

Editorial

Dear friends and members of the European Forum of Restorative Justice, a warm welcome to the third issue of this newsletter for 2019!

We are very excited to welcome you back after the summer break and to introduce you to a thematic issue on restorative environmental justice. In our September issue we continue co-editing the series, this time with a Finnish-Italian collaboration of Heidi Jokinen (Finland) and Silvia Randazzo (Italy), as always with the close collaboration of the whole Editorial Committee and with particular acknowledgement to Nicola Preston and Emanuela Biffi. With this issue, the editing team decided to pause the journey undertaken with the previous issues in exploring restorative justice across countries. It is instead our pleasure to go digging with the readers into the pioneering expansion of restorative justice and its intersection with one of the most topical issues of our times: environmental harm and justice.

Climate change and the environmental crisis our planet is going through are more and more perceived and experienced as human rights and justice issues than just as environmental ones. Conscious of the fact that this is a topic that concerns everybody across the globe — or should, at least — we felt the urge to focus on it the attention it deserves, while using our restorative justice lenses. Many are the possibilities and no less are the challenges in bringing a restorative approach to environmental harms and to be restorative — and look for participation and healing — when aspiring to environmental justice.

In this issue of the newsletter we aim thus at starting a conversation and exchange about an issue that concerns all of us and an idea of justice that belongs to all of us. We propose to analyse the issue from different perspectives, of scholars and researchers, practitioners, activists, artists and community members. The articles we present not only propose different angles from diverse professionals but also, in doing so, shine a light on different categories of victims as well as on creative and sometimes futuristic solutions.

This issue begins then with the presentation of the event that had stimulated the exchange about these topics in the first place, a seminar held in April 2019 in Leuven on Environmental Restorative Justice. Brunilda Pali, post-doctoral researcher and member of the EFRJ Board, presents a summary of this event where most of the contributors to this issue presented and convened to initiate this conversation and to launch new ideas and the next initiatives.

John Braithwaite and his colleagues, Miranda

Forsyth and Deborah Cleland, from Australia open this newsletter offering a theoretical background and some conceptual clarifications about the intersections between restorative justice and environmental harm. This pioneering introduction to the topic is followed by the exploration of how this intersection can — and actually sometimes does — work in practice.

The light moves then onto the pursuit of a participatory and restorative response to ecocide from the artist and activist Maria Lucia Cruz Correia. She takes us into her artistic project of participatory theatre — the [Voice of nature](#) — where innovative solutions are proposed concretely to make Nature represented and given Justice.

The journey proceeds with the testimony of another activist and restorative justice practitioner, Belinda Hopkins, from the UK. Through her personal experience, she proposes practical ways through which we could all become restorative activists in the defence of our one and only planet.

The call to activism through a restorative approach is then reinforced by Martin Wright, one of the founding fathers of the restorative justice movement, who presents his last project and calls for action to finally make justice for the victims of the Bhopal disaster which occurred in 1984 in India. This is known as one of the world's worst industrial disasters, where up to 20,000 people were killed and over 500,000 were exposed to highly toxic substances with long-lasting consequences to the present day.

Finally, Branka Peurača presents a review of *Restorative and responsive human services*, edited by Gale

Burford, John Braithwaite and Valerie Braithwaite. This book brings about the need and possibilities to expand the use of restorative justice to very complex contexts and issues besides the usual criminal justice context and offers the theoretical background and practical examples on how this effort has been initiated and how ideally there are no limits to the use of RJ.



Youth climate protest in Leuven, Belgium

We would then like to close this September issue with pictures from the youth movement (in Belgium) of protest to fight climate change and to call on policy makers all across the globe to take a stand and face the environmental emergency we are living in. The EFRJ is in fact going to launch a booklet on environmental restorative justice for the RJ week 2019, that will include interviews with some of these young activists, as a crucial voice in this conversation. As a global human community, we owe answers and solutions to the next generations, who are among the most direct victims of our reckless behaviours against the environment and

on whose behalf we — as the responsible adults — are taking decisions that are going to affect their life and well-being in some devastating ways. Most of all, we need to find these answers all together, in a participatory, healing and urgent way. Borrowing from one of the most powerful speeches from Greta Thunberg, the Swedish teenager leader of this global movement, to the World Economic Forum:

Adults keep saying we owe it to the young people, to give them hope. But I don't want your hope. I don't want you to be hopeful. I want you to panic. I want you to feel the fear I feel every day. I want you to act. I want you to act as you would in a crisis. I want you to act as if the house is on fire, because it is.

A huge word of gratitude to all the authors who contributed to this issue and to the whole Editorial Committee team! We hope you enjoy the reading and if you have any questions/comments or want to make a contribution to one of the next issues, please do not hesitate to contact any one of us!

With our warmest wishes,

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Restorative responses to environmental harm? Yes, we must!

