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"RACE AND POWER"

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ABSTRACTS

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Kemp House, 152 City Road, London EC1V 2NX, United Kingdom

contact@rj4all.info

www.rj4all.info

Restorative Justice for All (RJ4All) is an international institute with an aim to create, increase and disseminate knowledge in the areas of restorative justice and alternative dispute resolution. The Institute challenges the restorative justice movement through ground breaking research and evaluation, and by bringing people together to network and exchange best practices.

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Bringing race relations into the restorative justice debate: An alternative and personalised vision of ‘the other’

Dr. Theo Gavrielides, Founder and Director of Independent Academic Research Studies (IARS), Co-Director of the Restorative Justice for All institute (RJ4All), Adjunct Professor at the Centre for Restorative Justice of Simon Fraser University and Visiting Professor at Buckinghamshire New University.

Restorative justice was reborn in the 70s with a promise to provide a better sense and experience of justice especially for those who are let down the most by the criminal justice system. And yet, despite well-evidenced disproportionality and race inequality issues within criminal justice institutions, restorative justice research and practice within the context of race are almost non-existent. This paper aims to unravel this paradox while looking at the scant extant literature to explore the alternative and more personalised restorative justice vision of ‘the other’ and cultural differences. An expansive conceptual model that is aligned with the integrative nature of restorative justice is then posited for further pilots and research. The paper warns that if restorative justice continues to ignore the challenges raised within a race equality context, the power structures inherent within our current structural framework of criminal justice will lead to its demise.

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Race, power and Restorative Justice: Warnings and Limits in concepts, research and policies

Vasso Artinopoulou, Ph.D. Professor of Criminology, f. Vice Rector, Panteion University of Social and Political Sciences, Athens, Greece. Co-Director of the Restorative Justice for All Institute, London, UK

The paper aims at addressing the structure inequalities in a restorative justice framework. Especially, we try

- a) to recognize the complex theoretical, empirical and policy dimensions and interactions of race, power, gender, violence, class and restorative justice and put the limits of generalizations. A three level perspective adopted (macro, mezzo and micro level) to address the key concepts, explanations, researches and policies,
- b) To identify the potential risks of the Restorative Justice policies and practices in reproducing the structural inequalities, injustice and legitimizing the oppression, and
- c) To suggest a RJ integrated model as analytical tool in theory, research and policies.

Race, power and Restorative Justice: skilfully disarmed or blown up by incompetence and un-knowing

Simon Fulford, Chief Executive Officer Khulisa UK, London, UK

Race and power can never be devoid of any social situation or human interaction. This is simple fact. Consciously or unconsciously it is there and present. Consciously it can be used to manipulate or influence a situation and make for “winners” or “losers”. Unconsciously it also influences behaviour, driving subtle or overt cues of “victim” and “victimiser”, alpha-male, pack-leader, follower, antagonist, exile. The beauty of

Restorative Justice can be, should be, that all of this is part of the mix, can be discussed, and forms part of the fabric of each and every interaction, mediation or conference. If RJ is a process of identifying and discussing the harm caused by a set of human actions, and also trying to understand the feelings inherent in these along with trying to consciously or unconsciously realise the drivers for our behaviour, then race and power can be held in the ironical state of having nothing and everything to do with an RJ dialogue. Race and power have *everything* to do with a crime/hurt committed between a black and white South African yet if the harm is able to be discussed openly and honestly with skilled RJ facilitation then the issues of race and power hold *no* power over two individuals talking to each other as one human to another. Race and power lose their impact because a well - managed restorative process strips them of their potency once they enter the room. Racism may have led to an exertion of abuse and the command of power may have given one party license to inflict the harm they, did but once in the RJ room these can be acknowledged and then disarmed. The one RJ relationship where race and power can never truly be absent is that of the facilitator or mediator. Inherent in the dynamic is that the other parties will look to this role for guidance in the process. To guide is to lead. With leadership comes power – augmented, diminished or warped depending on issues of race. The skilled facilitator will hold this present in all that they do. The novice or unaware will not. A skilled navigator and seaman is at a minimum aware of the pull of the moon on the tides and uses them to her advantage when sailing treacherous waters. She knows when the inevitable and un-stoppable currents and change the depth beneath will occur, powerless to resist but empowered to sail on free and clear. The land-lubber knows nothing or little of these forces. He sees not and feels not. At the very least he runs his ship aground on a sandy beach and only has to wait for the tide to rise once again to be free. At worst he smashes on the rocks, captain, passengers, crew and even the rats left to drown.

