

PROSPECTS OF FAMILY GROUP CONFERENCING WITH YOUTH SEX OFFENDERS AND THEIR VICTIMS IN SOUTH AFRICA

*Thulane Gxubane**

Department of Social Development, University of Cape Town,
South Africa

ABSTRACT

This chapter explores family group conferencing with youth sex offenders within a residential diversion framework, and draws on the findings of a broader study which the author conducted in this area of restorative justice practice in South Africa. The chapter starts by looking at the literature on family group conferencing from the international to the South African context. In exploring the prospects of family group conferencing with youth sex offenders, the author focuses on some of the major concerns which have been raised in the literature regarding the applicability of this approach to dealing with youth sex offenders, namely: the perceptions that family group conferences are a soft option for dealing with youth sex offenders; family group conferences are inappropriate where the victim is too young and unable or unwilling to participate in the conference, and that coercion when ensuring victims' participation in the family group conferences is antithetical to restorative justice. The chapter also focuses on closure and reconciliation between the youth sex offenders and their victims as one of the most important long-term goals of family group conferencing. The achievement of the long-term goals of family group conferencing will require a paradigm shift from interventions that only focus on the treatment of the "offender" to those which prioritise the restoration of relationships which have been harmed by an offence through the facilitation of dialogue between parties in conflict.

The author believes that such a philosophical shift in practice framework not only will it have long-term benefits to the parties in conflict but will also help to promote healthy families and communities in general.

INTRODUCTION

Restorative justice (RJ) processes include victim-offender mediation, family group conference (FGC), circles, sentencing circles, and sentencing panels. This chapter focuses on FGC since it has been adopted and applied in South Africa (SA) in line with an international trend for dealing with young persons in conflict with the law as noted by Immarigeon. [1] In SA, FGCs are often convened by a social worker although any neutral person can also do it to promote dialogue, reconciliation and closure wherever possible between the offender, his or her victim, and their social support systems.

Immarigeon asserts that the first formal use of FGCs for youth persons began in New Zealand after the passage of the Children, Young Persons and Their Families Act in 1989. [1] According to Skelton and Frank, the principles of RJ date back to the traditional indigenous approach to justice prior to the introduction of the Western legal system in SA. [2] The

* E-mail: thulane.gxubane@uct.ac.za.

philosophy of RJ¹ is very much the cornerstone of the Child Justice Act 75 of 2008² (hereafter referred to as ‘CJA’) in SA. [3]

The practice of RJ with youth³ offenders is applied mainly through FGC within a context of diversion⁴ generally, although FGCs can also be used as a sentencing option in accordance with the CJA.

Diversion seeks to afford a young person, who takes a responsibility for his or her conduct, an opportunity to make good for their wrongful behaviour. A conditional diversion may involve a referral of the young person to undergo and complete a community-based or residential diversion programme⁵.

This chapter focuses on the application of FGC in the management of youth sex offenders⁶ (YSOs) within a residential diversion context. It needs to be noted that even though the chapter focuses on YSOs and residential diversion, most of the practice principles which will be discussed are also relevant to young persons who find themselves in conflict with other parties and community based diversion in general. Where appropriate the discussions will draw on the findings of the study⁷ the author conducted, which explored family group conferencing amongst other research objectives of the broader aforementioned study.

This study followed up on ex-YSOs who had completed the youth sexual offenders’ residential diversion programme after three to five years when the study was conducted. The

¹ The CJA defines restorative justice as “an approach to justice that aims to involve the child offender, the victim, the families concerned and community members to collectively identify and address harms, needs and obligations through accepting responsibility, making restitution, taking measures to prevent a recurrence or the incident, and promoting reconciliation”.

² The CJA creates a criminal justice system for children who are in conflict with the law. This is in accordance with the values underpinning the South African Constitution and international obligations by, among other things, creating the possibility of diverting matters involving children who have committed offences away from the criminal justice system, in appropriate circumstances. At the same time children whose matters are not diverted are to be dealt with in the criminal justice system in child justice courts; and expand and entrench the principles of restorative justice in the criminal justice system for children who are in conflict with the law, while ensuring their responsibility and accountability for crimes committed.

³ The word ‘youth’ is used interchangeably with the word ‘child’, i.e. referring to any person less than eighteen years of age, as stipulated in the United Nations Convention on the Rights of the Child (CRC) (1989) and the Constitution of the Republic of SA (1996). The CJA is intended to apply to all children who come into conflict with the law. The Act recognises that in certain instances it would be fair to apply the Act to persons older than eighteen years. There are three categories of children and persons that the CJA applies to children below ten years at the time of the commission of the offence, children aged ten years and older but younger than eighteen years at the time of arrest or when the summons or written notice was served on them. These are the children whom the Act specifically targets and whom the Act aims to protect and the youth who are eighteen years or older but under twenty-one years of age and who committed an offence when under eighteen years of age.

⁴ Diversion is the process of referring children under the age of eighteen who have committed offences, and where there is enough evidence to prosecute, away from formal criminal justice proceedings. The United Nations (UN) Standard Minimum Rules for the Administration of Juvenile Justice (1985) states that all matters relating to child offenders, the central focus of the child justice system needs to prioritise diversion of child offenders out of the criminal justice system as early as possible to suitable diversion programmes run by competent staff.

⁵ Residential diversion programme refers to a rehabilitation programme in a residential setting to which a young offender is diverted by a court of law, with the aim of restoring the young offender to a law-abiding way of life through treatment and/or empowerment with job skills.

⁶ Youth sex offenders refer to persons between the ages of ten and seventeen years who have pleaded guilty to their sexual offences and the courts have ordered them to complete a youth sex offenders’ residential diversion programme. According to the CJA, sexual offences are considered to be very serious offences and they fall under Schedule Three types of offences.

⁷ See Gxubane, T. (2012). Exploration of residential diversion within the restorative justice framework in the management of youth sex offenders in South Africa. PhD Thesis. University of Cape Town: South Africa.

study primarily adopted a qualitative case-study approach and employed face-to-face in-depth interviews with twenty (20) youth respondents⁸ who were traced successfully out of the thirty-one (31) ex-YSOs who had completed the aforementioned programme. Some of the key findings of this study showed that most of the YSOs had some sort of close social relationship with their victims and they often stayed either in the same household or in close proximity to each other.

Most of the studies that have been conducted internationally⁹ do not focus specifically on FGC in relation to YSOs but have looked at FGC as part of RJ response in relation to young persons in conflict with the law in general. Even in SA there is a paucity of research focusing specifically on FGCs in relation to YSOs. The author thus had to refer mainly to overseas studies, although most of the findings of those studies cannot be easily extrapolated to the South African context.

