfast but also in Afghanistan. In this country he is involved in a research project, focusing on comparative peacebuilding and the concept of shame and pride. If shame is encouraged, it’s linked with humble pride. If shame is discouraged it is linked with narcissistic pride. As far as Braithwaite is concerned, we should be striving for humble pride, as a way of overcoming conflicts, along with, on a smaller scale, bullying on schools.

The plenary speech of Shadd Maruna on the relationship between desistance and restorative justice was worth while listening to. He convincingly showed that desistance researchers can learn from Restorative Justice by questioning the concept of crime, while Restorative Justice researchers can learn from desistance researchers to recognise the importance of structure and the context of crime and of taking the long view.

I must highlight one of the interesting workshops I attended ‘Through the Glass: One woman’s pursuit of Justice, Forgiveness and Healing,’ in which the author Shannon Moroney — in a very convincing way — told her personal story of what happened after she found out her husband had committed severe sexual crimes— from the conversations with her husband Jason in prison, the reactions of her friends, family and the community, her estrangement from the victims and the slow criminal justice process not being restorative at all. During the workshop she told her story of two journeys: The first was private and personal — how she was trying to overcome trauma, to rebuild her life after her husband’s crimes and to understand who he was and how he could have done what he did. The second journey was public and political — she being a citizen, bearing witness to a justice system that leaves victims out in the cold and a society that can be as stigmatising as it can be compassionate. She experienced the limits of a retributive justice system, and the need for systems that actually heal people: victims, offenders and communities. Shannon Moroney ended her workshop with a clear plea to put victims of crime at the core of the criminal justice system, not only in Canada but also in other jurisdictions around the world, and not to be punitive towards her former husband as an offender, but show the power of forgiveness, as a powerful restorative response to crime.

**Key lesson:** Forgiveness can be a powerful force in establishing restorative justice and resolve conflicts in a restorative way.

Another highlight was the handing over of the Restorative Justice Award to Christa Pelikan for her ground-breaking work on Restorative Justice in Aus-



tria and the rest of Europe during her career and her great efforts to encourage the use of restorative justice practices while conducting action research at the same time. She accepted the Award with her typical humble and shy attitude, not forgetting to mention her colleagues who inspired her very much, not only within her research institute but also within the EFRJ. And at the same time, she felt very grateful and viewed the award as an encouragement to continue her research work on Restorative Justice.

Another informal moment to connect and share experiences was during the social visit to the Giant's Causeway — a beautiful site at the coast of Northern Ireland — and the visit to the community peace

centre on Saturday. Both visits were impressive, especially the visit to the community centre, in which we were welcomed by great hospitality — and scones and tea. I even experienced a peace circle ceremony together with fifteen other participants of the conference, a memorable moment I still cherish.

And last but not least: the conference dinner and musical event afterwards turned out to be a perfect environment to connect with each other by means of talking and Irish dancing, which at first hand seems easy but it ain't — you will find out when you start practising!

**Eric Wiersma**  
[eric@euforumj.org](mailto:eric@euforumj.org)

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## Book Reviews

Moroney, Shannon (2011) <i>Through the glass</i> Toronto: Doubleday Canada (ISBN 978 0 385 67603 8)
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This book is a memoir which chronicles the author's pursuit of justice, healing and forgiveness following the violent crimes of her husband in 2005. It was published in Canada in 2011, by Double Day Canada, the UK edition was published in 2012, by Simon & Schuster UK Ltd, under a different title: *The Stranger Inside*.

During the EFRJ conference in Belfast I had the privilege of attending a workshop on this book, by the author herself. The title of the workshop was 'Through the Glass: One woman's pursuit of Justice, Forgiveness and Healing,' a title that struck me beforehand. I was curious about and interested in her personal journey, and the connection with Restorative Justice. Being part of the organizing committee, I had the opportunity of reading and assessing all the presentation proposals beforehand and I decided that I definitely wanted to attend this workshop presentation.

Her presentation was very touching and powerful at the same time, everybody in the room — about 30 participants — listened breathlessly, eager to hear her unbelievable story. Her presentation encouraged me to purchase her book — a compelling and eye-opening book.