Police, Power and Restorative Justice

Michael Kearns, Restorative Justice Practitioner, UK

I believe that the British Police Service has never been under more pressure from the public and government alike. Common perceptions and experiences of encounters with police and operational practices leave many feeling that they are hostile to some groups or individuals. Some police still have stereotypical views about people and have negative perceptions. A significant number of people distrust the police and experience discriminatory behaviours that underpin institutional racism. The shift towards restorative justice occurs within a society where institutional racism is the foundation for the power imbalance between whites and non-whites. Scholars recognise that there are multicultural concerns in the restorative justice movement and believe that institutional racism is a deterrent to effective restorative justice process (Umbreit and Coates, 1999). I would like to explore the construction of the British Police through the image of the ‘Bobby’ within context of the sacred position it holds within UK policing discourse looking at and how it is located within the broader British cultural psyche and restorative justice.

In this sense, the Bobby not only represents the exemplary symbol of British policing, but he is also part of a broader cultural narrative where the bobby is represented as ‘the embodiment of national temperament’; avuncular and minded for tolerance and fair play (McLaughlin, 2007: 6-7). If we delve a little deeper into the mythical status of the bobby, we find that it linked to other myths: those of ‘Peel’ and the notions of legitimacy and consent. It is the premise of nine Peelian principles (see, Lentz & Chaires, 2007) that collectively drive the idea that policing, as a project, is undertaken with the consent of the public they serve and the idea that police officers in the UK are ‘citizens in uniform’ (Reiner, 2000). However, while there has been a recent effort at recreation of the image of the ‘bobby’ or neighbourhood police officer, in the 1950’s there was also a period of intolerance and parochialism; particularly towards ethnicity, diversity, homosexuality, race and gender relations. Such intolerances were inherent within the informal control methods that pervaded social and public spaces during the period. Therefore, any representative practices that claim a return to ‘the golden age’ of community policing disguise their conservative origins by

appealing to some mythical and nostalgic sense of community. The sort of mythologizing that evokes 'Peelian principles' remains apparent within police institutional discourses and policy making circles today. In particular, the substantial increase in police officers that is now occurring (April 2014) has been couched in terms that appeal to the reassuring image of the 'bobby on the beat'. Can the police invoke a return to trust from their public by recognising that restorative justice can play a part in this process?

Shame with no Guilt – descendants of oppressors and restorative justice

Dr. Evelyn Zellerer, Founder and Director, Peace of the Circle; Professor in Criminology, Kwantlen Polytechnic University, Canada.

In this workshop, I explore shame and moral responsibility of descendants of oppressors. Until very recently, I did not disclose the shame I carried for being of German ancestry and a white, first generation Canadian. I now appreciate that our genetic ties to those who have harmed and those who have been harmed play a role in how we understand ourselves and relate to others. We need to come to terms with our ethnic inheritance of historical hatreds, enslavement and genocide. As Germans, for example, we are defined in large part by the holocaust. I invite us to explore various questions. How can we best expand our dialogue on racism to respectfully and authentically include all voices, experiences and perspectives, without getting sunk in the quicksand of political correctness or perpetuating any racialized harm or us/them judgments that we are seeking to overcome? Are descendants of oppressors destined to carry collective shame and moral responsibility; is that a required component for healing and reconciliation? What potential role could restorative justice play in healing and moving forward for all parties involved? Restorative justice generally requires someone to admit guilt and to take responsibility. What do we do in cases where someone like myself feels shame, but where I am not actually guilty of a crime or wrongdoing? How do we best express and overcome shame? One of the challenges of genetic shame is that we are ashamed of our ancestry and of who we are. This is a different kind of shame for feeling bad about your behaviour. Braithwaite (1989), in his well-known theory, argues for 'reintegrative shaming' as opposed to 'disintegrative shaming'. Does this apply here too; do descendants of oppressors need to be reintegratively shamed? I am interested in bringing ourselves out of perpetual cycles of self-condemnation and shame, and creating common ground out of our humanity. I suggest that restorative processes, and specifically peacemaking circles, provide a forum whereby all such quandaries can be expressed and resolved, and where we can forge a path forward based on our shared human values.

Addressing racist violence through restorative justice: understanding the perils of 'community

Dr Mark Austin Walters, Lecturer in Law, School of Law, Politics and Sociology, University of Sussex, UK

This paper examines both the dangers and benefits of "community" within restorative justice theory and practice. Critics have argued that overly simplistic notions of "community" fail to grasp the complex socio-cultural structures within modern societies (Crawford 2002). Indeed some have asserted that community may not only help to uphold the moral obligations of its members but simultaneously wields a persecutory axe over those who fall outside its subjective feeling of "togetherness" (Pavlich 2004). Hence rather than transforming communities, RJ may simply become another mechanism through which certain "Others" are subjugated by those who yield greater levels of socio-cultural power. The role of community can become particularly risky in cases involving prejudice based offences, such as racist violence. The main concern of "community" in such cases is that, rather than providing appropriate social condemnation of racist

behaviour, its members may trivialise victims' experiences and expose them to re-victimisation. Using empirical data from the speaker's doctorate into the use of RJ for hate crime, this paper assesses whether, in practice, victims of racist and other prejudice-motivated crimes experienced domination and/or re-victimisation during restorative meetings. The findings suggest that restorative encounters rarely result in additional harm to victims of hate crime where restorative practitioners adhere to the key values of respect, equality and non-domination. Central to avoiding domination and re-victimisation throughout the process is the *preparation* of all stakeholders, as well as including a wide range of community participants in the dialogical process.