In April 2019, the Leuven Institute of Criminology at KU Leuven [celebrated 90 years of existence](#). On that occasion, John Braithwaite, who is an honorary doctor of KU Leuven, joined the Institute. Together with Ivo Aertsen, we took this wonderful opportunity and decided to organise a unique international seminar on restorative responses to environmental harm. John Braithwaite's work has always been both foundational and pioneering, and in that regard he and his team in Australia are among the first to have engaged in cases of restorative environmental justice. It is in fact even more so a pleasure to open this newsletter issue with some of their inspiring reflections.

This seminar brought together scholars, activists and practitioners to dwell in depth on this intersection. Whereas communities, activists, scholars and scientists have primarily focused most of their energies on developing laws and policy making that identify, recognise, regulate, condemn or punish actors of ecocide and corporations or other authors that perpetuate environmental crime and harms, many have started recog-

nising the value and potential of restorative responses to these problems, especially the alignment of a restorative philosophy that is embedded in indigenous justice and environmental justice. In whatever version, the restorative justice perspective is driven essentially by the principles of participation, harm reparation and healing, which are principles that must be central in conceiving environmental justice.



Figure 1: Seminar participants, Leuven April 2019

Despite its potential, environmental harm also raises several challenges to restorative justice, which were explored in depth at the seminar.

- Who are the victims of environmental harm, how are their rights ensured and how can they have a voice in restorative processes?
- Who speaks on behalf of future or past generations and nature (animals, plants, rivers, land, climate)?
- What kind of expertise is required adequately to speak for the non-human?
- What are the criteria by which judgements around harm or victimisation are to be made?
- What are the criteria by which judgements around repair and restoration are to be made?
- How can we repair the irreparable?
- How can we assess who the perpetrators are and how can we ensure their participation in restorative processes?

The seminar started with a brief welcoming talk and introduction by me and continued with a compelling talk by John Braithwaite on the importance of restorative responses and their potential in the area of environmental harm, illustrating with examples in restorative innovation by Victoria's Environmental Protection Authority. He highlighted both the incredible potential of restorative principles and practices for environmental harm, but also some important limitations, inviting us to look at restorative justice as one step on a protracted journey towards environmental justice.

His talk was followed by a presentation by Femke Wijdekop, a scholar and activist on Environmental Justice at the International Union for Conservation of Nature — The Netherlands ([IUCN NL](#)), and Anneke van Hoek, a criminologist at [Restorative Justice Nederland](#). They explored, from different perspectives, whether restorative approaches to environmental conflicts from Australia and New Zealand can be adapted

to the Dutch context. Femke Wijdekop took us into deep philosophical reflections, which traced the commodification of nature as the heart of the problem, arguing that we need to move from a right to exploit to a duty of care. Anneke van Hoek brought insights from a criminological and philosophical perspective to the debate by referring to an intersection of positive and green criminology.

The discussion went on with Carolin Hillemanns, a senior researcher at the [Max Planck Institute for Foreign and International Criminal Law](#), who considered the potential of restorative justice to address environmental crimes basing her reflections on Germany. Offering a legal perspective, her talk focused on the importance of national and international legislation and their scarce application to environmental crimes, further reflecting on the (potential) application of restorative justice to these cases while highlighting important limits.

In the afternoon, the seminar continued with two presentations based on the EU-funded research project [Needs of victims of corporate violence](#), implemented in 2016-2017 by Leuven Institute of Criminology, Catholic University of Leuven and the Max-Planck-Institut. [Claudia Mazzucato](#), professor at the Università Cattolica del Sacro Cuore (Italy), presented some key findings of the project and reflected on the needs and rights of victims of environmental and corporate harm, illustrating real examples. Her main recommendation is to increase as much as possible cooperative and participatory strategies and networks, even at the cost of demanding the impossible. According to her, the strength of the restorative approach is that it can bring around the table tough actors and can create seemingly improbable and unlikely alliances and responsibilities.

Katrien Lauwaert, policy coordinator at the [Moderator Forum for restorative justice and mediation](#) (Belgium), continued the presentation of that project, making the bridge between victims' needs and restorative responses. She based her analysis on multiple interviews and focus groups with victims of corporate violence and organisations and professionals that are in

contact with them to identify the features of the cases, and assessed the views of the mediators and of the organisation [Moderator](#) about the possibility of handling these types of cases in the future.

The next talk was by Maria Lucia Cruz Correia, one of the contributors to this issue. Maria Lucia is an artist/environmental researcher, who presented her artistic quest for restorative interventions in cases of ecocide: a quest that culminated in the participatory theatre called the [Voice of nature](#). For this piece, I have collaborated together with the artist and we will continue our collaborations in the future. Her work has already been presented in Belgium and is currently travelling across Europe.



Maria Lucia Cruz Correia during one of her environmental art performances

The last presentation was by Bas van Stokkom, professor at the [Radboud University](#) (The Netherlands), who presented on corporate behaviour and responsive regulation, drawing sobering lessons for environmental restorative justice. Despite all the cautious insights that result from studying corporations critically, in his conclusion Bas Van Stokkom urged for restorative forms of responsive regulation whenever possible and as a first option.

