

Restorative Justice in Europe

Tim Chapman
Ulster University



A European Model on Restorative Justice with Children and Young People'

1st Research team – in charge of the analysis of the European context and national backgrounds

- * **Prof. Dr. Frieder Dünkel**, Criminology Professor, University of Greifswald, President-Elect of the ESC.
- * **Andrea Parosanu**, Legal Expert on Mediation, University of Greifswald, Germany and
- * **Philip Horsfield**, Research Assistant at Department of Criminology, University of Greifswald

2nd Research team- in charge of identifying the features of European best practices and designing a toolkit for their effective implementation

- * **Tim Chapman**, Course Director of the Restorative Practices Masters at Ulster University, Board European Forum For Restorative Justice.
- * **Maija Gellin**, Programme Director of Mediation in Education, Finnish Forum for Mediation
- * **Monique Anderson**, Academic expert in restorative Justice and Victimology, Leuven Institute of Criminology **and Ivo Aersten**, Head of the Leuven Institute of Criminology, Catholic University of Leuven

1. Assessment of Restorative Justice and rigorous selection of effective practices in Europe

Carry out in-depth research for the 28 national snapshots, capturing the situation of restorative justice in each EU Member State

2. Conduct study visits in three EU Member States

Belgium, Northern Ireland and Finland were selected as case studies by reason of their promising practices. The research team conducted field visits, focus group and interviews in all three countries.

3. Development and design of an evidence-based *“European Model for Restorative Justice with Children and Young People.”*

- a. Outline a conceptual and theoretical framework distinctive to the European context
- b. Outline the European and international policy framework
- c. Identify lessons learned from the three case studies
- d. Literature review into the key features of effectiveness in the policy and practices of restorative justice



**EUROPEAN RESEARCH ON
RESTORATIVE JUVENILE JUSTICE**

VOLUME I

**Research and Selection
of the Most Effective
Juvenile Restorative Justice
Practices in European
Member States
Snapshots from 28
Member States**



**EUROPEAN RESEARCH ON
RESTORATIVE JUVENILE JUSTICE**

VOLUME II

**Protecting Rights, Restoring Respect
and Strengthening Relationships:
A European Model for Restorative
Justice with Children and
Young People**



**AN RESEARCH ON
RESTORATIVE JUVENILE JUSTICE**

VOLUME III

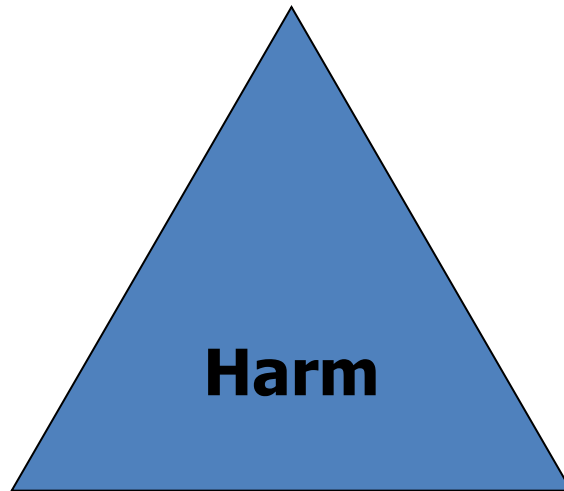
**for Professionals:
Implementing a European
Restorative Justice
Model with
Children and
Young People**



* **How will we raise children so that they may flourish in the Europe of the future?**

The Balanced Model

Community



Harm

Person responsible for harm

Injured party

The importance of interdependence

- In meeting needs:
 - justice
 - safety
 - respect
 - control

What enables a young
person to move on from
harm?

- The person who has caused the harm
 - has made him/herself accountable for the wrongdoing and its impact; (Recognition)
 - has answered questions; (Meaning)
 - has promised to take action to repair the harm and to not repeat it. (Justice and control)

The importance of face to
face communication

The young man who did
not know if he was sorry

Needs-Rights model for child-inclusive RJ

Tali Gal, 2011 Child Victims and Restorative Justice: A Needs-Rights Model

Rights:

CRC guiding principles:

- Participation
- Nondiscrimination (equality)
- Life, survival and development (development)
- The best interests of the child (best interests)

2 Provisions associated with victimization:

- Prevention of and protection from victimization by caregivers (Article 19) (Protection)
- The right to access rehabilitation (Article 39)

8 Heuristics for child-inclusive RJ

- 8 Heuristics (Tali Gal, 2011)
 - Adults not being risk averse
 - Holistic approach
 - Tailor-made process
 - Children as partners
 - Participation as a continuum
 - Liberating children's voices
 - Empowering advocacy
 - Restorative processes as a goal

The young woman
who was not sorry
that the harmer was
not sorry

What reasons should a young person have to avoid harming others?