SA is a developing country and has a diverse and complex multi-cultural, socio-economic and political background. In an attempt to highlight the prospects of FGC with YSOs, the author will tackle three major concerns which seem to be prominent in the literature regarding the applicability of this approach to dealing with YSOs. These are: *the perceptions that FGCs are a soft option for dealing with YSOs; the perceptions that FGCs are inappropriate where the victim is too young and unable or unwilling to participate in the FGC; and that coercion of ensuring victims' participation in the FGCs is antithetical to RJ.*

Having addressed these concerns the discussions will then focus on the conference facilitation skills, values and practice issues practitioners need to be mindful of when applying FGCs with YSOs.

First, the chapter looks at the literature on FGC within the international framework and thereafter within the South African context so as to contextualise the main discourse of this chapter.

Family Group Conferencing Internationally

Dawes and Immarigeon assert that most studies that evaluate RJ programmes and processes in the international literature, such as those referred to above have mainly studied variables such as participants' satisfaction, 'restorativeness' of the processes or programme, victim perceptions of fairness, and the completion of victim compensation or restitution requirements by offenders. [4, 1] Only studies by Daly and Hudson look at the appropriateness of RJ as a response to sexual offences. [5, 6] It is argued by Dawes that "(a)lthough these studies provide the reader with information about restorative justice process, they do not tell us anything about the success of these processes in reducing re-offending or other offence-related outcomes (p. 32) [4]." Hence, according to Bonta, Wallace-

⁸ It needs to be noted that the broader study had three sets of samples who participated in the study, namely the ex-YSOs, their SOs, and the key informants from various professional groups who were involved in the management of ex-YSOs and/or their victims in a variety of settings.

⁹ See Umbreit, M.S. and Bradshaw, W. (1997). Victim Experiences of Meeting Adult vs. Juvenile Offenders: A Cross-National Comparison. *Federal Probation*, 61(4):33-39; Umbreit, M.S. and Fercello, C. (1997). Interim Report: Client Evaluation of the Victim/Offender Conferencing Program in Washington County. University of Minnesota, U.S.: Centre for Restorative Justice and Peacemaking, School of Social Work; and Umbreit, M.S., Coates, R.B. and Vos, B. (2001). The Impact of Victim-Offender Mediation: Two Decades of Research. *Federal Probation*, 65: 29-35, and Strang, H. (2002). *Repair or Revenge: Victims and Restorative Justice*. Oxford: Clarendon Press.

Capretta, Rooney and McAnoy cited in Dawes, “(f)ewer evaluations of restorative justice initiatives have focussed on the effects of these interventions on longer-term behavioural outcomes such as recidivism by young offenders” (p. 31) [4].

Liebmann contends that governments and policy makers seem to be concerned mainly about the ability of RJ to reduce offending behaviour. [7] She further states that “(t)here is often an unspoken expectation that offenders who have taken part in restorative justice processes, and have met their victims, will never re-offend” (p. 339) [7]. In addition, Morris and Maxwell’s research focusing on adult community panels and FGCs for youths demonstrates that at six-year follow-ups, three fifths of the youthful sample has been reconvicted.[8] The question that follows then is: what were the differences between those that recidivated and those that did not? Morris and Maxwell provide the following answers to the question. [8] Those that re-offended:

- Were more likely to report having no or few people that they admired, cared about them, and that they were close to no one in their lives.
- Had low levels of parental monitoring.
- Had ineffective parental discipline and an unrewarding parent-child relationship.
- Had an early history of antisocial behaviour and offending.
- Had poor scholastic achievement.
- Lacked involvement in the community such as in sports, clubs, and so on.
- Had failed to achieve occupational success such as in training and employment.
- Had inadequate support after conference.

Those who had not re-offended:

- Were in agreement with the conference decisions.
- Completed assigned tasks.
- Showed remorse and commitment to changing their behaviour.
- Felt that an effective apology had been made to the victim and that the damage had been repaired.
- They were not shamed or made to feel as a ‘bad’ person during the conference.

Morris and Maxwell assessed the impact of FGC from five regional districts throughout New Zealand. [9] Some of the positive victim-related findings included the following:

- FGCs were helpful, positive and rewarding experiences.
- Their roles in and their expectations of the conference being discussed before the conference.
- Their satisfactions with the sanctions developed at the conference.
- They felt better because they were included rather than excluded in the process and in decision making.
- The conference provided a platform for the release of anxieties and fears about the crime and the offender.
- Their voices being heard throughout the process.

- Being granted an opportunity to assess the causes of offence, the attitude of the offender and their family; and to assess the likelihood of further victimisation.

Morris and Maxwell also identify the negative impact of FGCs: (p. 39) [10]

- One-fourth of victims felt worse after attending the conference because of undesired outcomes of the conference.
- Victim dissatisfaction led to depression, fear, distress and unresolved anger amongst the victims.
- Victim dissatisfaction may easily be associated with the nature of an offence, serious offences in particular. To the contrary, they found that in their study, higher levels of satisfaction were in fact reported after conferences that involved more serious offences.
- 85% of the victims who did not attend an FGC reported that they were not invited, for others the time was unsuitable for them or they were given inadequate notice of the conference.

Morris and Maxwell conclude that their findings were generally positive and the negatives that they found related to poor practice rather than the value of FGCs. [10] Echoing Maxwell and Morris' findings, Consedine asserts that "(p)robably the best model to reflect upon is the process of the Children, Young Persons and Their Families Act, which has been tremendously successful in New Zealand" (p. 191) [11]. Liebmann also supports Consedine by stating that even though New Zealand suffers from same punitive attitudes shown through high rate of imprisonment as other Western countries but its youth justice system should be an example to the world. [7] The author also believes that it is not enough to preach RJ without empirical evidence to show its effectiveness in prevention of crime. This will require advocates of RJ to engage in both qualitative and quantitative rigorous research that involves longitudinal follow-up studies, and the use of matched control groups so to measure and compare research-data outcome. It is against this backdrop that the author was motivated to conduct the aforementioned follow-up with the YSOs and their parents or guardians after a period of five years, having engaged with them in a residential diversion programme to explore if the FGC that was convened with them may or may not have contributed towards helping them to find closure and reconciliation with their victims.

