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'This book is perhaps the most comprehensive and certainly the most up-to-date collection on restorative justice. It goes to some topics rarely addressed in earlier volumes ... and embraces a wider range of critiques of restorative justice than most volumes on the subject ... Furthermore, in its geographical coverage, this international Handbook is much broader than older collections ... We are grateful to Theo Gavrielides for bringing so many voices into the conversation. Many inspiring restorative justice leaders in the past have mobilized convening power toward projects of listening, but none more widely nor in more diverse ways than Theo Gavrielides in recent years.'

John Braithwaite, *Australian National University, Australia*

'A decade after the first two "Handbooks of Restorative Justice", this successor is timely. It is an update of developments in ideas and current debates, and of a great part of the relevant literature. A new generation of authors is emerging. Restorative justice researchers, advocates and critics should have it.'

Lode Walgrave, *University of Leuven, Belgium*

'In its breadth and depth, this impressive collection represents a new chapter in one of the most remarkable stories in criminal justice of the past century. Restorative justice has grown from the radical, abstract vision of 30 years ago into a fully fledged field of study and practice, worthy of this important international Handbook.'

Shadd Maruna, *author of Making Good: How Ex-Convicts Reform and Rebuild Their Lives*

This up-to-date resource on restorative justice theory and practice is the literature's most comprehensive and authoritative review of original research in new and contested areas.

Bringing together contributors from across a range of jurisdictions, disciplines and legal traditions, this edited collection provides a concise, but critical review of existing theory and practice in restorative justice. Authors identify key developments, theoretical arguments and new empirical evidence, evaluating their merits and demerits, before turning the reader's attention to further concerns informing and improving the future of restorative justice. Divided into four parts, the Handbook includes papers written by leading scholars on new theory, empirical evidence of implementation, critiques and the future of restorative justice.

This companion is essential reading for scholars of restorative justice, criminology, social theory, psychology, law, human rights and criminal justice, as well as researchers, policymakers, practitioners and campaigners from around the world.

Theo Gavrielides, Founder and Director of The IARS International Institute.

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Dr. Gavrielides has published extensively in the areas of restorative justice, legal philosophy youth policy, human rights and criminal justice. He is the Editor of numerous collected editions as well as the Founder and Editor-in-Chief of the *Youth Voice Journal* and the *Internet Journal of Restorative Justice*. He is also the Editor of the *International Journal of Human Rights in Healthcare*.

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‘This book offers thoughtful and varied approaches to reconciliation and community resilience. As readers, we see that inclusive approaches to justice—involving loved ones, community support systems, and cultural context—offer real hope for renewal and personal peace. This book challenges the punitive aspects of the current criminal justice system, to be sure, but also offers practical tools for transformative leaders to nurture restoration, reformation, and healing. A pathway forward is found through the wisdom of the scholars here, all of whom are committed to restorative justice and a more resilient future.’

Maya Soetoro, University of Hawaii at Manoa, USA

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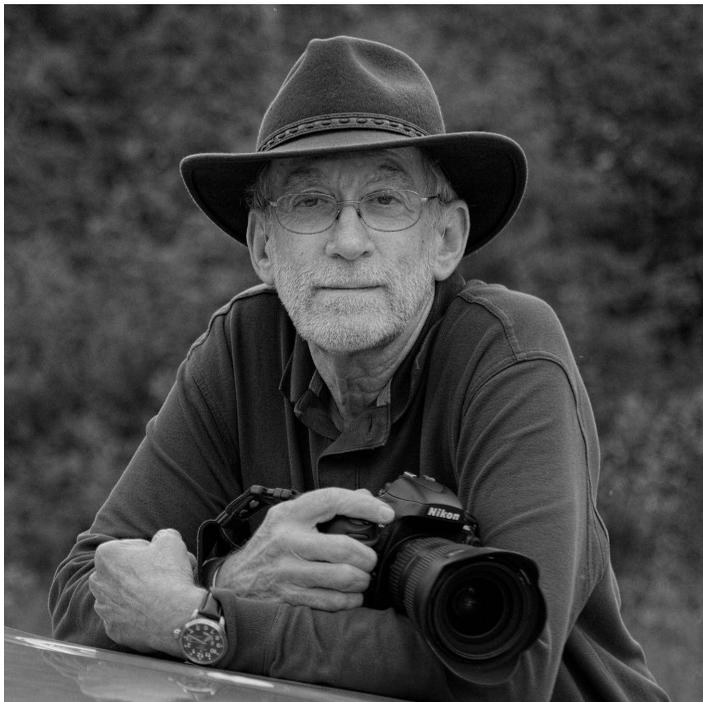
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Now in its second generation, restorative justice is not a wild dream: it is a reality, and I for one am energized by the new and younger voices that are emerging.