The seminar was concluded by Ivo Aertsen, professor at the [Leuven Institute of Criminology](#). According to him, restorative justice theory and principles can be

applied to environmental harms, and promising and creative practices already exist. Nevertheless, what is needed are more advanced test cases, accompanied by evaluation, where victims and their organisations, together with public authorities and corporations, courageously explore new restorative avenues.

Each presentation was followed by in-depth discussions. We were very fortunate to have among us, among others, restorative justice advocates Martin Wright (involved in [Action for Bhopal](#)) and Lode Walgrave, together with engaged and committed students and researchers from all over the world.

Videos of the presentations and discussions from the seminar will be posted on the [vimeo site of the EFRJ](#). The seminar aimed at creating a path for future research, commitments and engagements and has already led to a few additional initiatives. First of all, a network has been created, where not only the participants but also other interested researchers and practitioners have joined forces. The network is maintained and updated by Ivo Aertsen and me, and we will collaborate in future to organise other events and launch common (action) research projects. The EFRJ has also taken a few concrete steps on the matter. A call for papers was launched last August and a booklet will be launched for the [#RJWeek 2019](#). This is going to be a collection of ideas, projects and testimonies on restorative environmental justice and is coordinated by Emanuela Biffi and myself. The EFRJ will also launch a [Working Group](#) on the topic in 2020. Furthermore, I plan to coordinate and edit a special issue for the [International Journal of Restorative Justice](#) by the end of 2020 and edit a book collection on the topic.

If you are interested in the topic, please get in touch and become part of our network (or any of the other initiatives): our planet needs all the restorative power there is!

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Restorative environmental justice: an introduction

We live in the Anthropocene, the era of history when humankind dominates nature, when human kindness to nature withers, especially as machine bureaucracies of production lines, commodified institutions and blitzkriegs of war machines displace organic organisations that flourished relationally through interconnections among and between human worlds and the worlds of the land and the sea. Climate change, species loss, growing and urbanising populations, diffuse sources of pollution and predatory capitalism are all placing increased pressures on our natural and built environment, often leaving the most marginalised communities to bear the worst of the burden of environmental pollution.

Repairing harm

Restorative environmental justice is philosophically much more than a set of techniques for doing justice for the environment in a more relational, more emotionally intelligent fashion, though it is that as well. It is about repairing the harm of the Anthropocene.

It is about healing earth systems and healing the relationship of humans with nature and with each other. Because the relationship of human domination developed during the Anthropocene, restorative environmental justice should also be about humbling humans' domination of nature. It is about tempering human power over earth systems and domination of the powerful over the less powerful. It seeks to advance the imperative to harness collective human power to forge a new vision of humankind as bearing a harmonious, restorative relationship with nature and with each other. It is about a humanly articulated future that is healing and relational.

This must involve a transformative mobilisation of the restorative power and the restorative imagination of humankind. It involves the insight that, by being active citizens of the planet, by participating in small ways in the project of healing our natural world, we heal ourselves as humans who only have meaning and identity as part of that natural world.

Restorative environmental justice means, for example, a massive human-led reforestation of the planet and investment of human resources in seeding those renewed forests with species that have become endangered thanks to human domination. It means following the Chinese example of building 'sponge cities' that capture and clean every bit of run-off from the city's paths, roads, buildings and gutters and returning some of that city water to river systems that need more water to survive. It means more circular systems of using water in agriculture that takes less water from those same endangered river systems. It means more circular re-use of waste so it does not find its way into rivers. It means restorative human steering the circle of warming that links the sun to the earth — steering some of the sun's heat to human projects of cooling the earth system.

Transformation

Restorative environmental justice requires a human-led transformation of the shape of our economy, so we grow our well-being and continuously grow non-exploitative employment — not by increasing the consumption of goods, but by increasing the consumption of services. Increased consumption of health, education, care and disability services is structurally critical to shape-shifting. More teachers, nurses, child care, aged care and environmental care workers do not carbonise the atmosphere in the way more cars,

coal, houses and plastic straws do. By restoring nature through economic shape-shifting that favours growth in services over growth in goods, we can better restore ourselves with enriched human services. The type of linking of guarantees of universal human welfare with environmental goals by leaders such as those developing the [Green New Deal](#) demonstrates a commitment to the entanglement of human and planet well-being that is at the centre of restorative environmental justice.

When it comes to environmental regulation, restorative environmental justice is about strategies that motivate businesses with this very ethic of care for the environment. It invites business to a cultural transformation at the restorative base of responsive environmental regulatory pyramids, where whole workforces commit to environmental stewardship, to healing the hurts of business domination of nature. That in turn requires conversational regulation as the preferred initial modality of regulation, over hectoring or punitive harassment of business.