The author describes her personal history in a very open, convincing and compassionate way, focusing on the effects of the devastating events that happened to herself: her former husband Jason Staples being arrested after a violent assault and kidnapping of two women. But she also considered the effects on the victims, and felt concerned about their journey after the terrible crime they had experienced — a concern that wasn't shared by the criminal justice authorities — where the

victims including herself were left in the cold as she witnessed guilt by association — or by the media and her employer who were in fact blaming her for the crimes of her husband, being hostile, narrow minded and judgemental, instead of helping her as a victim a crime, being responsive and empathetic to her perspective.

She pictures the devastating events and its strong effects in such a revealing and clear way, that you as a reader feel part of her story, almost taking on her perspective. The book is well written and a very good example of the power of storytelling, with a clear message that goes beyond her personal tragedy. I regard her story as a convincing and strong criticism of the current correctional criminal justice system in Canada — but this can easily be said of other jurisdictions in Europe or the USA, where retribution and punishment is favoured and being practised instead of rehabilitation and restoration with victimhood as a devastating effect, leaving victims of crime powerless, instead of giving them strength in order to recover and move on with their lives.

One of the aspects in the book that struck me most was her emotional and difficult journey, and her ability to move away from pure anger and in the end to forgive, being able to make a clear distinction between her former husband as a person and his behaviour — just accepting him as person, but at the same time condemning his criminal behaviour while criticizing the criminal justice authorities for not offering him treatment, only incarceration. Before he committed the terrible crimes while married to the author, Shannon Moroney, he had been convicted of murder and sentenced to imprisonment for ten years, when there was no treatment for his problems that underlay his criminal behaviour. And she convincingly shows by telling her story that she was able to overcome victimhood, by forgiv-

ing and saying that her former husband ‘took away her past, but she wouldn’t let him take away her future’ in order to be able to move on with her life.

And for the broader picture: her personal story is in fact a perfect example of the only sensible response to crime, already advocated by the American RJ scholar and practitioner Howard Zehr, who stated that a restorative approach to crime raises three essential questions:

- Who was hurt?
- What are their needs?
- Whose obligation is it to address those needs?

And these questions replace the questions in a retributive criminal justice system, just asking what law was broken? Who did it? And what punishment he of she deserve?

Shannon Moroney addresses these restorative questions in a clear way, putting victims of crime at the core of the criminal justice system, without being punitive towards her former husband as an offender, and showing the power of forgiveness, as a powerful restorative response to crime. The remaining question is what is its relevance for European readers and who else should read this book?

This book is a must read for those interested in Restorative Justice, as well as for victims or offenders, and for professionals working within the criminal justice system, because the book is an inspiring and powerful example of a combination of a personal story and a clear convincing plea for societal — criminal justice — reform. Shannon Moroney allow us to see the possibility of a justice system that draws on our instinct for compassion, over our instinct for retribution, which is in fact the essence of Restorative Justice!

## Eric Wiersma

Putintseva N. (Ed.) (2012) *Restorative justice in Russia*. Translated from Russian by E. Erofeeva and N. Silkina. Moscow: Public Center for Legal and Judicial Reform. Available from <http://sprc.ru/wp-content/uploads/2012/08/Restorative-justice-in-Russia.pdf>.

This selection of papers was published as part of the project ‘Presenting the Russian reconciliation and mediation experience to foreign experts’ sponsored by the A. Gorchakov Public Diplomacy Foundation and supported by the Embassy of Finland in Moscow.

In ‘Strategic outlines in restorative justice’ Rustem Maksudov outlines the progress by the Public Center for Judicial Reform in introducing restorative justice in Russia since 1997, the obstacles to its implementation and the potential for its development. While it has

been possible to establish centres of restorative practice in many locations, their operation is hampered by the traditionally ‘vertical’ organisation of agencies in Russia and the reporting demands placed on these agencies which work against the lateral co-operation between agencies which is at the heart of restorative justice.