It is important to open space for these new voices and emerging themes. As a first-generation developer and practitioner, now at the end of my career, it seems appropriate that this may be the last book foreword I write for the field. It is time to make room for others of this new generation. Much appreciation to Theo Gavri-elides, himself a representative of this new generation, for leading the way through this Handbook.



Howard Zehr, Eastern Mennonite University, USA

Photograph © Aaron Johnston

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Contributors

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Theo Gavrielides, PhD, is an international expert in restorative justice, human rights and youth justice. He is the Founder and Director of The IARS International Institute, a user-led NGO that empowers marginalised groups to influence social policy and law internationally. He is also the Founder and Director of the Restorative Justice for All Institute (RJ4All) as well as Adjunct Professor at the School of Criminology of Simon Fraser University and a visiting professor at Buckinghamshire New University. Professor Gavrielides is an expert advisor to the European Commission's criminal justice and equality projects, and has worked with many governments on justice reforms. He has worked as the Human Rights Advisor of the UK Ministry of Justice as well as researcher at the London School of Economics, and he is the Principal Investigator of numerous EU, UN and UK funded research programmes.

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Contributors

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Preface and acknowledgements

Theo Gavrielides

Handbook's impetus

Public trust in governments and their institutions has been declining globally. This preface is not the grounds for presenting the reasons for this decline, which have been observed and studied by many over the last few decades (e.g. Garland, 1996; Zedner, 2002). As part of our governments' machinery, criminal justice institutions are not exempted from public scrutiny. Courts, the police, probation, prosecution and all related justice services do not exist in a vacuum either. They are developed and function within the societies that they are meant to serve. If they are structured within disempowering governments and democracies, then their users' experience will be one of disappointment.

This decline in trust is also very much linked with users' perceptions and experiences of equality (or inequality). And we do not need scientific evidence to conclude that the criminal justice system has flaws. We have been experiencing these flaws for many decades through its performance, overt or hidden biases, costs and the absence of a feeling of safety that is meant to be felt by everyone, independently of their background (Gavrielides, 2014). Although the majority of the public do not engage in readings about facts and figures on wealth distribution, their living reality is what drives their fear and anxiety about justice and its current system of delivery. This unavoidable truth gradually leads to disengagement and apathy.

But if we do look at published figures, they will tell us that despite the latest economic downturn, the powerful became more powerful, and the powerless increased in numbers. For example, the 2017 Global Wealth Report showed that the wealth of the richest increased from 42.5% at the height of the 2008 financial crisis to 50.1% in 2017. On the other hand, the poor became poorer, with the world's 3.5 billion poorest adults having assets of less than \$10,000. Collectively these people, who account for 70% of the world's working-age population, own just 2.7% of global wealth. Shockingly, the globe's richest 1% owns over 50% of the world's wealth.¹

Concurrently with the decline in public trust and justice performance globally, there has been a rise of community voice and action (Gavrielides and Blake, 2013; Rosenblatt, 2015). In a globalised world where the internet, social media and borderless continents define how we

¹ The report (eighth edition) is published by the Credit Suisse Research Institute, and it analyses wealth held by 4.8 billion adults across the globe, from the least affluent to the wealthiest individuals, www.credit-suisse.com/corporate/en/research/research-institute/global-wealth-report.html (accessed November 2017).

send and receive information, the notion of community had to redefine itself. It is no longer a place – it is a sense of belonging.

But alas, the modern notion of community lacks the resources to challenge the powerful and the *status quo*. Nevertheless, community leaders, voluntary organisations, campaigners and human rights champions take on active unpaid roles that have now allowed us to talk about informal or community justice. UNDP, UNICEF and UN Women (2012) estimated that in the majority of UN member states, 70% of all disputes are dealt with through informal justice. Indeed, the notion of community now dares to claim ownership, or at least demands joint custody, of justice and criminal justice (Gavrielides, 2013, Wojkowska, 2006). Community voice has been getting louder, and now the powerful have no other option, but to listen.

It is within this transitional global and political framework that I enthusiastically agreed to edit this international Handbook. I hope that it will become part of the aforementioned listening process.

Handbook's structure

Of course, my claim that communities are rising while the powerful are being challenged should not come as a surprise to the reader of this Handbook, given that restorative justice is at its core. There can be no doubt that 'restorative justice' is a contested term with a contested history. This is not surprising, as it emerged within a context of social reform movements and global questioning of extant justice paradigms. Restorative justice also professes to embody the bio-power of community and individual action. This is probably what makes restorative justice timely and appealing to the modern reformists, researchers, students and policy makers.

But for all its goods and promises, restorative justice has flaws like any other human construct. Yes, some may believe that restorative justice is spirited and guided by God, driven by values that are Christian, Buddhist, Muslim, Judaic and so on. Nonetheless, it is a construct. Therefore, the human nature of restorative justice raises the question whether its flaws are as bad as those of the existing criminal justice system. And maybe this question is not as straightforward as it first appears. For example, which elements of restorative justice are not as bad as those of the criminal justice system? Do these relate to certain types of normative claims? Do they relate to practice and certain types of cases or offenders? Are they equally effective globally? Do they relate to finances and charging the public purse less, while achieving better victim satisfaction and recidivism rates?