This means that when environmental harm occurs, the environmental regulator harnesses the identitive power of motivational interviewing with questions like: 'So why do you think you would want to commit as a workforce to this form of environmental stewardship?' And then, 'What would be your preferred pathway to that stewardship?' Of course, when firms are ruthlessly committed to a trajectory that fails to come up with credible answers to these questions, as coal-fired power-plants are bound to do, then environmental regulation must shut them down at the peak of its enforcement pyramid. Enforced corporate capital punishment is something the restorative environmental regulator hopes will be averted by the ethical choices of corporations to steer their investments away from carbon to renewables, and through leadership with green innovation that takes the economy up through new ceilings of environmental excellence. Corporate leaders might then become moral exemplars of the rewards of the shape-shifting economy that eventually drags corporate laggards up through those same ceilings. The motivational interviewing approach to restorative regulation is about seeing the inferiority of dragging business kicking and screaming to environmental compliance compared with the superiority of business commitment to the virtue of being custodians of the earth. As more businesses make that commitment shift, laggards eventually become dinosaurs, outliers of an old economy that renewable markets eventually drive to extinction.

Regulation

Regulation is imperative, however, because the markets adapt to looming crises too slowly to avert them, whether they are environmental or economic crises, and those harmed first are the most marginalised and leading the most precarious lives. While restorative environmental justice is about the idea that steering markets

is imperative, its key hypothesis is that a presumption in favour of relational steering works better, but only if it projects the inexorability of regulatory pressure that will get more and more relentless until a stewardship shift occurs. It also creates space to question and challenge our regulatory institutions to respond to new challenges in courageous and impactful ways, rather than to rely on risk management strategies that lose sight of the overall goals.

Fertilised

Restorative environmental justice sprouts from soil tended and fertilised by generations of indigenous communities, community activists, creative judges, lawyers and bureaucrats, visionary corporations and committed conservationists. Those seeking to expand restorative environmental justice would do well to heed the successes and failures of these groups in their experiments with restorative values such as meaningful participation in decision-making, inclusion, respect, dialogue, trust and seeking accountability. These histories are documented by scholars in the fields of environmental justice, participatory conservation, green criminology, new environmental governance and social licence to operate. They have shone the spotlight on the tentacles of power and privilege and social injustice entrenched in existing political and economic structures and highlighted the re-distributive imperatives associated with sustainable climate action. Aiding these diverse actors toiling towards the ultimate goal of restoration of the planet is one of the greatest tasks for restorative environmental justice. Environmental restorative justice is a richly hybridised and pluralised endeavour in which new ways to think about scale and complexity require interdisciplinary flexibility and drawing from ancient indigenous traditions as well as cutting edge scientific developments.

New questions

The context of the environment poses particular new conceptual considerations for restorative justice. These include questions such as:

- Who are the victims of environmental harm?
- Who should have a voice in restorative processes?
- Who can speak on behalf of future or past generations and of nature/ more-than-human (animals, plants, rivers, land, places)?
- How is harm measured, and what account can be made of future harm?
- Can irreversible environmental degradation be healed, and if so, how?
- Can restorative justice simultaneously safeguard communities and the environment when their interests seemingly diverge and even collide?

Many of these questions are addressed by the authors in this newsletter and others who came together at KU Leuven in April 2019 for an inspiring meeting of many thoughtful minds. They sought to share in the project of building a restorative environmental justice. That project is being further developed both in the scholarly context and in real world practices where innovation and the seemingly impossible are always, magnificently, present.

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Voice of Nature: the trial — re-storying environmental justice

This research for *Voice of nature: the trial* started in 2016, when many countries in Europe started to question their willingness to honour the Paris Agreement, formulated during the Climate Change Conference in 2015. Most of the countries accepted and signed this protocol; however there was no strategy that could ensure international compromises to provide a clear framework to reduce fossil emissions to counteract the effects of climate change.

At that time, it was clear to me that we need new tools to prevent more harm and destruction of the ecosystem, to reinvent the current environmental legal system. Despite a few movements to hold governments accountable, such as [Urgenda](#), [Klimaatzaak](#) and [Eradicate Ecocide](#) by Polly Higgins, yet, back then, there was only one country in the world with the rights of nature in the constitution — Ecuador, and no country in the world has declared ecocide as the fifth missing crime in the Roman Statute.

As a citizen I couldn't interfere directly:

- Who is there to blame or even to restore? Governments, corporations, consumers?
- Is there a legal framework to hold perpetrators accountable for environmental crimes?
- How can we understand the complexity behind all the destruction of the earth?
- How can we repair or prevent more harm?
- And how can non-human entities such as a mountain or a river stand legally in court?

Thus, this research was an attempt not only to unveil the layers behind environmental colonialism, extractivism and violent occupations of territories that leave entire communities without a home, but also to propose a new type of justice, a justice where the ecosystem is central.

As an answer, I have initiated the project [Voice of nature: the trial](#), a site-specific court piece, shown for the first time in the old court of Ghent in the context of [Same Same But Different](#) festival with the support of the [Vooruit Kunstcentrum](#). This performative trial is an attempt to rethink environmental justice in which we investigate ecocide and the possibilities of creating a new proposal for western views on the justice system as a form of juridical innovation. We experiment with the interconnectedness of a conventional court and restorative justice systems and how it can serve the ecosystem by proposing a new type of 'restorative contract,' in which humans and non-humans could eventually come to a collective consensus.

Back then, when I discovered restorative justice as one of the most inspiring processes to help us dealing with the harm of such a complex concept as ecocide, I felt for the first time hope again.