This creates parallel universes for practitioners and those in the regional authorities which the Center is striving to bridge. However, they believe that the future lies in supporting local communities to develop groups of regional mediators, linked since 2009 through the Russian Association of Restorative Mediation. Work is primarily focused on offenders, families and young people and, more recently, in schools.

They hope to be able to tackle the ‘repressive’ culture that surrounds many conflicts, develop research, develop their work with victims in the light of the lack of victim services in Russia, develop restorative practice in schools, develop the existing standards for restorative justice and develop the monitoring, analysis and evaluation of restorative justice services.

In ‘Restorative justice in Russian system of law’ Lidmila Karnozova starts by pointing out that the 2010 Law on Mediation only applies to civil disputes; nonetheless considerable progress has been made in the use of restorative justice in criminal cases in spite of obstacles such as the lack of a mechanism for diversion to restorative justice and the need to report offences even if they have been satisfactorily resolved through the use of restorative justice.

Opportunities are offered through Russian participation in international treaties, the option of conciliation for offences where the penalty is less than five years imprisonment and moves to provide a separate youth justice system in line with other countries — the area in which restorative justice is most frequently practised. Mediation is more likely to take place in family and community groups and judges appear to view restorative justice favourably. She concludes with some statistics noting that the most common reason for not completing a restorative justice encounter is a refusal by the victim or the victim’s family.

In ‘Developing school mediation services in Russia’ Anton Kononov describes how the first conflict resolution between a teacher and a pupil under the auspices of a school reconciliation service took place on 16 October 2001 leading to the gradual adoption of school reconciliation services and the mounting of conferences to discuss progress and prospects. Collaborations with colleagues abroad and the formation of the Russian Association of Restorative Mediation helped to push things forward and there are now a great many regional associations of mediators.

He stresses the role of restorative justice in helping children to think about things differently, the importance of preserving relationships and making restitution and the importance of any outcome having the support of other children and the teacher.

All this involves developing a culture of restorative justice in which new ways of resolving conflicts are considered and old ways challenged. But it can take up to a year from first proposal to the establishment of a reconciliation service in the school to which a great many people have to consent.

In 'Commissions of Juvenile Affairs and Protection of Juvenile Rights as platforms for implementing restorative approach' Rustem Maksudov argues that restorative justice has largely been implemented under the radar of the Commissions of Juvenile Affairs but one or two have come to see its potential and he explores the options for co-operation between the existing restorative justice structures and the Commissions of Juvenile Affairs.

Appendices I and II provide statistics for the provision of restorative justice in Russia in the years 2010 and 2011; Appendix III gives an account of the work of the Public Center for Judicial Reform and Appendix IV is the Standards of Restorative Mediation adopted by the Russian Association of Restorative Mediation in 2009.

There is very little repetition in the book and there is no attempt to hide the difficulties facing restorative justice practitioners or to claim more for them than might appear justified. There may be ideas in here which will help other countries facing difficulties in developing their restorative justice services and for anyone visiting Russia or meeting those involved in restorative justice in Russia this is long enough to give one a picture of the key issues facing their Russian counterparts but short enough that no-one has an excuse not to read it.

## Robert Shaw

Wallis, Pete (2014) *Understanding restorative justice: how empathy can close the gap created by crime* Bristol: Policy Press (ISBN 987 1 44731 742 5)

Pete Wallis is a restorative justice practitioner with Oxfordshire's Youth Offending service in England. Once he gets into his stride — around chapter six, he offers some fascinating insights into the processes that need to go on to bring the young offenders in a restorative journey to its conclusion.

He outlines the different points at which restorative justice can be offered both within and outside the criminal justice system, the key elements of a restorative journey, the key issues for the person responsible for the harm, the issues around how far restorative justice in a criminal justice system can be voluntary, the benefits for the person harmed, indirect restorative justice and the negotiations involved in getting to face-to-face restorative justice, the restorative meeting including the storytelling needed, the involvement of others, how to move forward once everyone had told

their story and how to respond when things don't go as well as expected.