- I want to avoid punishment?
- I cannot harm others because adults watch and control me?
- I am rewarded for good behaviour?

OR

- It is the right thing to do - to respect other people's rights and what they value.

- A harmful incident is an opportunity for learning how to live with others.

- To learn how to live in **relationship** with people in a diverse society.
- To learn to take **responsibility** for the consequences of actions.
- To learn to **respect** people's rights, culture, feelings, and needs.
- Emotional intelligence, conflict resolution, commitment to make amends, forgiveness

When and where?

- “Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”
- **Eleanor Roosevelt**

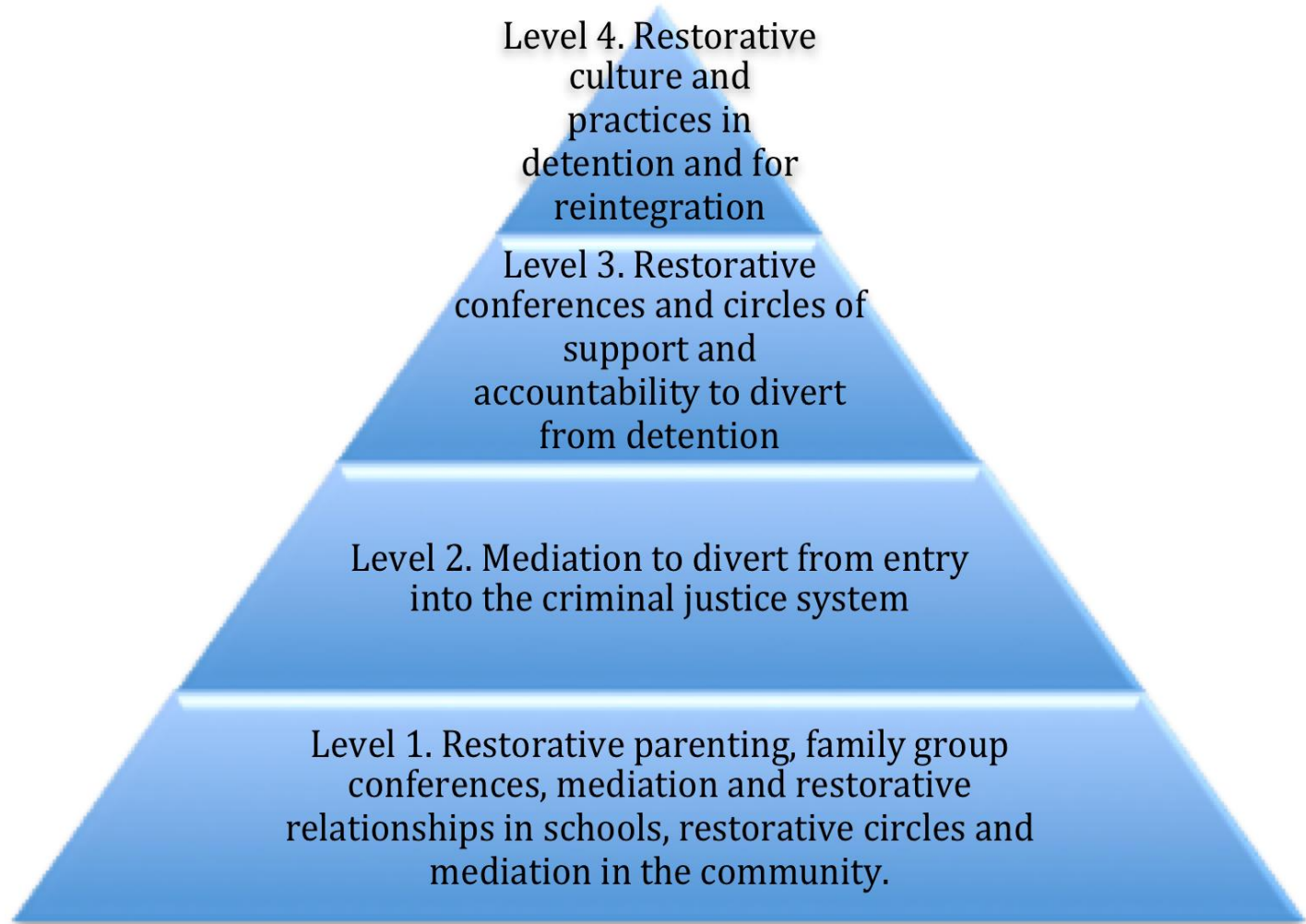
Whenever and wherever adults engage with children.