Together with Ingrid Vranken as dramaturge and Brunilda Pali, a postdoctoral researcher at the Leuven Institute of Criminology, we designed a Restorative Contract where we try to offer the audience a 'level of agency' by creatively contributing to the resolution of the case by restoring the unbalanced relationship with non-humans. The contract aims to inspire action and restoration as a form of acceptance and reconciliation.

The public was invited into a restorative ritual where together we would make a contract to repair the harm

between us and nature. The objects were carefully selected as triggers of emotions and memories.

The difference in this type of sentence relies on the relocation of agency and therefore empowerment from other than humans to the spectator. This somehow prepares the audience to step into a council of all beings by opening their hearts to hear the voice of nature in them. The contract resulted in personal commitments, from small actions to long term statements, from planting trees to not not having a child, from civil disobedience to stop taking planes for the rest of their life, from meeting up with wolves to lobbying against corporations; from being nude more often to political protests.

- But how can we as individuals respond to these challenges?
- Can we keep our promises?
- How can any of these measurements be at service to prevent the harm?
- Do we know enough about the realm of other than humans?
- Can we speak on behalf of a river?
- And after all, does 'Nature' want to be in court?
- And who can speak for 'Nature'?

The legal procedures to become a guardian of nature are still non-existent and, so far, only two countries (New Zealand and Ecuador) have adopted legal measures to ensure protection of non-human entities.

In legal terms, a guardian of nature corresponds to representing entities that cannot speak for themselves. Between humans, it would be the case when a guardian represents a child or a mentally disabled person in court. For others than human beings, an expert could be talking in their interests as a guardian.

- But who decides who gets to be considered a guardian?
- Can just anybody be a guardian? Or does the court decide who gets to be considered an expert and could therefore talk on behalf of Nature?
- If I want to become a guardian of nature — if I want to speak on behalf of a river — do I have to be an expert biologist or scientist ... or could I be talking for nature, as a random individual, since I am also a part of nature and I am being affected by the harm inflicted on nature?

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Figure 2: Entering into a restorative contract

Restorative justice in a time of climate and environmental emergency: what can we do as restorative practitioners?

Not only are we restorative practitioners and/or researchers. We are also human beings sharing our planet with all other living creatures, plants and organisms. And our shared existence is under imminent threat from climate change and environmental pollution. The quality of the air many people breathe is harmful; the water we drink and the food we eat is contaminated with micro-plastic, uncontrolled hormones and other toxins and indeed the water itself is in ever decreasing supply. In some places it is becoming a scarce commodity. The climate is changing faster than anyone predicted leading to catastrophic weather events, especially in the global south where poverty is an added issue. Climate change is also contributing to mass immigration, our current refugee crisis and the scandal of our detention camps and centres.

So, one cannot ask the question — what has this got to do with us, as restorative practitioners? It has got to do with us because Earth is our home. As someone once said — there is no Plan(et) B.

I believe that as restorative practitioners, we also have some special things we can contribute, to help the situation and to help our fellow human beings.

First way to contribute: restorative practitioners using our skills

Those of us trained in restorative facilitation have a wide range of transferable skills. We can help individuals resolve their conflicts using mediation; we can facilitate problem-solving circles and we can hold the space for difficult conversations to be shared in circle.

All of these skills can help people in our community and also help the climate change movement.

In our communities, people need to start talking about climate change and environmental degradation, if they are not doing so already. Many people are worrying privately and do not know where, or to whom, they can talk. These conversations can be painful, heated and challenging as people face their fears. As Circle Keepers we can offer a safe space, with a framework within which everyone can perhaps say the things they dare not say and feel heard. Can we begin to offer these spaces to help raise awareness and offer support?

We can also offer mediation and problem-solving to those in the front line. Many of you will have heard about [Extinction Rebellion](#) (XR). XR is spreading across the world, inspiring people to get involved

— people who have never previously thought of themselves as activists. In the UK there are some groups evolving to offer support and they are inspired by restorative practice¹ and [Nonviolent Communication](#) (NVC).

I am involved in two initiatives — one to offer help on the streets to de-escalate immediate hot spots where perhaps activists get involved in heated exchanges with members of the local community who do not agree with what is happening (roads being blocked, etc.). The other is to offer myself, along with others, as a circle holder and mediator when conflicts arise within XR groups.²

Gatherings of activists often need support. Inevitably within these organisations, conflicts emerge, people disagree and need support. I encourage restorative practitioners to make contact with your local activist groups and see what you can offer. Our skills are needed more than ever and will become ever more urgent as resources become scarcer. The next [Climate Camp](#) in Italy may be open to offers of help.

Second way to contribute: restorative interventions after arrests of activists

This is, as far as I know, an unexplored area in the UK at least. I know people personally who have been arrested, tried, charged and either fined or incarcerated for their activist activities. The law is on the side of those destroying the planet with their activities — mining fossil fuels, fracking, drilling for oil etc. — and not on the side of those seeking to protect the planet.