How can one Handbook answer all these questions? At the same time, I was faced with the challenge of an impressive literature on the topic. Entering online the search terms 'restorative justice' will deliver thousands of results, including research and conference papers, authored and edited books, academic journals, speeches, laws, policy papers, treaties, EU Directives and Recommendations, statutory guidelines, UN Resolutions and Principles, training manuals, press cuttings, videos and even songs, films, pantos and plays. Put another way, what are the normative and empirical questions that remain unanswered and are worthy of investigation by an '*International Handbook on Restorative Justice*'?

Despite my initial hesitation, I proceeded with confidence, knowing that I am in good company. Following discussions with many expert friends (some of whom ended up writing for this Handbook), I divided the volume into four parts that represent the steps I believe we need to take to advance restorative justice internationally.

The first part aims to aid our understanding of the restorative justice normative claims and theories. I have argued many times that this area of work has remained underdeveloped, especially in relation to its philosophical and meta-theoretical questions (Gavrielides, 2005;

Gavrielides and Artinopoulou, 2013). But the advancement of theory alone is insufficient, and thus I proceeded in the second part with a dedicated section on practice bringing to light new evidence. While doing so, I was conscious that the implementation areas of restorative justice are vast. Therefore, I proceeded with caution, focusing only on contested, under-researched and grey areas of practice. Particular attention was given to complex cases such as intimate partner violence and child sexual abuse, where power dynamics are prominent. The Handbook also sheds light on new practice areas such as those with victims and offenders with disabilities as well as the application of restorative practices in healthcare settings and road rage disputes.

But a handbook such as this one would be incomplete without a serious debate that is both critical and up to date. I have always believed that thinking critically about restorative justice not only allows a more balanced and nuanced approach to its theoretical and practical claims, but can also push us to want and ask for more. I was fortunate to work with some well-informed and well-intended critics of restorative justice. In the third part of the Handbook, they present their critical reflections on the claims and potential of restorative justice in an evidence-based and objective manner. I also felt that for an 'international handbook', these critical views had to be spread geographically as much as possible.

Finally, in the fourth part, the empirical, normative and critical contributions of the Handbook are concluded with an articulation of the visions of some of the field's pioneers. I saw these visions of restorative justice as both realistic and aspirational.

Concluding introductory thoughts

This preface aims to invite you onto a journey of questioning, evidence gathering and debate. This journey is timely and much needed, independently of where you are. There can be no doubt (at least in my head) that the shrinking of centralised, top-down, formal structures of justice and the rise of community, bottom-up, informal alternatives is happening now. I will use this Handbook to urge all those who support, or are part of, the *status quo* not to see this shift as a threat. At the same time, I call on all reformists and hopefuls not to treat it as an opportunity to abolish what is and what many have fought for. We must embrace this different *Zeitgeist* that we are experiencing as a positive shift of our world's justice tectonic plates. Communities want more, and justice's needs and realities are adapting to the fast-moving societal changes of globalisation and new technology.

The experts who wrote for this Handbook aspired to support this global change by presenting new theoretical, empirical and critical works on restorative justice, a concept that has troubled me for almost two decades.

Acknowledgements and personal statement

The editing of this Handbook came at a turning point in my life. I have always wanted to be a dad, even before I even knew what I was going to do with my life and passion for learning, reading, writing and justice. After recognizing that wish, I encountered many wonderful people and had many enlightening experiences that led me down various paths and on several journeys that filled me with joy, sadness and a lot of learning. But my wish to parent never changed, and thus, over the last few years I took a different journey that finally led me to becoming Tommy's dad.

When I gladly accepted Routledge's invitation to edit the *International Handbook on Restorative Justice* three years ago, little did I know how daily life changes once a child is at home. As a single dad with no immediate family around me, the experience is a lot more intense, but the joys and the bond are also stronger and deeper. A relationship between a parent and a child is

also a profound, self-learning experience; there is only so much that books can teach you. It is also a relationship that helped me reevaluate my position on restorative justice, which as you will see in this Handbook had been questioned many times in the past. But this time, my shift was not due to intellectual factors, stemming from my narrow legal training and the notion's practical abilities (or inabilities) to materialise its many normative promises.