Cypriot Feminism: An opportunity to challenge gender and sexist inequalities and promote a Women's rights and different needs and perspectives

Maria Hadjipavlou, Associate professor at the Social and Political Science Department of the University of Cyprus

Women's movements and feminist scholarship have long promoted the view that the social phenomena of peace and conflict and war are gendered. Feminists have challenged the patriarchal, oppressive, racist and sexist militarized cultures that promote and sustain the ethno-national conflicts (Cockburn, 2002, 2004a, 2004b, Francis, 2004, Yuval-Davies 1997, Hadjipavlou 2006, 2010, 2012) This presentation will first discuss the question 'why a gender and feminist analysis is important when dealing with ethno-national or international conflict' and give examples of how pain and suffering are feminized and particular forms of masculinity are promoted. Then I will discuss the United Nations Resolution 1325 (2000) on 'Women, Peace and Security' and its relevance to the Cypriot experience. Examples of Cypriot feminist agenda among the bicomunal women's non-governmental organizations –*Hands Across the Divide*, and the *Gender Advisory Team* will be analysed. I will argue that among other obstacles the dominance of the 'national problem' in Cyprus but also elsewhere, marginalizes all other issues including women's issues and rights, health and environmental issues, violence against women, sex trafficking, migration issues, sex discrimination, unemployment of women ,etc. In other words patriarchy becomes mediated with nationalist politics to keep particular agendas visible while marginalizing others. Where identity conflict translate into armed conflict power lies in the hands of most often militarized men and power is often maintained through various levels and application of violence include extreme forms of genocide, rape and enforced prostitution. These terrorizing tools are fashioned with minute attention to gender, race and gender relations in the society (Mazurana, 2002). Taking the Cypriot experience as an example I will promote the view that Cypriot women's solidarity, and a coalition of networks across the different divides need to address changes in gender roles, discriminations and inequalities beyond ideologies, class, race, sexuality or religion for the creation of a multi-cultural and multi-ethnic society where everybody's rights are respected. For this to happen, men and women need to develop a feminist gender consciousness and awareness for the need of social change.

Exploring the paradox of power within the context of restorative justice

Prof. Marelize Schoeman, Criminology lecturer & Associate Professor, University of South Africa, South Africa **and, Maryna Cotton**, Contemplative Photographer, South Africa

During his defence against charges of impiety and corrupting the youth in 399BC Socrates stated that "*The unexamined life is not worth living*". With this statement Socrates attests that philosophical virtue, justice and truth can only be achieved if a "life" is examined to its fullest. Virtue in this context refers to the ability to achieve moral and social excellence by cultivating an inclusive personal and societal moral order. Socrates views justice as more than mere convention but as virtues and desirable attributes that is connected to objective standards of morality. It is thus proposed to be in the best interest of society to adhere to these principles as it contributes to a just society.

In an analysis of the Apology of Socrates clear inequalities and power imbalances in judicial structures and processes are evident. It also highlights the role of perceptions in dealing with concepts about what is just or unjust - fair or unfair. Globally, arguments about the disparities in the legal processes are still relevant today. This current day debate is elevated by an increased awareness of human rights and call for the recognition of traditional legal practices in the age of globalisation. Changes from a retributive to a more restorative approach in the adjudication of justice furthermore changed the levels of responsibility and accountability in the meeting out of justice. It calls for communities to participate in, and to take ownership of the justice process. Similar to the age old debate about self-serving and advantageous justice as discussed in Plato's Republic, is the prevailing discourse about race, power and justice and the question: *Justice for whom?* Using the method of Socratic speech the purpose of this paper is to explore pertinent questions relevant to the discourse about race and power in restorative justice. Some questions that will be addressed are: How does cultural diversity and personal perceptions influence views about justice, and what is just, in society today? Who has the right, and power, to make decisions about justice in a society? What are the rights and obligations of communities in the judicial process?

Restoring Racial Justice

Mara Schiff, Ph.D, Associate Professor in the School of Criminology and Criminal Justice at Florida Atlantic University, USA

Despite important overlapping interests, until recently few racial justice advocates have embraced restorative justice, and the restorative justice community has largely failed to explicitly address race. These two movements have thus missed an important opportunity, and perhaps obligation, to collaborate in response to failed exclusionary justice policies. Considering the impact of discriminatory mass incarceration and school discipline policies resulting in the insidious the school-to-prison pipeline, this presentation, 1) reviews the evidence for racial bias in criminal justice and school discipline; 2) discusses emerging restorative responses in justice and education systems and, 3) examines restorative initiatives to ameliorate historical and contemporary racial inequities. Lastly, the presentation considers gaps and challenges in both research and applied work examining the intersection of racial and restorative justice, and concludes that policies, procedures and programmatic strategies for a racially-conscious restorative movement are essential both to address the discriminatory impacts of state-imposed punishment as well as the ultimate sustainability of the restorative justice movement itself.