But what can we offer as restorative justice practitioners in situations where individuals have been arrested for their activities? The case raises lots of uncomfortable questions. When activists lock themselves onto a concrete block to stop lorries entering a fracking site, on a public highway:

- Who is the offender?
- Who is the victim?
- What about the wider community?
- What about the company whose profits are affected by the delay as activists are forcibly removed by the police?
- What about the wider community who may stand to benefit from lower fuel prices if fossil fuel extraction continues?
- What about those of us who continue to drive cars, take planes, use gas and electricity, consume fossil fuel products in endless ways?

If there are no clear-cut answers, can restorative interventions be used?

At the moment the conventional justice system is undoubtedly creating artificial barriers and hostility between human beings who all stand to suffer if life on this earth deteriorates much further. Currently, climate and environmental activists are viewed as offenders by the fossil fuel companies, the state-employed police and security guards, and there have even been attempts to charge them with anti-terrorist legislation. Worldwide we know that in many countries protest is suppressed and punished very harshly — up to and including death sentences. Meanwhile those who work for fossil fuel companies, the police and security firms, not to mention the government responsible for creating our legal system, are viewed as the ones responsible for causing or endorsing the harm being caused to the planet.

I ask a genuine question of my fellow restorative justice advocates and champions — what can we offer in this situation? We campaign for the use of restorative justice in other criminal cases; should we be standing by whilst those perhaps braver than us intentionally acquire a criminal record or go to prison on our behalf?

Third way to contribute: restorative practitioners as responsible citizens

We all travel to and from our work and how we do this impacts on our planet. One way we can make a difference is to think hard before we take a car. Can the journey we make be done by public transport or by bicycle? If we live near fellow practitioners can we share the journey?

At work:

- Can we encourage our colleagues to become plastic-aware?
- Can we ensure that all our plastic is re-cycled?
- Can we avoid purchasing that quick coffee on the way to work served in a cup with a plastic lid, and instead always have our eco-cup with us? (You do not own an eco-cup yet? Why not?)
- Can we take pre-prepared food for our lunch and avoid popping out to a nearby shop and buying snacks, which inevitably come in plastic wrapping?
- Can we raise awareness of how so many products come wrapped in plastic and maybe lead by example seeking out retailers who are making the effort to avoid such wrapping?

¹Especially the [Restorative Circles](#) developed by Dominic Barter.

²There are also other climate organisations like Greenpeace; [Ende Gelände](#) in Germany, [Code Rood](#) in the Netherlands, [Reclaim the Power](#) and [Wretched of the Earth](#) in the UK, to name just a few.

And what about our meetings, gatherings and conferences? These are places we can certainly make more planet friendly. For a start — do we need to meet in person? Face-to-face is great — as we know from the car bumper sticker, restorative practitioners do it face-to-face! However, please think hard before arranging meetings which involve road or air travel.

In terms of reducing the damage to the planet, the two most significant steps you can take are to reduce or end your consumption of animal products and reduce or avoid flying. So, at our conferences let us make vegetarian and vegan food the default option and encourage alternatives to flying.

As for flying, I, for one, plan to travel to the [11th EFRJ Conference](#) in Sassari overland, taking trains to Italy and then the ferry. I will post on the EFRJ forum my route once I have settled on it and I invite everyone who can to join me on the way. We will probably have gathering points in either Paris or Brussels and then again in Italy. It will be much more fun than travelling alone in a plane; so we hope many will join us. Perhaps the Forum can incentivise us by offering a discount on our conference fee?

For those who will choose to fly to Sassari, can the Forum please make information available about carbon off-setting and can you all persuade your employers to make this a real cost of your trip and not something you have to do out of your own personal pocket (check you have an environmental policy at work)? A recent [article in a UK newspaper](#) has some interesting things to say about carbon off-setting and some English-speaking

links to companies who can help.

At the conference let us make plastic bottles a thing of the past. Perhaps the Forum can provide ‘forever bottles’ (or make them available for purchase at a discounted price) and make sure cold-water dispensers are available. Let us make sure that the re-cycling options are in place so we know that if we do throw away anything it will be sustainably dealt with.

These are just a few ideas. You may well have more. Together we can start to make our conferences as sustainable as possible — until such time as governments start taxing airlines as they should be doing to reflect the real harm flights are causing and make flights so expensive that we will need to think about local gatherings rather than international conferences.

This is an exploratory paper — asking more questions than I answer. However, let us continue the conversation. We have many skills and we all share a commitment to restorative justice and, by extension, social justice. Let us extend this concern for our fellow human beings to the planet we all share and stand up for climate and environmental justice too. After all — without a planet there will be no more life as we know it.

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Conflict resolution and corporate responsibility for human rights and the environment: Martin Wright on environmental harms and corporate crime

EFRJ member Martin Wright has a long-standing interest in restorative justice and non-violent communication. After having read John Braithwaite’s *Restorative justice and responsive regulation* (2002a), he wondered if a restorative approach might influence company policy.