MacRae and Zehr assert that FGC emerged as one of the most promising models of RJ process in holding young offenders accountable for their unlawful behaviour. [12] These scholars further argue that FGCs in New Zealand are not just a "meeting or encounter, they are the hub of an entire youth justice system" (p. 13) [12]. MacRae and Zehr maintain that FGCs are not designed to involve courts to a great extent and they outline four types of FGCs which characterise the New Zealand's youth justice system [12] The first one is the *intention to charge conference* followed when a young person has not been arrested and referred to the FGC to make a decision whether the young person should be prosecuted, or alternative ways need to be explored in an alternative manner so that the matter could be dealt with. The second one is the *custody conference* convened when a young person has denied the offence and has been detained in a facility. The third one is the *charge not denied conference* applied when a young person has accepted the responsibility for their offence and the conference recommends to the court the most appropriate manner in which the court could proceed with

the matter. The fourth one is the *charge proven conference* convened as per request from the court when a young person who has denied his offence has been convicted by the court.

Family Group Conferencing in South Africa

Inspired by the New Zealand's youth justice system the Inter-Ministerial Committee¹⁰ (IMC) initiated FGC pilot programmes in SA; one in Wynberg and the other one in Pretoria. These pilot programmes were later reviewed by Sloth-Nielsen, and Branken and Batley respectively. [13, 14] Only the findings that are pertinent to the central discourse of this chapter will be discussed from the review of these pilot programmes. Sloth-Nielsen found that some cases which were referred by the prosecutors were petty offences and they did not require such labour-intensive interventions such as FGCs; and that FGCs are labour intensive and require a great deal of time to prepare. [13] Sloth-Nielsen concluded that FGCs could be reserved for matters that require more intensive intervention. Branken and Batley's review found that the Pretoria FGC programme battled to get the right kind of offence referrals. [14] The prosecutors only referred very minor offences as they perceived the FGC diversion as a soft option. There was a difficulty in securing sufficient referrals due to the fact that at the time when the FGC programmes were piloted there was no formal legislative framework for such diversion programmes. They hoped that with the implementation of the CJA that challenge would be taken care of since the FGC projects were piloted prior to the enactment of the CJA.

Branken and Batley further discovered that there was a difficulty in relation to language barrier between the FGC facilitators and participants in the conference. [14] Many cases involved young victims and offenders and their families who were often neighbours or friends for years. Therefore the FGCs were found to be effective means for healing relationships. Similar to Sloth-Nielsen, Branken and Batley conclude that in terms of costs-benefits analysis it would have been cost effective to deal with minor offences through life-skills diversion programmes rather than through the time and labour intensive FGC programmes. [13, 14] Branken and Batley also raised the 'language barrier' as an important factor that needs to be taken care of in the facilitation of FGCs. [14] It is also pointed out by Skelton and Frank that in "South Africa where there are eleven official languages spoken it is inevitable that language difficulties will emerge" (p. 112) [2].

The key findings of the reviews as discussed above seem to indicate that even though the IMC intended to mainstream FGCs in accordance with the New Zealand youth justice system, there seems to have been some reservations and a lack of commitment from the justice role-players in SA. The prosecutors did not make sufficient referrals to the FGCs, and when they did it was for minor offences. The reviewers questioned the appropriateness of minor offences referred to FGCs taking into account the cost-benefit analysis of such an approach. These findings seem to suggest that the prosecutors were very punishment oriented and did not have confidence in the FGCs' potential for dealing effectively with young people who have committed serious offences in general.

¹⁰ According to the Report of Places of Safety, Schools of Industry and Reform Schools: In whose best interest? (1996), the Inter-Ministerial Committee on Young People at Risk was set up in June 1995 in response to the crisis caused by a release of over 1000 children from prisons and police cells in line with the then President of SA, Dr Nelson Mandela. The brief of this committee was to contain the crisis and design the transformation of the child and youth care in SA.

In addition to the reviews discussed above, Steyn reviewed the FGC programme of the RJ Centre in Pretoria (SA), [15] and Skelton and Batley audited different RJ programmes, including FGCs in SA. [16] Only the key findings from these reviews, which are relevant to the focus of this chapter, are discussed. Some of the observations, which were made by Steyn, were that many of the young persons referred to FGC programmes involved young victims and offenders and their families who were often neighbours or had been friends for years. [15] Therefore the FGCs were found to be effective means for healing relationships. FGCs are particularly valuable for promoting accountability because they directly confront offending youths and their behavior, and ensure their active participation in decisions that affect them.

The importance of assessing the needs of all participants in the FGC process is essential, given the fact that the success of it will depend to a large extent on the cooperation of everyone who was affected by or had a stake in the offence. FGC programmes definitely show a potential for addressing the causes of family-based crime and conflict. FGCs need to be strengthened by additional support such as after-care and follow-up activities as proposed by Steyn. [15]

At the end of their review Skelton and Batley conclude that in line with their view of RJ as a *philosophy* rather than a *programme*, they propose that RJ should be moved from the edge of the youth justice system and be ‘mainstreamed’ as an option at various stages of the criminal justice system. [16] Such a process of mainstreaming would require a more fundamental commitment on the part of government acting in partnership with civil society. [16]

It is important to note is that both reviews, which are discussed above, point to a number of potential benefits and value of FGC in helping young persons to be accountable for their unlawful behaviour whilst receiving social support from their families in general. The author concurs with Steyn who believes that FGCs can play a crucial role in amending social relationships that were harmed by youth sex offences both within and outside their families. [15] The active involvement of families will not only strengthen relationships within these families but will also assist in the reintegration of youths in the community. One of the seven guiding principles stipulated by New Zealand’s Children, Young Persons and Their Families Act refers to measures that should be taken through FGCs to strengthen the families, and to foster the ability of the family to develop its own means of dealing with offending youths within the family. [12]

The findings of the reviews discussed above seem to suggest that the potential value of FGCs in dealing with serious youth offences has not received strong support, as it deserves, from the government in SA.

The author could not agree more with Skelton and Batley who conclude that a lot more could be done to mainstream FGCs in the youth justice system in SA. [16] For instance, the CJA only makes provision for the *charge not denied conference* and *charge proven conference* types of FGCs within the South African child justice system in comparison to the New Zealand youth justice system as discussed above.

The diversion options, according to the CJA, are based on the type and the schedule of the offence that the youth has committed. Even though the CJA claims to entrench the principle of RJ, however, its provisions reflect a different story. The CJA makes provision for early interventions such as Section 61 which entails diversion to FGC, Section 53(2) (a) level one option of diversion for minor offences, and Section 73 for RJ sentencing options such as

FGC for convicted young persons. Clearly FGC is not central to dealing with all young persons who enter the criminal justice system. Secondly, when youth fail to complete their diversion programmes successfully, their matters are referred back to court in accordance with the CJA. This approach reflects the youth justice system which is described by MacRae and Zehr where the court is the norm and a FGC "... an add-on or diversion from it" (p. 14) [12].

Contrary to New Zealand where FGC is the norm and the courtroom is the backup, that is, all youth offences no matter how serious (besides murder and manslaughter) are referred to the FGC.