My new parent role in life created a new intellectual relationship with restorative justice, which, while on the one hand became stronger, on the other, developed to be less intense. It is stronger, because I can now understand better the relational core of restorative justice, and how it can become the driver of both our deviance and restoration. Our human connection, or disconnection, can bring out the best and worst in us, while society, or the community, try to find their role as regulators or witnesses of our conflicts. As a criminologist, this statement reads rather generic and repetitive of more focused and nuanced approaches to delinquency and control. But as a parent, I read it with hope. If restorative justice can tap into our best and worst selves through self-imposed processes of pain and reconstruction, then there must be hope for our betterment as human beings, as parents, as schoolteachers, as employers and yes, as servants of justice and criminal justice. But I also said that my parenting experience made my relationship with restorative justice less intense, and by this, I mean scaling down the many roles that I have taken as a director, researcher, academic, charity fundraiser project manager, lawyer, author, editor and so on.

It has been a rewarding and intense life journey, and it is by no coincidence that this volume's companions have honoured me with their trust and work. But like Zehr, I must now change my lenses and with them how I view my remaining life path. And I see my contribution to be less ambitious in terms of narrow, legalistic understandings of justice and more hopeful in understanding the core of fairness as this is ingrained in everyone's hearts and minds.

And by definition, journeys should never be walked alone. Therefore, it is fitting for this Handbook's journey to first acknowledge the authors who entrusted me with their work. Conducting new research and creating new paths for theory and practice is a complex task that requires much resources and investment. Having it scrutinised, edited and published in a Handbook such as this one assumes a good and open relationship with the editor, and I could not be more thankful for the prompt and constructive responses that I received from everyone.

Humble and special thanks go to Howard Zehr and John Braithwaite for always supporting me, including writing for this Handbook. It is a great honour to be introduced by Howard, whose vision for restorative justice changed the lenses we use to view justice and life. His writings have inspired me and indeed our generation to ask and want for more, and to never stop questioning ourselves. John's scholarly rigour and excellence have also been my guiding writing principles, setting the standard that anyone who writes and learns about restorative justice and justice will want to achieve. Both have been generous with their time during busy and difficult times, and for that I can only be grateful and honoured.

I am also grateful to all those who have challenged me in both good and bad ways. We all go through various cycles in our life paths, and my recent changes have seen many keen friends withdrawing and new coming forth. To all those whose requirements I cannot fulfil in my new role anymore, I wish all the best and send them my gratitude for what they have taught me. To those who have remained keen champions of my beliefs, and patient with my demands and mistakes, I give my love. These include my mother, sister and her family, my publisher and Alison Kirk, my charity, The IARS International Institute, the volunteers at the Restorative Justice for All Institute, and, of course, Juozas Kelecus. I am also grateful to Jemima Hoffman for spending endless hours voluntarily preparing the Index for this Handbook as well as for proof reading several chapters. To the new friends that joined my path, I give the promise that I will not let them down, and this includes Maggie Scott, who stood by me through some of the most difficult and lonely times of my life.

It is now fitting to close my personal statement by thanking my son, Tom, for inspiring me to continue writing about justice and rights and indeed for helping me to renew my pledge for staying on course. As I dedicated my last work to my late father, I think it is also now fitting to dedicate this one to my son in the hope that I will also inspire him as much as my father inspired me.



In perfect sync – Against all possibilities

Photograph © Maggie Scott

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Foreword

Howard Zehr

This is an important collection for anyone who wants to understand and grapple with 21st-century restorative justice.

In the past four decades, restorative justice has developed into a rich field of practice and study. Some would call it a movement, some a social movement. Either way, there is a growing consensus that it is into its second generation.

This international Handbook grounds itself in the present and past in order to look to the future. It sets for itself an important but challenging goal: to reflect the state of restorative justice in the early 21st century, including not only developments in theory and practice but also its essential debates and challenges.

The concept of restorative justice is so simple, so intuitive – yet, as this collection makes clear – so complex in development and application. It is not only that academics like to complexify things (though they do that sometimes unnecessarily); the issues really are difficult and complex – and so important. Indeed, the integrity of the field and its vision is at stake.

The Western idea and implementation of restorative justice developed initially as a response to problems within the Western legal system, sometimes called the criminal justice system, and by some, the criminal legal system. Working in response to or in conjunction with such a rigid, hierarchical, power- and status-quo oriented system (or non-system, as some have argued), with its inherent self-interests, presents many problems, some of which were acknowledged by early advocates. However, as the theory and practice expanded both within and beyond this arena, whole new layers of challenges and pitfalls emerged.

This Handbook wrestles with many of these developments from a perspective that is both wide and deep: it is international – it reflects the widening circles of application that include areas as disparate as health care, architecture, historical harm, social justice, the nature of democracy – and it digs deeply into the difficulties and dangers inherent in all of these. The writers included here do not answer all the questions that are raised; indeed, there are contradictory voices, as there should be. But they do take the discussion to a new level.

The contributors to this Handbook offer us both hopeful possibilities and worrisome challenges. It will not be an easy read for many restorative justice advocates – not just because of the sometimes-academic language but because the challenges raised are so difficult and fundamental. But as I have often advised, we must listen to – even anticipate – our critics or we will not simply miss opportunities: we may become what we are seeking to reform or replace.