However, the earlier chapters and the final chapter appear to have been tacked on to a central narrative and the empathy framework within which he sets his experiences did not help me as a victim. I am interested in those who harmed me and my family accepting responsibility for what they did and undertaking not to put anyone else through the same experiences ever again. Politicians frequently claim empathy for those whom they have harmed without accepting any responsibility; like many offenders, they claim they had 'no alternative.'

Rather than arguing that those involved in a restorative conversation are moving along a continuum from low to high empathy, it seems more reasonable, not least in the light of a number of Wallis' examples (for example on pp. 96–97), to argue that the parties are developing a greater sense of responsibility for people whom they had not previously considered.

I found the heading: 'Not guilty: the end of the road for restorative justice' (p. 50) depressing because there are a number of situations in which restorative justice could continue after an acquittal, not least in cases of false accusations.

Though he says he is writing for a general reader, there is nothing about female or older offenders and the apparent lack of awareness of the victim literature, of ideas about justice (Gilligan, 1982; Sen, 2009) and of key contributions to our understanding of restorative justice (Strang, 2002; Sherman and Strang, 2007) and forgiveness makes this of limited use to a general reader wanting to locate restorative justice within any wider framework. For example, though he quotes the work of [The Forgiveness Project](#), he does not appear to understand the relevance of forgiveness from a victim perspective (Enright, 2001).

This book contains some very useful material on the state of restorative justice with young offenders in England but cannot be recommended as a general introduction to restorative justice.

## References

- Enright, R.D. (2001). *Forgiveness is a choice: a step-by-step process for resolving anger and restoring hope*. Washington DC: American Psychological Association.
- Gilligan, C. (1982). *In a different voice: psychological theory and women's development*. Cambridge MA/London: Harvard University Press.
- Sen, A. (2009). *The idea of justice*. London: Allen Lane.
- Sherman, L.W. and Strang, H. (2007). *Restorative justice: the evidence*. London: Smith Institute.
- Strang, H. (2002). *Repair or revenge: victims and restorative justice*. Oxford: Clarendon Press.

## Calendar

### Exploring the potential of restorative justice for sexual violence

This conference is the final event of the Daphne Project JUST/2011/DAP/AG/3350 financed by the European Commission entitled 'Developing integrated responses to sexual violence: an interdisciplinary research project on the potential of restorative justice.' It will take place on 12–14 November 2014, at the University of Leuven, Belgium. Further information is available from the [Conference web page](#).

### International RJ Week 2014 and RJ symposium (Banff)

This year, the international RJ Week will take place during November 16–23, 2014. Further details from the [Correctional Service Canada](#). The EFRJ is planning to organise and support a series of coordinated events and joint communications in the different EU countries reflecting on the specific theme of 2014.

### 2014 National Restorative Justice Symposium (NRJS)

Hosted by the Alberta Restorative Justice Association (ARJA) in Banff from November 16–18, 2014, the keynote speaker will be Dr Howard Zehr! For further information sign up on the [ARJA website](#).

### Conference on victims' protection (Belgrade)

The Victimology Society of Serbia is pleased to announce its fifth Annual Conference 'Victim protection: international law, national legislation and practice', which will be held on 27–28 November 2014 in the hotel Park, Belgrade. Further information is available from the [Victimology Society of Serbia](#).

## Readers corner

### Call for submissions

#### Articles

Each edition we will feature a review of the field of restorative justice, reflections on policy developments and research findings/project outcomes. Please consider sharing your perspective with colleagues.

#### Book reviews

We very much welcome reviews of books and articles from our membership. If you have published a book and would like to submit it for review, please send it to the Secretariat.

### Events

Please let us know about upcoming restorative justice related conferences and events. We are happy to share this information via the Newsletter or Newsflash.

## Not an EFRJ member yet?

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Editor: Kerry Clamp (UK), E-mail: [Editor@euforumrj.org](mailto:Editor@euforumrj.org)

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### Secretariat of the European Forum for Restorative Justice

Hooverplein 10 • 3000 Leuven • Belgium •  
T +32 16 32 54 29 [www.euforumrj.org](http://www.euforumrj.org)

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