The lack of commitment in promoting FGCs in SA as described above was also witnessed by the author during his social work experience of facilitating YSOs' residential diversion programmes on two levels.

In the final reports that were presented to the referring courts on the YSOs' response to the programme, the prosecutors were often not interested to know whether the FGCs were convened or not, even in sexual offences involving siblings or where the YSOs stayed in close proximity to their victims.

Their main interest was in finalising the case. Hence they often wanted to know whether they could withdraw the case or not, based on the YSO's successful completion of the programme or not. If not, the matter would be brought back to the court roll for trial and prosecution. Similarly with managers of the youth secure centre where the residential diversion programme was offered. The managers did not consider FGCs as part of the key performance area of the social worker facilitating the residential diversion programme. They perceived FGCs to be out of their organisation's service agreement and the contract they had with the government. This posed a major challenge to the author, particularly in cases of sibling incest and/or where the parties in conflict stayed in the same yard or close proximity to each other.

The following table presents the profile of the youth respondents who participated in the author's aforementioned study. The reader is advised to refer to this table to understand a specific youth respondent (YR) under discussion in specific sub-sections that follow in this chapter.

Table 1. Youth respondents' ages, the sex offences, relationship to former victims, and place of residence in proximity to their former victims at the time of arrest

YR	AGE AT TIME OF ARREST	SEX OFFENCE	YR'S RELATIONSHIP TO VICTIM	YR'S PLACE OF RESIDENCE
1	19	Rape	Girlfriend	Both stayed in the same neighbourhood
2	15	Incest rape	Younger sister	Both stayed with their mother in a rented backyard garage
3	18	Rape	Daughter of the tenant	Both stayed in the same yard and victim's parents were renting a backyard shack
4	15	Rape	Same age schoolgirl – acquaintance	Both stayed in the same neighbourhood
5	15	Rape	Younger girl – acquaintance	Both stayed in the same neighbourhood
6	16	Rape	Younger girl – acquaintance	Stayed at the next-door house
7	15	Indecent assault	Younger boy – acquaintance	Stayed at the sixth house from the victim's home
8	19	Rape	Friend's girlfriend	Both stayed in the same neighbourhood
9	15	Rape	Girlfriend	Both stayed in the same neighbourhood
10	15	Indecent assault	Younger boy – acquaintance	Both stayed in the same neighbourhood
11	13	Rape	Girlfriend	Stays in the nearby neighbourhood
12	19	Rape	Older woman – acquaintance	Stays in a nearby neighbourhood
13	17	Rape	Same-age girl - acquaintance	Both stayed in the same neighbourhood
14	14	Rape	Younger girl - acquaintance	Stayed at the next-door house
15	14	Rape	Same-age girl - acquaintance	Both stayed in the same yard where his mother was renting a shack

Table 1. Youth respondents' ages, the sex offences, relationship to former victims, and place of residence in proximity to their former victims at the time of arrest (continued)

YR	AGE AT TIME OF ARREST	SEX OFFENCE	YR'S RELATIONSHIP TO VICTIM	YR'S PLACE OF RESIDENCE
16	18	Rape	Co-accused friend's girlfriend	Stayed in a township next to that of the victim
17	15	Rape	Friend's girlfriend – also school mate	Both stayed in the same neighbourhood
18	16	Rape	Girlfriend	Both stayed in the same neighbourhood
19	17	Rape	Co-accused friend's girlfriend	Both stayed in the same neighbourhood
20	17	Indecent assault	Younger boyfriend	Stayed at the next-door house

In the profile of the YRs, with regard to the social relationships as shown in Table 1 above, none of the victims was a complete stranger to their respective YSOs. In fact, all YRs were very familiar and acquainted with their victims. Four out of 20 (20%) YRs were in a love relationship with their victims, whilst another three out of 20 (15%) victims were friends' girlfriends. Zehr theorises that, even if an offender does not have any relationship with his victim, the offence he has committed against him or her creates a relationship due to the conflict between the parties. [17]

The proximity of YRs' places of residence to their victims at the time of arrest, as reflected in the table above, indicates that almost all (95%) YRs were staying within the same neighbourhood as their victims. Eight out of 20 (40%) YRs stayed in very close proximity to their victims. Three out of the eight stayed in the same yard; another three out of the eight stayed in the immediate next door house; one of the eight lived in the same house, and another one of the eight stayed in the sixth house from his former victim's home. The social relationships between most of the YSOs and their victims, and their residential proximity to each other, challenged the author to consider interventions that would focus on mending broken social relationships in addition to rendering individual and group therapeutic interventions to the YSOs. The involvement of YSOs' families was considered to be very important throughout their enrolment in the residential diversion programme on two levels. Firstly, the family will eventually need to help in the reintegration of the youth in the community. Secondly, the families of some of the YSOs may be the source of a problem; therefore they will be needed to support the young offender both during and after the programme. The importance of relationships in RJ is highlighted by Pranis who notes that "(r)estorative justice assumes humans are profoundly relational. There is a fundamental need to be in a good relationship with others. Restorative approaches recognize and work with that

core human need” (p. 65) [27]. The next sub-section looks at some of the major concerns regarding the applicability of FGCs in dealing with YSOs.

Family Group Conferences Are a Soft Option that Ignores the Need for Punishment

Sharpe noted that Western culture has often promoted the idea of justice as an intervention that metes out punishment to correct the wrongdoing. [18] Unfortunately this line of thinking is still pervasive in many modern societies. A different way of thinking about justice, and even about crime, has been proposed by different scholars in the field of RJ, including scholars such as Bazemore, Pranis, Van ness & Strong, and Zehr, [19, 20, 21, 17] It has been shown in the literature that “justice has meant something quite different in other cultures and throughout human history” (p. 22) [18]. For instance, Van ness and Strong note that in pre-colonial African societies the notion of justice focused on resolving the consequences of crime for the victims and less on punishing the offender. [21]

RJ is likely to meet with resistance from the community mainly because it does not fit well into how the community conceptualises justice. Skelton and Tshela pointed out that SA too has shown signs of opting for the American zero tolerance and ‘get tough’ approaches, which have begun to permeate other youth justice systems in the world. [22] Such an approach is informed by a general belief in many communities that imprisonment of troublesome young people sends a clear message that the crimes committed by young people are being taken seriously by the government and the criminal justice system. This belief is prevalent even though studies have shown that imprisonment is not always effective in reducing crime. [22]

In the author’s years of social work direct practice with young people in conflict with the law he found that many used to confess that they would rather go to prison to serve their jail terms than to go through the torture of having to face their victims. This dispels the misconception that RJ is a soft option. Similarly, Consedine notes that, in his many years in prison ministry, he has observed how little remorse there is among inmates, simply because they never have to meet their victims and see the devastation they have caused. [11] Hence he believes that prison guarantees re-offending and that it thus offers victims nothing. Consedine argues that “this hardening of the arteries of emotion and repression of shame and grief are the principal causes of recidivism and in so many committing even greater crimes upon release (p. 187) [11].” Therefore prison may, in reality, be a soft option for the offenders. Zehr argued that offenders’ behaviour often shows irresponsibility when they are not engaged in repairing the harm they have caused; prison simply “lets them off the hook, encouraging further irresponsibility” (p. 201) [17].