What harms are we talking about? The big picture of how humans are destroying the planet is about climate change, but there are other ways to harm the environment, including the spread of plastics and the dumping of toxic substances, such as waste products from mining operations (‘tailings’). Some activities that damage the environment do not cause direct conflict between people. Others, however, are caused by specific persons, often in commercial companies, and affect others, often local inhabitants. These conflicts need resolution.

What could be done to prevent and respond to environmental harms? One way was shown after the collapse of the Vale company’s dam in Brumadinho,

Minas Gerais, Brazil, in January 2019, with the tragic loss of lives and livelihoods as well as devastating environmental impact.

The Church of England Pensions Board, along with Sweden’s Public Pension Funds Council on Ethics and other funds managing over £1 trillion in assets, jointly called for a global independent public system that monitors the safety risk of mining companies’ tailings dams. There should be annual audits of all such dams as well as verification that the highest safety standards are implemented. It remains to be seen how the companies will respond. By responding positively, the companies can avoid future conflict. But, even if they improve in future, that does not repair the harm suffered in the past.

How can a company be persuaded to put things right? When a company compounds the felony by trying to deny responsibility, shifting the blame on to a subsidiary company, minimising the harm caused, refusing to appear in court to answer charges, and so on, it is tempting to resort to condemnation, but that is not necessarily the best way to persuade the company to put things right. The Bhopal case is an example of this.

Could you tell us more about the Bhopal case? It is the disaster in the city of Bhopal, India, in 1984, when faulty safety precautions at the Union Carbide Corporation (UCC) pesticide factory led to a massive leak of poisonous methyl isocyanate gas, killing up to 20,000 people in a short time and damaging lungs, kidneys and other organs of half a million more. Many children have been born with birth defects. Poisonous chemicals left at the abandoned site are leaking into the water supply, causing a second disaster.

In 2012, the Dow Chemical Company, which had meanwhile taken over UCC, offered a large sum in sponsorship for the London Olympics, and there was a big campaign against accepting their money (see Bhopal marathon, from [Bhopal Medical Appeal](#)). This reminded people that the issue still had not been resolved nearly 30 years later. Attempts to secure redress through the courts had been met by denials of responsibility, claims that the compensation already paid was adequate, and by simply refusing to appear in an Indian court. At the time of writing, a petition for increased compensation is before the Indian Supreme Court, but survivors' groups still consider this inadequate.

How could restorative justice support the conflict resolution? There was a suggestion that John Braithwaite's theory of 'reintegrative shaming' and a restorative approach might influence company policy. Confronting company directors with the victims of their malpractice and the effects on the reputation of the company might persuade them to put matters right, for both moral and commercial reasons. The difficulty, however, as John Braithwaite has commented, is 'getting to hello': approaches to company directors have

elicited no more than an official restatement of the company's denial of responsibility, and it has not so far been possible to enter a dialogue. For this, it seems, it is necessary for the approach to be made either by someone who knows a senior member of the company personally, or by a person or organisation of such standing that the company will reply. Major businesses are increasingly concerned with corporate social responsibility.

What restorative action has been taken with regards to Bhopal? A small group has been formed, [Action for Bhopal](#) (AfB), to keep the issue alive. To raise awareness, it has arranged screenings of the film [Bhopali](#).

Is there anything more that could be done? Anything that any of us could do? As a complement to legal action by survivors' groups, AfB is using the principles of William Ury's *Getting past no* (1991), encouraging supporters to write politely to directors of Dow Inc., the successor to the Dow Chemical Company. They may assume that despite the company's denials of responsibility, directors feel uneasy about the long suffering of innocent people and can point out that apart from considerations of humanity and human rights, the company's unpopularity is losing it business. Its recent restructuring is an opportunity to make a fresh start, by resourcing the clean-up of the toxic derelict site and payment of fair compensation.

Readers of this Newsletters who would like to help resolve this conflict are invited to go to [Action for Bhopal](#).

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References

- Braithwaite, J. (2002a). *Restorative justice and responsive regulation*. Oxford: Oxford University Press.
- Ury, W. (1991). *Getting past no: negotiating with difficult people*. London: Business Books.

Book Reviews

Burford, Gale and Braithwaite, John and Braithwaite, Valerie (Eds) (2019) *Restorative and responsive human services* London: Routledge ISBN: 978-1-138-38711-9 (hbk), 978-0-367-02616-5 (pbk), 978-0-429-39870-4 (ebk)

Has it happened to you that people, as soon as they connect you with restorative justice, start pointing out to this or that example of restorative justice gone wrong: victims with bad experiences from the restorative meeting, teachers feeling their authority is undermined by the circles, projects that were started

and died out as soon as initial funding ended or as an enthusiastic leader moved on to a new phase in her life? Next time when it happens to me, I will just recommend this book.

The editors and authors of several chapters — Gale Burford, John Braithwaite and Valerie Braithwaite — conceived this book with a very clear vision of justice in mind: it should be restorative and responsive and it should work to open new spaces for the law and social sciences to complement one another, for disciplines to set aside differences and work together to solve complex problems while supporting the leadership of locally affected relational networks.