Colorado legislator Pete Lee has been instrumental in introducing restorative justice into law in his state. At a conference some years ago, he claimed that he once said to his wife, Lynn,

something like this: “In your wildest dreams, would you ever have imagined that this field would develop like this, and that I would be part of it?” “Honey,” she responded, “you aren’t even in my wildest dreams!”

Whether apocryphal or not, the story captures something important about the early days of restorative justice: most of us in our wildest dreams would not have imagined it would be what it is today. Now, in its second generation, restorative justice is not a wild dream: it is a reality, and I for one am energized by the new and younger voices that are emerging.

It is important to open space for these new voices and emerging themes. As a first-generation developer and practitioner, now at the end of my career, it seems appropriate that this may be the last book foreword I write for the field. It is time to make room for others of this new generation. Much appreciation goes to Theo Gavrielides, himself a representative of this new generation, for leading the way through this Handbook.

The future of restorative justice

John Braithwaite

A great thing about the rule of law is that we have a universal right to access it, or at least we should. Whether we have been a victim of crime, of an oppressive marriage, of breach of contract or consumer deception, we have a right of access to a court of law to adjudicate that conflict. Historical research on crime and justice, the tradition in which Howard Zehr started as a young scholar, has accumulated helpfully. It has taught us the importance of the rule of law innovations that diffused from the Persian and Roman Empires and beyond. As rights of access to adjudication in courtrooms diffused, blood feuds decreased. It was no longer necessary to deal with serious disputes by confronting our adversary and by carrying a weapon in case the confrontation turned nasty.

This is one reason why European societies are so dramatically less violent than they were half a millennium ago. The rule of law also brought a rights revolution that does not solve all problems but does provide some important tests against which all forms of justice must be measured, as Ann Skelton explores in Chapter 3.

Yet during the centuries when courts of law were near universally absent, diverse informal modalities of justice were more universally present to help make up for this deficiency. Carolyn Boyes-Watson evocatively explores more recent recovery of this history in Chapter 1, as does Ali Gohar in the specific context of Pakistan in Chapter 5. Historical experience has taught us that more universal access both to the rule of law and to disparate types of informal justice (including restorative justice) is likely to be a path to justice and nonviolence. By empowering victims to be able to choose either of these options in a variety of forms, we minimize the likelihood that they will turn to redress by violence against their perpetrator, as the recent evidence on victims indicates (Arthur Hartmann in Chapter 9 and Theo Gavrielides in Chapter 8).

The sad thing about the history of the rise of the rule of law is that it created a wealthy new professional class with a class interest in strengthening the monopoly of the rule of law. Old restorative traditions were construed as barbaric or out of tune. These claims for the attuned modernity of the rule of law were sometimes uttered by men wearing aristocratic black gowns or wigs who insisted on being addressed as 'your honour' or 'your worship'. They asserted authority by thumping a hammer or imploring subjects to swear oaths on bibles or other ancient religious texts. The legal profession became adept at co-opting symbols of aristocratic power and god-like power, as it extracted rents to secure the interests of its professional class.

The poor could not afford their justice. Worse than that, the poor were profoundly oppressed by the criminal justice system in every country. When the legal profession could not fight off competition from more accessible informal justice practices, it reappropriated them as expensive and professionalized mediation services. Large fees had to be paid to accredited mediation professionals to learn the craft. Carl Stauffer and Johona Turner touch upon these dilemmas in Chapter 29 and Isabel Ramirez does so in Chapter 21. Juan Tauri at the same time reminds us in Chapter 23 of pathologies that can arise from marketized models of restorative justice seeking a kind of duopolistic relationship with the state. One of the pathologies at risk is pushing aside genuinely indigenous forms of justice.

So civil society must take back some measure of justice from markets and from sovereigns. It must eke out niches for non-sovereign justice, as Guisepppe Maglione expresses it in Chapter 2. We should want our children to learn at school how to resolve disputes with each other. We should want them to do that without overly quick recourse to the sovereignty of the school principal, the youth court judge or a restorative justice professional, for that matter. I believe that there is a democratic principle at issue here. In Chapter 27, Ted Wachtel discusses this principle and other democratic practices using his experience from the schools where he pioneered restorative justice with inspiring teams of restorative pathbreakers.

This book is perhaps the most comprehensive and certainly the most up-to-date collection on restorative justice. It goes to some topics rarely addressed in earlier volumes, such as restorative justice and disability support (Jane Bolitho, Chapter 11), child sexual abuse (Karen Terry, Chapter 10), intimate partner violence (Anne Hayden, Chapter 13), health (Dan Reisel and Janine Carroll, Chapter 15) and road rage (Marian Liebmann, Chapter 16). It embraces a wider range of critiques of restorative justice than most volumes on the subject, including from some of the most distinguished and thoughtful critics of restorative justice – Gerry Johnstone (Chapter 26), George Pavlich (Chapter 30), Juan Tauri (Chapter 23) and Annalise Acorn (Chapter 25).