Too Young and/or Unwilling Victims

In their desire for full participation of all parties in addressing the effects of crime, the FGC practitioners need to be mindful of the fact that not all offenders and victims will be willing to participate voluntarily in such processes. Sometimes, given the nature of an offence or the severe suffering of the victim or when power imbalances may be too big to overcome, mediation may not always appropriate. [17] The victims may avoid any encounters with the offender for various reasons, including the avoidance of secondary traumatising. [7]

Therefore secondary victims, such as family and friends, may benefit from participating in FGCs without the primary victim's presence in helping to repair relationships and enable referral to other sources of help where necessary. [11, 7]

The practice of FGCs without the victim was evident in the author's experience in facilitation of FGCs. Within the RJ practice, a victim takes on a central role in the FGC processes. During the period when the author facilitated the YSOs' residential diversion programme, there were times when it was not possible to have a full FGC for various genuine reasons. The FGC would then be convened with the offender and the parents of both parties. In the author's aforementioned study the FGC for YR14 did not involve his primary victim, who was at school when the conference was convened. When YR14 was probed on his perceived impact the FGC, the YR reported that he was partly pleased with the outcome, even though he did not reconcile with the victim. He stated that his major concern was satisfactorily addressed by enabling reconciliation between the two families; that is, his family and that of his victim, since they were next door neighbours.

MacRae and Zehr proposes that when a victim does not wish to be present in a FGC, the conference coordinator needs to be flexible and ascertain from them whether they would prefer to get involved in other alternative ways without having direct contact with their offender, and present all possible options to them (pp. 32-34) [12]. In addition to their *right to refuse* getting involved at all, MacRae and Zehr proposed that the victim may: consider to *delegate a representative* to talk on their behalf at the FGC; *attend some part of the FGC*; or *send information* through a letter that could be read at the FGC; or send a *video or audio message* to be played during the FGC. A victim may choose to *participate by phone* or they can choose to *observe the FGC through a closed-circuit video link* and be supported in another room by their social worker or any person they trust whilst they take *down notes that could be read to the offender and the FGC* as a whole. These alternative and creative measures in dealing with the victim, who is unable or unwilling, are in line with Zehr's *continuum of RJ* framework. [23] Zehr proposed that RJ processes and programmes can be placed along the abovementioned continuum with processes at one end being fully restorative, while processes at the other end being pseudo- or non-restorative. [23] In between, the processes are partially or potentially restorative. This continuum is an inclusive and developmental approach which offers a framework for experimenting, evaluating, reflecting and learning how far we can be innovative in the practice of RJ without compromising its integrity. [18, 24]

Coercion is Necessary even though It Is Antithetical to Restorative Justice

As a way of illustrating this controversial yet genuinely critical issue in the application of FGCs, Van ness and Strong compare how the retributive and RJ approaches operate to ensure the participation of offenders and victims. [21] They note that, in terms of current criminal justice procedures, both victims and offenders are strongly coerced into participating in the criminal investigations. Such coercion is based on the assumption that not all offenders will participate willingly in the trial process or in serving fully their sentences. They also point out that not all victims will cooperate in the prosecution of their offenders. They often have to be subpoenaed to testify at trial. Similarly in cases which have been considered as appropriate for RJ processes by the judicial officer. The CJA, in addition to FGC diversion orders, makes provision for RJ sentences. Van ness and Strong pose a very important and appropriate

question when they ask: “When such involvement is not forthcoming, however, what should happen?” (p. 181) [21].

Van ness and Strong argue that “the government should have the authority (as it does today) to subpoena the victim as a witness” (p. 181) [21]. This should be handled in as protective and supportive a manner as possible, “so that the victim’s participation, though coerced, will still contribute to a measure of restoration” (p. 181) [21]. Nonetheless, they do emphasise that, even though subtle coercion may be necessary, it should be avoided whenever possible. To ensure offenders’ participation in RJ processes, Zehr also remarks that “(o)ffenders often need strong encouragement or even coercion to accept their obligations” (p. 197) [17]. The next section looks at the prospect of FGCs in enabling YSOs to find closure and reconciliation with their victims.

Closure and Reconciliation

Just as victims need an experience of forgiveness, so do offenders. Offenders also need to put the offence behind them and to move on with their lives. In a retributive justice system, offenders are not granted a platform to confess, take responsibility, express remorse, and make things right. In the RJ approach, in contrast, offenders are encouraged to engage in dialogue with those they have harmed and to ask for forgiveness. This process does not aim only to re-empower the victim but has a mutual healing benefit to all those who have a stake in the offence. [25, 11, 10, 7, 20, 21, 17]

Zehr argues that our approach to dealing with offenders needs to promote healing and repairing harms that have been caused by crime, particularly the relationship between the parties in conflict. [17] If left unresolved, as pointed out by Zehr, a hostile relationship will in turn affect the well-being of the parties in conflict, their families and community in general. [17] In the exploration of closure and reconciliation between the ex-YSOs and their former victims from the perspective of the YRs in the aforementioned study, the author found the following:

Youth Reconciled with Former Victim and Found Closure

The YRs who were able to talk to their former victims and/or their families, with or without the help of a social worker, managed to reconcile with their former victims. According to these YRs, the forgiveness that they had received from their former victims helped them to find closure.

Family Group Conference Enabled Reconciliation

YR2 who committed sibling incest, with whom two FGCs were convened, reported the FGC was helpful in enabling reconciliation, even though it was still not easy for him and his younger sister, since they stayed in the same house. It would therefore seem that it would have been better had they not stayed in the same house. This is probably why the family resorted to different living arrangements, where the mother arranged a separate room for the YR as they had previously all stayed together in one backyard car garage.

Dialogue Enabled Reconciliation

YR1 described another rather unusual case of reconciliation without any third party mediation. It is important to note that this particular respondent was in a love relationship with the victim when she reported him and he was arrested for rape. It would seem that, as a result of the nature of the relationship the ex-YSO had with his former victim, they were able to reconcile, despite what they went through, as they still loved each other. Secondly, the YR had abandoned his criminal lifestyle to become a pastor, which was his occupation at the time the study was conducted.