Towards a racially-conscious, culturally-competent restorative justice

Mikhail Lyubansky, Lecturer in the department of psychology at the University of Illinois at Urbana-Champaign, USA

Both psychotherapy/counselling and corporate America have long recognized the importance of seeing people both as individuals and as members of social identity groups. Both disciplines have used the notion of "cultural competence" to describe the consciousness and the communication skills necessary to work with individuals from different cultural/racial/ethnic backgrounds, even as both also recognize that there is no objective criteria for a "culturally competent" practitioner. The academic literature on cultural competence in psychotherapy is fraught with inconsistencies and contradictions but even so its influence and contributions are undeniable and the restorative justice movement would do well to adopt its insistence that individuals be seen as racial, ethnic, and cultural beings. In this presentation I will provide a rationale for why a racially-conscious, culturally-competent approach to doing restorative justice work is necessary, present a few specific ways that this might be done, and facilitate an exchange of ideas about other strategies for doing this effectively in different contexts.

Naming the Power, eliciting Resistance: A theoretical framework for the analysis of Power in the Victim Offender Mediation

Giuseppe Maglione, Professor of Law, University of Florence, Italy.

This paper aims at working out a framework for the analysis of power dynamics within a specific restorative practice (Victim-Offender Mediation), paying explicit attention at how those dynamics might re-produce and challenge the self-image of the participants. VOM is here conceived as a discursive practice able to construct normative standards of being and behaving and to induce participants to comply with them. Drawing upon the works of Stuart Hall, Michel Foucault and Judith Butler, I first try to come up with a model of power fitting with the VOM's setting. Concepts such as 'power relations', 'power-knowledge', 'subjectivation/subjectation', will prominently feature this part of the work. Furthermore, I look at how the elaborated concept of power plays a role in re-producing specific subject-positions which contributes to define the participants' overall self-image. In fact, attending a VOM session, being targeted by its procedures, forms of communication and languages, in a setting made of pre-ordered roles, functions and rules, implies to be encouraged to conform to normative standards of being and behaving. Accepting these standards as well as resisting to them, might deeply affect participants' self-image. I shall then, take into account the possible relations between the proposed model of power and the 'race' of VOM's attendees, as a feature of their self-image which might be affected by the power dynamics operative in the VOM's setting. Lastly, I shall focus on how the same model of power is able to provide effectual tools to challenge the subject-positions (including the 'racialized' ones) emerging from the VOM's setting, de-naturalizing and de-essentializing them, in order to re-define VOM as a restorative practice more inclusive and self-reflexive.

Repairing harm in familiar and unfamiliar fields

June C. Terpstra, Ph.D. Northeastern Illinois University, Chicago, Illinois, USA

Cultural imperialism, xenophobia, and racism are structurally embedded within the civil, moral and juridical systems that Restorative Justice researchers and practitioners endeavor to reform. Restorative Justice principles advocate resolving conflicts and setting wrongdoing right by repairing harms incurred. My research demonstrates how examining Indigenous strategies to confront power, cultural imperialism and racism we shed new light on alternative epistemologies and practices within the field. Indigenous models of restorative justice and peacemaking were embedded in the philosophies and constructs of every-day living prior to colonization. In their efforts to restore sovereignty and valued cultural traditions Indigenous people are reclaiming these practices. Restorative Justice discourse has not addressed substantively the harm caused by systems of domination forced on Indigenous people. Nor is the state violence protecting dominant interests for the established balance of power in the name of normative ends such as democracy, law, human rights or capitalism generally acknowledged. Indigenous Knowledge, alternately called traditional knowledge, is a dynamic, holistic system of explicit and implicit information, behaviors and practices, norms, values, languages and worldviews. These knowledge systems have enabled, and continue to enable, diverse Indigenous peoples throughout the world to adapt to and survive environmental change and colonization. Indigenous Knowledge diverges with the international knowledge system generated by universities, research institutions and private firms. Punishment is one of the most dramatic manifestations of state power and, as it constitutes itself today, expresses the basest desires for power through the rhetoric of vengeance. Restorative justice presents itself as an alternative to the norm of punishment as a means of individual reform and societal protection. In conclusion, by acknowledging our collective history and entreating each of us to ask and answer a fundamental question of Indigenous Restorative Justice, "what happened and how can we help prevent more harm" we foster new avenues in reconstructing restorative justice theory and practice.

The challenges and opportunities to restore elements of justice to colonised Indigenous children through a reinvestment in education, health, legal and social services. What can we achieve?