They are aware of many cases when restorative justice did not fulfil its promises. In their view, restorative justice has little chance of resilience and scale of transformative potential when it stands alone on the margins, either as an alternative or as an add-on to criminal justice; the battle for its core values will be lost unless there is a strategy for putting families, parenting and other primary group relationships at its core and at its front door across justice, health, education and other social welfare and social service settings. The editors advocate responsive regulation — a concept mostly used in business, developed as an integrated approach to diminish threats to freedom posed by over-regulation or under-regulation — as a way of creating and implementing such a broad-range policy. They stress the importance of including various approaches in regulation that start with information and restorative justice, and move on to deterrence and incapacitation only if previous steps did not result in changed behaviour. In their view, strengths-based approaches complement responsive regulation; while the former pulls standards up through a ceiling, the latter pushes standards above the floor.

Far from being naïve, the editors point out to the ‘ugly side of responsive regulation’:

It is possible for a restorative justice person to be a pacifist, an abolitionist on criminalization, who eschews institutionalized state politics. We deeply respect the positions of many of our restorative friends who defend those standpoints. But it is not possible for a responsive regulatory thinker to be like that (...) The responsive regulatory theorist must not be timid in saying that it is a good thing that the state has the power to remove children from families, even as these authors believe, because of their restorative values, that the overwhelming majority of children that are being removed from our families by the state in our societies should not be so removed. (p. 224)

With their diverse experience, expertise and focus, the authors of the chapters support the editors’ views by providing insights into what was done and what could

be: from a comparison of family meeting programmes implemented in New Zealand and in North Carolina to exploration of the — so far unused — potential of restorative justice in tackling complex issues of disproportional representation of black women who are children’s primary caregivers and who are affected by imprisonment and foster care placements. The authors reflect on successes and struggles in responding restoratively to different problems, including bullying in schools, the struggle of farmworkers to get a decent working conditions and wages, urban riots, student misconduct and sexual assaults on campuses, intimate partner violence, addiction treatment and the desistance of sex offenders. The style and length of the chapters reflect the authors’ diversity but a common thread is clearly connecting them. They go beyond case studies and, to various degrees, they expand their texts with the theoretical background. They point out the concepts and themes necessary for gaining a deeper understanding of context and of the complex issues one needs to master when imagining the best possible way to put restorative principles into action and to make this action sustainable and continuously improving.

I will highlight just one example that really expanded my horizons: the chapter written by Elisabetta Carrà on the concept of *familiarità* in Italian, or familiness, on the framework of relational sociology — as conceived by Pierpaolo Donati — and on civic, legal and policy developments in Italy that built upon relational approach. In recent years, studies within the relational sociology framework have increasingly revealed the strengths of family focused policies and of family associations, and families have become a distinctive relational genre in the study of welfare systems and human services. This chapter also shows that the road less travelled can and should be taken, as regards the direction of exchange and influence. Contrary to the usual pattern, in this case the new approach is conceived outside the Anglo-Saxon linguistic area and spreads from there to the rest of the world.

I would be curious to read a sequel to this book, exploring the possibilities of restorative and responsive human services outside the Anglo-Saxon world, especially in those countries where lack of a democratic tradition and unfortunate historic circumstances have left people with poor devices for confronting increasing demands for dominance and over-regulation and policies enforcing deterrence and control.

I find this book relevant for all of us trying to understand how to fulfil all the potentials of restorative justice, regardless of how supportive or hostile our surroundings are towards the relational approaches and towards the wider application of restorative justice outside the narrow area of criminal justice. In my view, understanding responsive regulation and its context is important for all restorative justice enthusiasts and sceptics, even for those who eschew institutionalised state politics, if not for any other purpose, then just for being

better prepared for dialogue next time when concerns about restorative justice are being raised.

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Calendar

Why Me? *How to use Restorative Justice for Hate Crime* 9 October 2019 Can Mezzanine, 7–14 Great Dover Street, Borough, London SE14YR. More information from [Why Me?](#).

IIRP World Conference Community Leadership 21–23 October 2019 Bethlehem, Pennsylvania, USA
More information from [IIRP](#).

Roman School of Psychological Law *Towards a justice of relationships. Traditional areas and new frontiers of legal psychology* 7–9 November 2019 Rome. More information from [Roman School of Psychological Law](#).

Restorative Practices Forum Northern Ireland *Restorative Practices: Bringing 25 years of learning into the future* 14–15 November 2019 Belfast More information from EFRJ Chair, [Tim Chapman](#).

International RJ Week 17–24 November 2019 More information from the [EFRJ](#).

Nepal Forum for Restorative Justice *Third Nepal Conference on Restorative Justice 2019* 27–29 November 2019. More information from [Nepal Forum for Restorative Justice](#).

IIRP Latinoamérica Conference 5–6 March 2020 Crowne Plaza Hotel De Mexico, Ciudad de Mexico
More information with the [Call for papers](#).

EFRJ Conference 25–27 June 2020 Conservatorio Luigi Canepa Sassari, Sassari, Sardinia, Italy. See the [concept note](#) and details of the [keynote speakers](#). More information from [EFRJ](#).

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