Furthermore, in its geographical coverage, this international Handbook is much broader than older collections. It considers restorative practices as they exist beyond Western, predominantly English-speaking, societies. The social movement for restorative justice has been good in the past at forgetting that most of the world's population lives in Asia, discussed by Wong and Lui in Chapter 20 and Gohar in Chapter 5. Africa (Skelton, Chapter 3) and Latin America (Ramirez, Chapter 21) are also hugely important for accomplishing a more just future for the world. There is great learning in this book from the diversity and from the good and bad of restorative justice across this complicated planet of ours. The application of restorative justice in Eastern Europe is another example (Matczak – Chapter 22).

It is not possible to do justice to the diversity of the 31 fine chapters in this Handbook. So I have settled for a taste of just these few themes. Theo Gavrielides admirably integrates them all in his Epilogue, in which he reminds us that restorative justice is ultimately about expanding freedom. This implies a restorative justice implemented with care and responsibility, his way of capturing the spirit of this pathbreaking Handbook. We are grateful to Theo for bringing so many voices into the conversation. Many inspiring restorative justice leaders in the past have mobilized convening power toward projects of listening, but none more widely nor in more diverse ways than Theo Gavrielides in recent years.

One great thing about the complex of lenses across this Handbook is that they show that there are many different versions of restorative justice, as Howard Zehr also points out in his Foreword. The strengths and weaknesses of these versions depend on the contexts in which they are deployed. This in turn shows the silliness of those who frame the problem with restorative justice as one of restorative justice being seen as a solution to all problems. Well, of course,

it is a good thing for access to restorative justice to be universally available for the whole range of harms from petty insults right up to genocide.

Being universally available is not the same as being universally chosen. The reasons for the struggle to universalize access to restorative justice are not so different from the reasons that the justice of the courts should be available for all manner of harms from insults up to planetary destruction. Citizens desperately need more universal access to more paths to resolution of problems that oppress them. These must be genuine ways of access rather than fictions of access to justice. In particular, citizens need access to paths that involve formal procedural guarantees and other paths that better protect rights while allowing more flexibility, informality, empowerment and creativity of response. In the great historical struggle to give citizens more options to reject or embrace, a comparative strength of restorative justice is that it is so open to variegated design, even to design by the most marginalized of societal minorities, in ways that are responsive to citizen needs. The project of exploring that design experimentalism to advance human freedom is what is so splendidly advanced by the contributors to this Handbook.

Beyond restorative justice

Social justice as a new objective for criminal justice

Nestor E. Courakis and Theo Gavrielides

From restorative justice to social justice

Following the onset of the 2008 financial crisis, the difficult conditions that most Europeans have been facing have led to the emergence of new challenges in criminal justice policy and to the respective need of new responses. This chapter argues that a possible response to this new demanding situation could be based on the double aim for a greater level of social solidarity in human relations as well as for meritocratic fairness when assessing incidences of inequality.

During the last few decades, criminal justice policy has developed the idea of reconciliation of conflicts between the offender and the victim. Restorative justice has emerged¹ to support these debates and to remind reformists that they must consider the needs of both the victim and the offender. There is also now a need to advocate for relevant methods aiming at extrajudicial settlements and for the reconciliation of the offender and the victim. Restorative Justice is, hence, based on the triptych of the perpetrator assuming responsibility for their actions, of restoring the state of the victim, as far as possible, to what it was before the injurious actions against the victim and, also, of actively expressing the desire for reconciliation with the victim (cf. Gavrielides, 2007: 139). These ideas have already penetrated in legislation. For example, in the Greek Law for Minors, there is provision for the reformatory conciliation measure, pursuant to article 122 of the Greek Penal Code.

Apparently, this trend has reinforced the detachment of criminal law from state authority and from the so-called *jus puniendi*. At the same time, it has brought to the forefront both the decisive role that the victim plays in disputes of a criminal nature and the active participation of the community in resolving differences among its members, for example, through mediation. Therefore, this trend towards restorative justice, has opened up new horizons in the field of criminal policy as well as in the field of criminal science in general.

¹ Restorative justice owes its origin, and even its name, to Aristotle (Nicomachean Ethics, V 6, 1130 b 38 ff.) (cf. Artinopoulou and Gavrielides, 2013)

At the same time, another significant trend has emerged, one that focuses on the principle of proportionality. This is based on the assumption that the sanction or any other social reaction, caused by the criminal act, must be both proportionate and appropriate to the offence. Known as “*just deserts*” (=deserved punishment or reward), this trend is complementary to restorative justice and draws attention to the gravity of the offence and to the respect of the rights of the perpetrator, either as defendant or as prisoner – cf. von Hirsch, 1986 and von Hirsch and Ashworth, 2005.