No Reconciliation with the Former Victim

The study found that the YRs who reported that they had not reconciled with their victims and families, had not done so partly because they had never met them to talk about the incident. They described their situation as being characterised by tension; they were not on talking terms with their former victims. It was noted earlier that FGCs were not convened with some of the YRs and their victims while they were enrolled in the programme, primarily because the FGCs were not considered as part of the programme, nor were they considered a necessary key performance area of social workers at the centre.

Closure without Reconciliation with the Former Victim

The research also found that some YRs reported that they had found closure and they had moved on with their lives without the victim's forgiveness, even though some felt they would have appreciated reconciliation with the victims.

In summary, the findings seem to suggest that there were still hostile feelings and relationships between some YRs and their victims, and between their respective families. For those who believed they had found closure, even though they were still avoiding any contact with their former victims, one wonders how genuine the closure is, considering the former victim and the offender have not had an opportunity to talk about the sex offence and perhaps to forgive each other. Some YRs reported that they had to rearrange their lives, e.g. by using specific routes to travel from one place to another in order to avoid contact with the victim and his/her family. This suggests that the closure that the ex-YSOs claim to have found is relatively superficial, as there are still many unresolved issues between them and their former victims. These findings seem to point to a crucial role that needs to be played by FGCs in initiating the process of closure and reconciliation between the parties in conflict. Branken and Batley also conclude that FGCs were found to be hopeful means for healing relationships. [14] Attention is turned next to the facilitation of FGCs.

Facilitation of Family Group Conferences

RJ is informed by a number of values and principles the practitioners of FGC need to be aware of and, more importantly, apply them when dealing with complex matters involving power imbalances. Restorative Justice Network contends that justice processes may be considered restorative only in as much as they give expression to key restorative values more so that such values are essential to healthy, equitable and just relationships. [26]

Values of Family Group Conferencing

Restorative Justice Network maintains that *process* and *values* are inseparable in RJ. It is the values that determine the process and the process that makes visible the values. [26] In other words, the two are dependent on each other. Based on this conception, Pranis categorises RJ values as either process values or individual values. (pp. 60-65) [27] *Process values* are those that need to characterise a RJ process and should amongst others include: democracy, responsibility, reparation, safety, healing, inclusion, reintegration, humility, respect, participation, interconnectedness, hope and empowerment. [27] *Individual values* are those that need to be nurtured in individuals that are participating in a RJ process and should amongst others include: honesty, respectfulness, taking responsibility, compassion, patience, fairness, open mindedness, creativeness, and consideration of others' needs, good listening, and accountability. [27]

Zehr believes that if he had to sum up different values and principles of RJ into one core concept he would choose *respect*. [23] He argues that respect underlies all RJ principles and must guide and shape the application of RJ processes. In my understanding this is the same core principle as that which is embodied in the African philosophy of *ubuntu*. This refers to the belief that we need to treat others in the way we would like to be treated ourselves, and to treat others with *compassion*.

According to Restorative Justice Network, FGC processes may be considered '*restorative*' if the following conditions are met: [26]

- It is guided by competent and impartial facilitators to ensure that the process is safe and guided by neutral, impartial and trusted facilitators.
- It strives to be inclusive and collaborative: this is to ensure that the process is open to all people who have been directly or indirectly affected by the offence.
- It entails voluntary participation: no one should be forced to participate or remain in the RJ process, or be compelled to communicate if they do not want to do so.
- Agreements would be ideal in such gatherings, but they are not obligatory.
- It fosters confidentiality: this is to ensure that information is disclosed in confidence.
- It recognises and respects different cultures.
- It focuses on needs: the process needs to foster awareness of how participants have been affected by the offence.
- It fosters genuine respect for all the participants: every participant should feel respected, even if they are the offenders.
- It validates the victim's experience: the victim's feelings and interpretation of the offence need to be accepted and respected. It should not be minimised or ignored.
- It clarifies and confirms the offender's obligations: the process should invite but not compel the offender to accept obligations identified.
- It aims at transformative outcomes: the process needs to aim at outcomes that meet the present needs and obligations and to empower both offender and victim for the future. The outcomes should promote healing for the victim and reintegration for the offender.

Preparation and Facilitation of Family Group Conferences

In discussing the critical issues practitioners need to be mindful of when organising and facilitating a FGC, the discussion will focus mainly on the following aspects of practice:

preparation for the conference, timing and readiness of both parties to engage in the conference, the venue, the language, and possible perceived biasness of the facilitator if he or she has worked with the perpetrator.

It needs to be pointed out from the onset that, unlike the New Zealand approach described by MacRae and Zehr where FGCs are organized and facilitated by two different persons, [12] in SA the norm is that the person who organises it is often the same person who facilitates the conference, partly due to a lack of sufficient human resources. Steyn emphasises that the preparation of both parties is one of the most critical elements that needs to be considered to ensure the successful implementation of the FGC. [15] To illustrate the importance of preparation of both parties prior the convening of the FGC the reader is referred to the case of YR2, which has been discussed above. It needs to be noted that in the first FGC that was arranged with YR2, his younger sister who was his victim, and their mother, it did not materialise. Whilst YR2 had already received a lot of counselling individually and in the group programme, nothing had been done with the victim. She had not received any counselling whatsoever that would prepare her for the FGC. When she came to the centre for the FGC she broke down and cried uncontrollably. The author therefore could not proceed with the FGC. The focus then shifted to helping to contain the younger sister. The FGC therefore had to be postponed until such time as she had received some counselling and preparation for the FGC encounter. The younger sister was referred to a community-based organisation for counselling. Finally, when she was ready, a FGC was convened and it became very successful.

The inference that can be made from the above case scenario is that FGC should never be imposed, and it also seems that the timing of the FGC was premature as the younger sister was not ready to face her older brother. The correct timing of the FGC is crucial in increasing the likelihood of its success. Flaten proposes that victims of serious offences need time; perhaps up to a year should pass before mediation is attempted. [28] Umbreit and Bradshaw, however, insist that they have found strong victim support for holding mediation sessions sooner rather than later. [29] Henderson and Gitchoff cited in Immarigeon have found that victims are likely to respond differently (usually less positively) if they are approached immediately after the occurrence of the crime than they would several weeks later. [1]

Many YRs reported that, even for them as perpetrators, it took time for their anger towards their victims and their victims' families to dissipate, particularly if they felt wrongly accused. Similarly, the victims also need sufficient time to recover. The respondents' perceptions regarding the appropriate time for the convening of the FGC were mixed. Some believed that only after the feelings of anger have dissipated in both parties should the victims be approached to participate in the FGC. Therefore practitioners who need to apply FGCs need to do so with caution and careful consideration of its *timing* and the *readiness of both parties* to engage in such an encounter.