Judy Atkinson, Emeritus Professor Southern Cross University, Australia

Restoring Justice to colonised Indigenous peoples requires an understanding of the complexity of the generational trauma that results from frontier (warzone) violence of invasion and the structural violence of the state, with their historical, social and cultural consequences. In many instances such attitudes and behaviours, on both sides of the frontier continue today. Stereotyping may provide different forms of justice to different groups of people, while continuing the perpetration of racial, gender and class stereotyping which works to maintain power imbalance and subordination to the dominant group. In this paper, presented for discussion at the symposium, a trauma-informed approach to the present day circumstances of a group of Aboriginal Australian children and young people, who have been placed in a 'special' school because of their challenging and complex behaviour, will be presented. The application of an Indigenous pedagogical approach, through an educaring (*from the Greek: to rear up, to nurture the children, to draw out from them, to lead, to show the way*) model transformed the lives of the children in their literacy and numeracy levels, opens the possibility of Justice Reinvestment through education as empowerment and healing for traumatised groups. The problem arises however when children feel safe and are safe in their school. They may then name the unsafe places within the social situations in which they live. Working with an individual child in crisis requires working with his and her family and the broader Aboriginal and non-Aboriginal community. This may highlight the marginalised, suppressed circumstances of families who have already been marginalised across generations, creating poverty in mind, body and spirit, precluding access to basic essential services. It may also highlight the subordination of people who appear to part of the dominant group, who are themselves marginalised and subordinated within the male dominant system. In this, the system itself is confronted with the issue of sexuality and identity in sexual violence as a continuation of male dominance within a colonial context, continuing today, at various levels and in various forms, both on Aboriginal and non- Aboriginal men, women and children. This prevents the possibility of any form of justice for either group unless there is considerable transformation. The presentation will draw out for discussion the need for more than restorative justice, but a reinvestment in justice through education, health, legal and social services reform for all people subordinated under a colonial patriarchal mentality. It places the power for this reform in Indigenous peoples and others who work to transform a system that should provide justice to all peoples.

Racism, Power and Restorative Justice

John M McDonald, Chief Executive Officer ProActive ReSolutions, Australia

Working in remote Australia, the facilitator was firstly ignored, then repeatedly sworn at and abused by the traditional owner of the land. Having been appointed as an officer of the court by the Chief Judge of the Land and Environment Court, he was there to prepare and facilitate a Restorative Justice Conference between the indigenous owners of the land and the senior executive of a mining company over the destruction of a sacred site. In a Restorative Justice Conference facilitated in a secondary school, a group of Lebanese young men were informed that they acted violently because they were Lebanese and couldn't help it. The man giving them his appraisal of their motivation was their football coach. He included their families in his comments. In a conference involving blue collar workers and their white collar managers, a young worker spoke of his behaviour in humiliating another worker, based on his colleague's sexual preference. He then spoke of his own experience of being humiliated because of his ethnicity.

While traveling by train to Sydney as representatives of their remote communities, to start a dialogue with the Police Commissioner and his Senior Executive on Policing and Indigenous Youth, two indigenous elders

were loudly and publicly humiliated by a Transport Inspector and threatened with being thrown off the train at the next station.

Racism has been an ongoing experience for many in my part of the world. Communities operate in hierarchies and the power that accompanies those settings can be blatant, cruel and relentless. In this presentation I'll explore how each of these incidents came under scrutiny in Restorative Justice Conferences and ask questions about our role as policy makers and facilitators in bringing them to a Restorative Justice Conference, responding to racism and power imbalance while preparing and facilitating the process, and staying in touch with the participants following the event. I'll comment on how and why our understanding of conflict is central to Restorative Justice Conferencing and speak to the lessons we've been learning in our business, as we take our ideas to different parts of the world and practice in different jurisdictions.

Ius Post Bellum Revisited

Professor Irene Etzersdorfer, Professor of Political Science at the University of Vienna, permanent Guest Professor at the Danube University Krems, Austria.

With regard to the nature of contemporary conflicts – mainly intrastate 'new war' scenarios the jus post bellum, as reflected by Michael Walzer and others, is put to the test bench again. The assumption of a mere 'interruption' of a stable or even just status quo ante, which has to be restored, has become highly questionable, since the vast majority of these armed conflicts erupt in chronically weak if not 'pseudo-states' (Jackson) with no or poor human rights standards, improper juridical systems and endemically corrupt political structures. Given the widely accepted interpretation of 'absolute sovereignty' in the decades after 1945, the inside regime quality of respective states was not considered a matter of international law. But with the growing human rights regime anchoring individual rights in international law, tensions between state sovereignty and human rights contributed to new discourses and even practical responses. Within the last 2 decades and certainly as an impact of the R2P reflections, debates on post conflict nation building have shifted to arguments justifying concepts of transitional justice which address conflict causes and put them in relation to universal demands of human security. Thus, the sensible issue of political and military intervention in their relation to democratic regime change comes to the forefront and will be elaborated in this paper.