However, this chapter argues that both these trends favour only a mere restoration of the *status quo* in the form of a so-called “numerical” equality and proportion (cf. Aristotle, *Nicomachean Ethics*, V 6, 1131 a 33 ff) between the damage caused and the compensation awarded. Yet the characteristics of the perpetrator and the conditions that led him to the criminal act are not taken into account, except for some general considerations regarding his capacity for imputability and the degree of his criminal responsibility. Consequently, factors which have led to criminal behaviour, such as the perpetrator’s poor financial situation, do not seem to play an important role in his criminal treatment, even though coping with these factors could certainly contribute to the elimination or reduction of such criminal acts in the future.

During times of profound crisis at all levels (financial, moral and ethical), the chapter argues that there is a need for more than simple offender–victim conciliation in the form of restorative justice and just deserts. The chapter aims to contribute to the volume’s ambition for pushing the boundaries of criminology and restorative justice by arguing that the need for this spirit of reconciliation and solidarity between persons involved in a criminal act should be extended to the benefit of all those who are experiencing hard times and may, therefore, in their deprivation and frustration, be led to committing crime or to suffering from it. In other words, in view of the current difficult financial conditions, a new form of justice is required to fill this existing gap by embracing the two aforementioned fundamental concepts of social solidarity and meritocratic fairness. Besides, this kind of justice could also be appropriate for healing at a more general level society’s wounds relating to crisis and distress. Put another way, when it comes to restorative justice, it should not be just about the victim and the offender in the narrow sense.

The chapter is divided into three main sections. The first aims to unravel the concept of social justice, putting it within the context of our current reality and societies. The second section proceeds to explain how social justice can be achieved by putting an emphasis on socially and economically disadvantaged groups. The third section aims at introducing our social justice notion into contemporary criminal justice policy. The chapter argues that social justice can be incorporated through four routes: legislation, sentencing, correctional services and finally and more importantly, social prevention. We conclude with some critical remarks for the restorative justice movement, which must open up its doors to social justice and its wider aims for addressing economic disparities.

Understanding social justice

Social justice can be described as the shared space where the two concepts of restorative justice and just deserts meet. Social justice “may be broadly understood as the fair and compassionate distribution of the fruits of economic growth” (International Forum for Social Development of the United Nations, 2006: 7).² Consequently, social justice has two main aspects and serves, at the same time, two main purposes.

2 www.un.org/esa/socdev/documents/ifsd/SocialJustice.pdf.

First, social justice focuses on social solidarity and humanism, having therefore as a main objective the idea of helping others in a spirit of love and “compassion”, and even of offering our belongings to those in need.³ Second, this same notion of social justice contains the idea of meritocratic fairness, which prioritises excellence and encourages each individual to develop their abilities and skills in order to overcome oneself and build a better future at a personal level. Meritocracy contains here a specific sense: According to Aristotle, it provides equality for those who are equal and inequality for those who are unequal (*Politics*, III 5, 1280 a 12 ff. and 1282 b 22 ff.). This kind of “deserved equality” means that emphasis is placed on the specific characteristics of each individual so as to achieve, in accordance with the relevant teaching of the same philosopher, the goal of distributive justice and of a so-called “geometric” equality (*Nicomachean Ethics*, V 6, 1131 b 15 ff, VII, 1132 a 3 ff).

At a more general level, but almost similar in effect, justice, according to David Miller in his book *Principles of Social Justice* (2003: 207 ff., 134 ff., 232), has three major principles and pillars: (a) need (one is lacking in basic necessities and one’s capacity to function is being impeded); (b) desert (one earns reward based on performance); and (c) equality (society regards and treats its citizens as equals, so that certain rights should be distributed equally) – (cf. Caravelis and Robinson, 2016, 20 and Capeheart and Milovanovic, 2007, 41 ff.). The idea that equality is also a pillar of justice is in principle correct. However, apart from some specific civil and political rights which must be recognized equally for all citizens, (irrespective of their race, ethnicity, gender, etc.), all other available resources and disadvantages in society have to be distributed on the basis of particular characteristics of these citizens, depending each time on the circumstances – hence mainly on the basis of their needs and their desert.

Obviously, these two criteria and purposes (needs and just desert) conceal in the last analysis two opposing world views. In fact, in their extreme forms, they are contradictory to one another and, when disconnected from each other, create more problems than the ones they solve. The idea of helping others in view of their needs, detached from the motivation of rewarding those who are talented, can lead to a society where citizens have no incentives for excellence and who consequently, instead of working hard, will be expecting help from others and the state. On the other hand, desert and excellence alone encourage an attitude of extreme individualism. This individualistic approach implies, in particular, that everyone must be interested only in themselves, and, essentially, to such an extent that the ideas of social cohesion and social offering are deprived of every substantive content and value. Nevertheless, this view has been particularly expressed by the libertarian Robert Nozick in his book *Anarchy, State and Utopia* (1974: 150 ff.), where he considers the redistribution of income through progressive taxation as “theft” and even “servitude” imposed by the government.