- Strengthening Families
- Building Communities
- Supporting Schools to Sustain Positive Learning Environments
- Enhancing Criminal Justice

How?

No one size fits all

A holistic policy framework



International, EU and Council of Europe policy

- The Council of Europe's Recommendation (99)19 concerning Mediation in Penal Matters; (soon to be revised to include a wider definition of restorative justice)
- The Council of Europe Recommendation (2003) 20 concerning new ways of dealing with juvenile offenders and the role of juvenile justice;
- The Recommendation (2008)11 of the Council of Europe on the Rules for Juvenile Offenders subject to sanctions or Measures.
- The Council of Europe (2010) Guidelines on Child-Friendly Justice;
- The Lisbon Treaty, which formally includes the Charter of Fundamental Rights of the European Union;
- The EU Agenda for the Rights of the Child;
- The European Commission's first part of its study on Children in Judicial Proceedings (2014);
- The Special Representative of the UN Secretary General (SRSG) on Violence against Children document, *Promoting Restorative Justice for Children* (2013);
- United Nations Convention on the Rights of the Child (CRC);
- Directive 2012/29/EU Of The European Parliament And Of The Council of 25 October 2012 on establishing minimum standards on the rights, support and protection of victims of crime.

	Finding	Reference
RJ satisfies victims	Restorative process consistently achieve at least 85% satisfaction among victims	Shapland, et al 2012, Jacobson and Gibbs, 2009, Beckett, et al 2004, Strang, 2002, Strang, et al 2006 Umbreit, and Coates, 1993
RJ satisfies perpetrators	People responsible for harming others appreciated the opportunity to express remorse, to meet the victim, and to actively participate. They also appreciated not being made to feel that they were a bad person.	Shapland, et al 2012 Morris and Maxwell 2001
RJ reduces further harm	There is considerable empirical work acknowledging the role that restorative justice processes play in lowering re-offending rates. Offenders in restorative programmes are more likely to complete the programmes and less likely to reoffend compared to a control group. A meta-analysis of victim-offender mediation and family group conferencing studies found that family group conferencing was shown to have twice the effect as traditional justice programmes, and victim-offender mediation had an even larger effect on recidivism. Another meta-analysis in 2005 found that restorative processes were associated with reduced recidivism for both youth and adults. A rigorous study in England found that significantly fewer offences were committed by those who participated in restorative processes over two years than those in a control group. This amounted to a 14% reduction in the frequency of offending.	De Beus, K., & Rodriguez, N. 2007 Bradshaw and Roseborough 2005 Latimer et al 2005 Shapland et al 2012
RJ saves money	£9 expenditure in the criminal justice was saved for every £1 spent on restorative justice.	Shapland et al 2012

Key Restorative Processes

- Family group conferences
- Restorative circles
- Mediation
- Restorative conferences

Family group conference

- When the problem is within the family
- The extended family is invited, engaged and prepared
- The professionals tell the family what the problem is and then let the family come up with a solution on their own
- If the solution is acceptable and realistic, the professionals offer their full support

Restorative circle

- When there is an issue that affects a group e.g. a class
- The facilitator asks each person the same question (depending upon the issue)

For example

- What do you see as the problem?
- How would you like things to be?
- What do we need to do to make it right?
- What commitments are you will to make?

Mediation

- When there is a harmful conflict between two people.
- The mediator prepares each person and ensures that the dialogue is safe, respectful and fair
- Each person states what the issues are
- The mediator enables them to focus on the critical issues
- Once an understanding is reached, an action plan can be agreed
- It may be necessary to plan a review meeting

Restorative conferences

- When there is a more serious harm
- The victim needs more attention to recover
- The perpetrator needs more attention to prevent further acts of harm.
- Involves families, supporters, community, professionals.

What sort of society do we
want for our children?

- A culture of rights protecting people from harm and enabling them to participate actively in democratic government and an active civil society
- Relationships that are just, respectful, and truthful
- Positive socialisation processes

Access the Model at
<http://www.ejjc.org/eumodel>

People, even more than things, have to be restored, renewed, revived, reclaimed, and redeemed; never throw out anyone.