Race, Violence and Victimisation: Reconciling Rehabilitation, Restoration and Reintegration in South Africa

Dr Hema Hargovan, Lecturer of Criminology, University of Kwazulu-Natal

This dialogue session explores the following issues: 1.The potential of restorative justice to reconcile decades of institutionalised racism, marginalisation and deprivation which has had a direct bearing on the high rates of violence and victimisation in South Africa. 2.How to come to grips with the generational effects of historical injustices and victimisation that make offenders victims, whose identity at some point switches from vulnerable victim to violent offender. 3.How can these offenders/victims benefit from restorative justice and will restorative justice processes be able to rise to the challenge? 4.How can the issues of race, powerlessness (incarcerated offenders), punishment (a long prison sentence) be reconciled with rehabilitation, restoration and reintegration.

South Africa is a country that is steeped in violence-from pre-colonial times to the period of resistance and liberation. As the involvement of black youth in political resistance to apartheid grew, many thousands were subjected to state violence; including violent suppression of protest activity, killings, torture and imprisonment without trial. Despite South Africa's transformation to democracy, these traces of apartheid remain firmly entrenched in communities that are segregated along racial and class lines. Here the majority

of young people live in communities with high rates of poverty, unemployment, substance abuse, weak social cohesion, and inequality; thereby establishing the preconditions for the social diffusion of violence. Today these experiences of marginalisation, impoverishment, and relative deprivation continue to frame the lives of young people. Therefore, the western oriented label of victim and offender designation is problematic. A narrow positivistic, juridical understanding of conflict distracts from the socio-economic and political dimensions of crime and victimisation in South Africa. It is significant to note that victim and offender populations are homogenous, if one considers that the boundary between offender and victim is blurred. Most 'offenders' have once been victims, and are certainly on the back end of a highly racialised and class based society. The challenge for restorative justice is: How to come to grips with the generational effects of historical injustices and victimisation that make offenders into victims. As a social construct, race can and has been used for purposes of self-affirmation, as well as for purposes of subjugation. The other danger is that we begin to imagine that the category itself is the causal agent or explanatory site. In the South African context these categories may well become proxies for impoverished home conditions, poor quality education and diminished forms of self-regulation. This societal context has also produced a punitive society resulting in the socially constructed reality that the Constitution affords more protection to criminals than to law abiding citizens. The move to restorative justice in South Africa must therefore be seen as part of a larger process of redress, particularly in regard to racial discrimination and disadvantage. It is also meant to reduce the traditional and entrenched location of power in criminal justice institutions i.e. the courts and the police. Participation in restorative justice processes has become an important consideration at the post sentence phase, especially when these violent offenders become eligible to be considered for parole. However, the powerlessness (for offenders, victims, and their families) associated with long term incarceration, years of unresolved pain and harm in the aftermath of the crime, cannot be ignored. Can restorative justice provide a possible route for offenders, particularly poor black men, to speak out, make amends, and be reintegrated back into their communities?

"Unpacking the (Black) briefcase: institutionally mandated RJ models - congruent and fit for community purpose - or a colonial imposition in another guise?"

Professor Margaret Greenfields, Professor of Social Policy - Community Engagement, Buckinghamshire New University, UK

My paper (which is in the nature of 'work in progress' and hence exploratory in nature and warmly welcoming of input and dialogue from fellow participants), will be located in the interface of theoretical Critical Whiteness studies and practice based concerns. In particular, I am interested in entering into debate on the viability and impact of RJ on individuals and wider communities who are disempowered as result of historical wrongs, constituent institutionalised power structures, embedded epistemologies, and state misrecognition of the processes of power and knowledge (re)production. In considering these themes I will utilize examples which engage with issues of *individual* experiences of prejudice, hate crimes and discrimination emanating from enacted injustice located in ethnicised constructions of the 'other' (within the European context). In addition, this paper will explore what and how effective *inter-community* and *inter-class* RJ may potentially look like when wide-spread socio-economic exclusion and inter-ethnic community tensions exist as a result of historical and modern constructions of 'otherness' and the retention of power by those considered to be 'in place' as a result of existing hierarchies of ethnicity and migration/citizenship status.

As such, this discussion is driven by seeking a wider understanding of the ways in which new nationalisms, (post)colonialism, national and international constructions of 'valued personhood', legal status, civil liberties and human rights impact on individual and community experiences of justice. Gaining a comprehension of the complex dialectics of de facto v de jure rights and lived experience (mediated by intersectional domains of identities), and the ways in which ethnicity is a problematising (although

frequently unacknowledged) factor in justice systems (both civil and criminal), may enhance understanding of the barriers to use of RJ in some contexts and for some communities (or sections of communities). Indeed, I will explicitly set out to complicate assumptions that restoration of the status quo ante is in *fact* an automatically just solution and invite discussion on whether alternative models are required which take account of individual and community histories, socio-economic status and aspirations, as well as culturally constructed models of social organization. In so doing, I will invite participants to consider the challenges inherent in seeking to enhance agency and give 'voice' to minority ethnic communities whilst overtly prioritizing particular preferred RJ outcomes which are congruent with Northern, Western, classed and raced constructions of justice and appropriate modes of 'retribution' and 'restoration'.