Other factors which are often associated with power imbalance and bias and which practitioners need to be mindful of prior to the convening of the FGC include *the venue*, and the *language* used to communicate in the FGC. In reference to YR2 case scenario, the victim and her mother probably felt obliged to call in at the centre in compliance with the social worker's invitation perhaps because they probably thought it was part of a court order. It is therefore recommend that the venue where a FGC is convened needs to be neutral and that community halls or churches could be considered. [12] MacRae and Zehr suggest that the home of the victim could rather be considered as the venue for the FGC provided it will

accommodate all the conference participants and has enough breakaway rooms for families to caucus. [12]

The language in which the FGC is facilitated could potentially indicate bias, particularly if the victim and his or her family are not conversant in that language. Language barriers are a huge problem in SA as there are eleven official languages. [16] Languages are often linked to racial stereotypes given the history of apartheid in SA where certain languages have in the past been considered to be superior because they are spoken by a certain population race group, and others considered inferior because they are spoken by another population race group. The practitioners are therefore advised to facilitate the conference in a language that the victim and his or her family are conversant with so they can express themselves freely. In situations where the facilitator is not able to converse effectively in the language of the victim and his or her family, which is highly possible in SA, then the victim and his or her family could be encouraged to bring someone they trust to act as their interpreter, as suggested by MacRae and Zehr. [12]

In SA the social worker who organises the FGC is often the one who also facilitates the conference. The social worker who works with the young person is often the one who will approach the victim and his or her family to participate in the conference. In some occasions the victim would not have his or her social worker, particularly if they had not gone for counselling, as was the case with the victim of YR2 discussed above. The victim and his or her family might perceive the social worker to be biased and needing to serve the interests of the offender, who is their client. Similarly, in cases where the victim has a social worker who they had been working with in therapy, the conferences are often facilitated by the social worker who has been working with the young person in conflict with the law.

Taking into account that most of the parties in conflict in relation to youth sex offending are children, the following have been proposed by Dawes as key indicators for positive RJ processes for children (p. 33) [4]:

- The child should participate actively and as an equal, in a non-punitive supportive environment that does not 'shame' or make him or her feel like a 'bad person'.
- The child should agree with conference decisions and complete assigned tasks.
- The child should show remorse.
- The child should show a commitment to changing behaviour.
- Participant satisfaction and perceived fairness of the process are important.
- Voluntary participation by the offender and victim increases the likelihood of participant satisfaction and offender commitment to changing behaviour.

The author endorses the following good practices for RJ processes facilitation as further proposed by Dawes (p. 33) [4]:

- Mediators should have appropriate training in the theory and practice of RJ and mediation.
- Children should be carefully screened for participation in RJ processes and their safety ensured.
- Victims' physical and emotional well-being should be ensured.

- All participants should be thoroughly prepared for the RJ process (during offender and victim pre-mediation preparation sessions), and they should be informed of the risks and benefits associated with the process.
- Preparation for mediation should include reality testing so as not to create unreasonable expectations of the process for either the offender or the victim.
- The mediator should be impartial and neutral during the process. Individuals who have an interest in the outcome of the process (who are likely to be biased either against or in favour of the offender or the victim) should not play a mediating role.
- The mediator should promote the confidentiality of the process.
- The consent of parents or guardians of the young offender should be obtained prior to embarking on the restorative process. Informed assent should be obtained from the young offender before his/her participation in the restorative process.
- Informed consent of the victim should be obtained prior to their participation in the FGC.

CONCLUSION

It was argued that even though one of the aims of the CJA seeks to expand and entrench the principles of RJ in the criminal justice system, FGCs are not the hub of the justice system in SA. Instead, diversion seems to be the main principle of the CJA which seemingly assumes that diversion programmes promote a RJ approach. South African diversion programmes were strongly criticised¹¹ for their lack of a sufficient RJ orientation in their overall design and implementation. In fact it was believed by some¹² that diversion programmes were only widening the net of youth offenders. It is therefore important for RJ advocates and practitioners to promote the RJ agenda through FGCs even where it is not fully supported by the laws of their specific countries. It is argued in this chapter that the prospects of FGCs will go a long way in helping to ease the reintegration of parties in conflict in the community whilst enabling them to find closure and reconciliation.

In cases where the victim and the offenders stay in the same household or in close proximity to each other, it is often in the interest of all the parties that the perpetrator be removed temporarily from the community whilst he or she undergoes rehabilitation with regard to the problem that led to their unlawful sexual behaviour. Similarly, this creates an enabling environment for the victim to heal through therapy. Only when the necessary condition has been created, where the victim and the perpetrator together with their families are ready and willing to engage, can they be brought together in a FGC. It is therefore proposed that FGCs need to form an integral part of all diversion programmes, whether in the community or in a residential facility.

¹¹ See Shearar, A. and Graser, R. (2005). A critical view of diversion programmes in context of restorative justice. *Social Work/Maatskaplike Werk*, 41 (2): 155-162; and Cupido, M., Kritzing, F., and Van Aswegen, F. (2005). The implementation of a diversion programme for the juvenile offenders: Problems areas and 'Pitfalls'. *Social Work/Maatskaplike Werk*, 41 (3): 251-264.

¹² See WOOD, C. (2003). *Diversion in South Africa: A review of policy and practice, 1990-2003*. Cape Town. Institute of Criminology, UCT: Unpublished Occasional Paper 79; and Hargovan, H. 2010. "Doing justice differently: prosecutors as 'gate-keepers' of restorative justice." *Acta Criminologica: Criminological and Victimological Society of South Africa (CRIMSA) 2009 Conference: Special Edition 1*.

It is further recommended that more follow-up studies need to be conducted to determine the value and efficiency of FGCs in achieving the long-term goals of RJ processes from the perspective of both ex-offenders and their victims. Although it needs to be noted that follow-up studies are very challenging for a number of reasons, including that they often rely on the respondents' self-report, and the attrition of targeted research respondents. The challenge of victims' participation needs to be approached with great sensitivity and care. For instance, in the author's aforementioned study he was aware that an insight from the YRs' victims would have enriched the understanding of the phenomenon under investigation, even more so as the study uses a RJ frame of reference. However, the collection of data from the victims has ethical implications. Victims' participation in the research could have caused harm and/or damage, as some might have moved on with their lives. In an attempt to overcome this challenge, social workers working with the victims of YSOs were interviewed, which helped to foster an insight into understanding some relevant research variables from the victims' perspective.