In this discussion piece I will seek to explore a number of strands, all informed by practice based concerns and topical discourse with the diverse communities with whom I work. In particular, I wish to consider the intersectional construction of 'racialised, classed, faithed and gendered' perceptions of migrant and minority ethnic communities in public discourse, media representations and legislative frameworks, and the impact of this 'public knowledge' on access to individual and community justice.

This exercise will be commenced by seeking to unpack the nature of embedded power and the ways in which racism, xenophobia and related class-hatred in European settings are frequently underpinned by institutional structures and preconceptions which tacitly support ethnicised hierarchies and hegemonic practices of governmentality (Foucault, 1980). Such 'normalisation' practices are, in certain contexts, supported by internalised practices of colonialisation which preclude or pathologise resistance to imposed structures and sets of 'knowledge' by those *subject* to such control; leaving a lacuna in terms of creating an structured overarching counter-narrative to institutionally racist discourse. As such the paper will invite participants to explore whether the lack of a coherent, trans-cultural and trans-ethnicised strategy of effective challenge to misrepresentation, and the imposition of WASPish, Westernised justice models, may (logically) lead to intra-community resistance to 'state mandated' models of RJ or, in the alternative, create the requirement (and opportunity) to develop a transformative, and internally congruent model of RJ which satisfies the needs of those who have historically and personally experienced ethnicised injustices.

Managing Microaggressions in RJ Conferences

David R. Karp, Associate Dean of Student Affairs and Professor of Sociology at Skidmore College in Saratoga Springs, New York, USA

College campuses are using restorative practices to respond to bias incidents as an approach to improving campus climate. For example, at Colorado State University, two floormates in a residence hall got along poorly, and one of them called the other a "chink." Later, in the dining hall, the harmed party, who was Asian, responded by loudly yelling, "This is the reason that stuff like Virginia Tech happens!"—referring to the 2007 incident when a student, Seung-Hui Cho, shot and killed thirty-two people and wounded seventeen others. CSU's restorative justice program held a restorative conference that included, among others, the student offender, his coach who served as his support person, the harmed party, and his support person. The conference enabled the participants to speak openly about several important issues and come up with a restorative agreement that best addressed their concerns. Restorative justice is used as a strategy for community building and improving campus climate. Cases like this one help remind us that participants in any restorative process come from different backgrounds with varying degrees of social power. As a facilitator, it is vital to pay attention to social inequalities and try to offset power imbalances. RJ facilitators are not neutral or impartial, descriptions that might imply that we are indifferent, objective, disengaged, unemotional, or value-free. Instead, we are "multipartial," actively supporting all participants without preference or taking sides. RJ dialogues cannot eliminate power imbalances among participants. Inevitably, there will be expressions of power as individuals seek to influence other participants' perceptions and obtain preferable outcomes. The manipulative interpersonal use of power is called a microaggression (Sue et al. 2007). Interpersonal power may be a function of demographic characteristics, such as race, sex, wealth, or education. It may also be a structural characteristic of the conference, such as

the number of parties with shared interests. For example, a conference may have one offender, but several victims who may form a coalition that intimidates the offender into agreeing to overly burdensome tasks. In recent years, a variety of facilitation techniques have been developed to manage power dynamics. Social justice mediation, for example, makes significant use of shuttle diplomacy. The Intergroup Relations model, developed at the University of Michigan, uses a variety of strategies to enable sustained dialogues between groups of unequal social status and who harbor significant tension. This session will explore the potential application of these techniques to RJ conferences.

Race, discipline, and critical restorative justice

Anita Wadhwa, *Restorative Justice and Intervention Coordinator at an alternative, small school in Houston, the Academy of Choice, USA*

The “school to prison pipeline” describes the phenomenon in which students who are repeatedly suspended and expelled have an increased likelihood of dropping out of school and ending up in the justice system (Ladson-Billings, 2001). In the United States, Black and Latino students are overwhelmingly affected by this pipeline and disproportionately suspended when compared to their White counterparts (Gregory, Skiba, & Noguera, 2010), an occurrence that has been dubbed the “racial discipline gap.” Teachers, community members, and students in many schools in the US are responding to the punitive, rarely rehabilitative nature of prisons and school disciplinary practices with organic, context specific restorative practices. In this session, I highlight such work in two urban public high schools in Boston, where over the course of a year I interviewed students, practitioners, and administrators and observed over fifty circles to understand how educators at these schools are shifting the culture around discipline in a conscious attempt to disrupt the school to prison pipeline.