It is recommended that in order for the 'offender' label and 'offender' oriented pathological interventions to be abandoned in pursuit of more humane and restorative interventions there needs to be more rigorous research undertaken to prove and communicate the efficacy of restorative interventions. The findings of these researches need to be readily available to the practitioners on the ground as they are the ones tasked with the implementation of new approaches. It is hoped such studies will break new grounds for innovative interventions and create awareness about the necessity of interdisciplinary approach in the application of restorative interventions. The author believes that a lot can be achieved when different professionals work together in consultation rather than in isolation. Such an approach can also help to make good use of often limited human resources and avoid duplication of services. It is therefore further recommended that different role-players in the field of RJ, need to host consultative workshops and conferences whereby the concept of interdisciplinary approach could be unpacked, adopted and mainstreamed throughout different interventions with various parties in conflict.

REFERENCES

- [1] Immarigeon, R. (1999). Restorative Justice, Juvenile Offenders and Crime Victims: A Review of the Literature (pp. 305-325). In Bazemore, G. and Walgrave, L. (Eds.). Restorative Juvenile Justice: Repairing the Harm of Youth Crime. New York: Criminal Justice Press.
- [2] Skelton, A. and Frank, C. (2001). Conferencing in South Africa: Returning to our Future (pp. 103-119). In Morris, A. and Maxwell, G. (Eds.), Restorative Justice for Juveniles: Conferencing, Mediation and Circles. Oxford: Hart Publishing.
- [3] Child Justice Act 75 of 2008. Government Gazette: Pretoria. Government Printer. Available: <http://www.childjustice.org.za/downloads/A75-2008.pdf>. Retrieved: 10 April 2010.
- [4] Dawes, A. (2004). The Development of Minimum Standards for Diversion Programmes in the Child Justice System: Final Report for NICRO. Child, Youth and Family Development Human Science Research Council: Cape Town.

-
- [5] Daly, K. (2005). Restorative Justice and Sexual Assault: An Archival Study of Court and Conference Cases. *British Journal of Criminology*, 46, 334-356.
- [6] Hudson, B. (2002). Restorative Justice and Gendered Violence: Diversion or Effective Justice? *British Journal of Criminology*, 42 (3): 616-634.
- [7] Liebmann, M. (2007). Restorative Justice: How it works. London and Philadelphia: Jessica Kingsley Publishers.
- [8] Morris, A. and Maxwell, G. (2001). Family Group Conferences and Reoffending (pp. 243-263). In Morris, A. and Maxwell, G (Eds.) Restorative Justice for Juveniles: Conferencing, Mediation and Circles. Oxford: Hart Publishing.
- [9] Morris, A. and Maxwell, G. (1993). Families, Victims and Culture: Youth Justice in New Zealand. Wellington, NZ: Department of Social Welfare and Institute of Criminology.
- [10] Morris, A. and Maxwell, G. (1997). Family Group Conferences and Restorative Justice. *International Community Corrections Association Journal*, 8: 37-40.
- [11] Consedine, J. (1999). Restorative Justice: Healing the Effects of Crime. New Zealand: Ploughshares Publications.
- [12] MacRae, A. and Zehr, H. (2004). The little book of Family Group Conferences: New Zealand Style: a hopeful approach when youth cause harm. USA: Good Books Intercourse, PA.
- [13] Sloth-Nielson, J. (1996). Theory and Practice of Family Group Conferencing in South Africa: an Overview of General Principles, and Report on the Pioneering Wynberg Pilot Project. Unpublished Social Justice Resource project, Institute of Criminology: University of Cape Town.
- [14] Branken, N. and Batley, M. (1998). Family Group Conferences: Putting the wrong right. A Practice Research Study and Implementation Manual. The Inter-Ministerial Committee on Young People at Risk Pilot Project.
- [15] Steyn, F. (2005). Review of South African Innovations in Diversion and Reintegration of Youth at Risk. Cape Town. Open Society Foundation for South Africa.
- [16] Skelton, A. and Batley, M. (2006). Charting progress, mapping the future: Restorative justice in South Africa. Pretoria: Restorative Justice Centre and Institute for Security Studies.
- [17] Zehr, H. (1990). A New Focus for Crime and Justice: Changing Lenses. Scottsdale: Herald Press.
- [18] Sharpe, S. (2004). 2004. How Large Should the Restorative Justice 'Tent' Be? (pp. 17-31). In Zehr, H. and Toews, B. (Eds.), Critical Issues in Restorative Justice. Monsey, New York: Criminal Justice Press.
- [19] Bazemore, G. (1996). Three Paradigms for Juvenile Justice. In B. Galaway and J. Hudson (Eds.), Restorative Justice: International Perspectives. Monsey: Criminal Justice Press (pp. 37-67).
- [20] Pranis, K. (2004). The practice and efficacy of restorative justice. In Judah, E. and Bryant, M. (Eds), *Journal of Religion and Spirituality in Social Work: Social Thought*, 23: 133-157.
- [21] Van ness, D. and Strong, K. (2002). Restoring Justice. Cincinnati: Anderson Publishing Co.
- [22] Skelton, A. and Tshela, B. (2008). Child Justice in South Africa. Pretoria: Institute for Security Studies.

-
- [23] Zehr, H. (2002). *The little book of restorative justice*. Illinois: Intercourse, PA Good Books.
- [24] Skelton, A. (2005). *The Influence of the Theory and Practice of Restorative Justice in South Africa with Special Reference to Child Justice*. Unpublished LLD-thesis, University of University of Pretoria. South Africa.
- [25] Bazemore, G. and Umbreit, M. (1995). Rethinking the Sanction in Functioning in Juvenile Court: Retributive or Restorative Responses to Youth Crime. *Crime and Delinquency*, 41 (3): 296-316.
- [26] Restorative Justice Network (2003) Available: [http:// www.restorativejustice.org/10fulltext/restorativejusticenetwork](http://www.restorativejustice.org/10fulltext/restorativejusticenetwork) (Retrieved: 12 June 2010).
- [27] Pranis, K. (2007). Restorative values (pp. 59-74). In Johnstone, G. and Van Ness, D. W. (Eds.), *Handbook of Restorative Justice*. UK: Willan Publishing.
- [28] Flaten, C. L. (1996). Victim-Offender Mediation: Application with Serious Offenses Committed By Juveniles (pp. 387-401). In Galaway, B. and Hudson, J. (Eds.), *Restorative justice: International Perspectives*. Monsey, NY: Criminal Justice Press.
- [29] Umbreit, M. S. and Bradshaw, W. (1997). Victim Experiences of Meeting Adult vs. Juvenile Offenders: A Cross-National Comparison. *Federal Probation*, 61 (4):33-39.