I analyze the school to prison pipeline in a historical context, drawing a parallel of the disproportionate exclusion and criminalization of young people of color – particularly African-American men – to a history of exclusion and criminalization that dates back to the days of slavery, convict leasing, deindustrialization, and the rise of the prison industrial complex. This context is vital to understand both the subtle and explicit ways history continues to play out in daily disciplinary moments between teachers and students. Practitioners in my study did not just employ restorative practices to build relationships and address harms in the school community; open to reflecting on race relations among one another, in the classroom, and in interviews, these teachers exemplify how restorative justice can complement a much broader teaching philosophy that values, and emphasizes, the need to understand how power is divided in this country. Some theorists refer to this as *transformative* restorative justice, a justice that “creates conditions for pursuing forms of personal and, perhaps more importantly, social change” (Woolford, 2009, p. 17). Teachers in the study conscientiously taught their students about institutionalized racism in the education and criminal justice systems, and exemplify how practicing this *critical* restorative justice in urban schools can allow for increased student engagement, reflection, and opportunities for improved behaviors – the very outcomes desired by teachers attempting to inspire students to excel in school, and create a more equitable world once they leave.

Preventing school bullying through the use of empathy

Professor Paula Kaldis, *Professor of Law, Assistant Dean Massachusetts School of Law, USA and law interns: Nadege Louis & Timothy Lockhart, USA*

SCHOOL BASED Bullying involves written, verbal or electronic expressions or acts by students that cause physical or emotional harm to other students. Bullying hurts everyone: victims, bullies, bystanders, families

and schools. The effects of bullying are long lasting and severe. Bullies target victims who are different, whose colour, ethnicity, sexual orientation, or physical build stand out. Targets are powerless; bullies are powerful. Everyone knows that bullying is a violation of school rules and a crime. Everyone knows that victims must be protected and bullies must be punished. Bullies are disciplined by schools and prosecuted by the justice system. But can Bullies also be victims? Since power plays a part in bullying behaviour, can Restorative justice stop the cycle? Most schools have anti-bullying plans that include BULLIES, VICTIMS, and FAMILIES through use of the following: 1. NOTIFICATION: Notice to parents of the victim and parents of the bully. 2. INVESTIGATION & ACTION: Prevention of recurrences and protection of the victim, along with action plans for the bully. 3. INVOLVING TEACHERS & FAMILY: Consultation with teachers, counsellors, and parents, to identify issues contributing to bullying and to assess the need for social skills development. 4. SERVICES: Counselling, culturally and linguistically appropriate resources offered to victims, bullies and families; social skills programs, education and intervention services for students exhibiting bullying behaviours. Are these plans successful? Do they merely address bullying after the fact by protecting the victim and punishing the bully, like the criminal justice system does? Some schools have addressed bullying by holding circle meetings. These meetings instil a sense of respect for and with all students. Is *Empathy* (from the Greek *empathia*, *em-* 'in' + *pathos* 'feeling') the answer and can it be taught? Without empathy children are quick to become judgmental of others that they perceive are different from them. The child who seeks to impose his/her power over others is the child who has not been trained in understanding what it's like to *be* someone else. Are schools that teach (intentionally or not) empathy successful in eradicating bullying? Should schools teach skills and values that honour the dignity and integrity of each individual, promote peace, compassion, reconciliation, forgiveness and healing, and encourage respect for diverse cultures and traditions? Should empathy be taught as a normal part of the curriculum to prepare children to be good citizens, not just as a band-aid approach to stop bullying.

Dimensions of International Restorative Justice: A Challenge of the 21st Century

Professor Christodoulos K.Yiallourides, Panteion University, Athens, Greece

Mersilia Anastasiadou, Panteion University, Athens, Greece

In the 21st century, despite the consolidation of international institutions for dispensing justice in the global environment, state entities remain outside the control of said institutions, directed by their own power projection needs and interests. The ability to force the states into compliance with international justice is the necessary precondition for redressing crimes and maintaining international legitimacy. This, however, remains an only partially attained goal. International restorative Justice could be developed and expanded into a dynamic force for implementing justice at various levels of the international system – between individuals, social groups, states, interstate organizations and supranational institutions. The study aims to identify the points along the power continuum from individual to institutions of state and justice where international restorative justice could usefully be applied. This approach could be considered a stepping stone towards enlarging the context of restorative justice beyond the community level and transform it into the standard mechanism for bridging the power deficits and the lack of justice both at the intra-state and inter-state level. This paper gives space to and reflects on the contribution of restorative justice in the establishment of a values-based context of dialogue, tolerance, human rights and respect for each person's unique identity. The above approach has implications for the construction of a European identity and a vision for the establishment of a more humanized and tolerant political culture in inter-state relations.

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