A bridging and creative synthesis of these opposing approaches and world views is therefore essential, also because they are both indispensable for a well-functioning society. Besides, these two counterbalancing views tend to disguise a more general conflict between idealism and utilitarianism, or even between equality and freedom, especially in the form of an opposition between socialism and (neo)liberalism. Furthermore, such controversies can also be detected in the interpretation of legal rules, where the principles of natural law and *equitas* in the sense of Aristotle (*Nicomachean Ethics*, V 15, 1137 b 16 ff.) contradict the so-called legal positivism.

3 Cf. under this aspect: Malekian, 2017: esp. 217 ff. and furthermore Rawls, 1971: 191–192, who considers the so called “love of mankind” as prompting to acts of supererogation and as binding a community of persons together, quoted in Malekian, 2017, 29.

Hence, a crucial question arises: in which way can social justice contribute to the bridging of these contradictions? The chapter argues that this can be achieved if some limits are set concerning both approaches and if the one eventually influences the other in a positive way so as to jointly create an organic whole.

With respect to the *concept of humanism (and social solidarity)*, the limit is to ensure a basic level of living and dignity for our fellow citizens, both at a national and an international level. Obviously, this concerns mainly the vulnerable social groups (e.g. unemployed and homeless people, economic migrants, drug-dependents, inmates that have been released from prison). In the case of these people, solidarity does not constitute a form of generosity within the social state but an important obligation of the state, particularly related to securing citizens' basic social rights, such as education, health and social security services, employment and housing opportunities, protection of children and of the elderly. John Rawls's development of the Difference Principle (*A Theory of Justice*, Harvard University Press, 1971, § 26) provides us with some insight as to how this solidarity in favour of our weak, unqualified fellow citizens can be achieved.

However, this theory was formed back in the 1970s, when economic development in European countries was still unhindered and there was consistent funding of the social state's institutions. Yet nowadays economic conditions have deteriorated dramatically, and a more general phenomenon of impoverished social groups is observed, especially in Southern European countries. Consequently, a new and innovative proposal is required to support these groups and reduce the great economic inequality in society which can lead to crime and to social unrest. This kind of proposal and one with such an objective unfortunately is not found in Rawls's work, even if the influence of this work in modern political philosophy cannot be denied and its ideas are still broadly discussed whenever social justice is at stake (cf. Clayton and Williams (Eds.), 2004, in particular the contributions of Robert Nozick, Ronald Dworkin, G.A. Cohen, Elizabeth S. Anderson and David Miller – Amartya Sen could also be included here!). In particular, the work of Rawls constitutes, according to a pertinent remark, an "ideal theory" and not an approach of how, for example, to organize social institutions in societies with a serious scarcity of resources (Meyer and Sanklecha, 2016: 16).

Furthermore, with respect to the *concept of excellence (and meritocracy)*, the limit is to ensure equal opportunities for all citizens from the beginning of their careers onwards. An important condition for the achievement of this goal is of course to ensure the adequacy of the aforementioned services of education, healthcare and so on, which are related to the social rights and the social state's function. Moreover, what is also crucial is to combat and, if possible, to eliminate the conditions that favour lack of meritocracy, such as clientele relations and corruption. In addition, equally important is to address the factors that give rise to corruption, for instance, the multitude of laws, the bureaucracy, the lack of employee assessment and accountability, maladministration and impunity for duty offences as well as the lack of public sensibilisation, especially of young people, concerning these issues.

Achieving social justice

Social justice attempts to bring together, in a spirit of humanism and meritocracy, (a) a decent standard of living for the members of a society, especially the vulnerable ones, by enhancing their social rights (Kant refers, here, to man's need for being *sui juris*) (1798, in the edition of 1968: 345), and (b) the possibility of equal opportunities at an educational and a professional level for those aspiring to improve their social situation. On this occasion, it is useful to underline here that this equality of opportunity should not be limited to economic equality and justice. Instead, it should also aim, to some extent, at the equality of outcome, even by means of a

radical redistribution of income (e.g. by imposing high inheritance taxes). In this way, necessary resources can be provided to offer support, through state scholarships or working capital at the beginning of a professional career, to individuals whose skills and abilities have already become evident during school and higher education. Although this synthesis cannot easily be addressed, one could take into account, on a practical level, the Copenhagen Declaration and Program of Action (1995).⁴ This is a thorough and comprehensive programme concerning the ways in which the vulnerable social groups, as well as the countries within which they are found, can be supported without putting economic growth at risk.

It is obvious that the synthesis of these two approaches, (i.e. the humanistic and the meritocratic), within the conceptual framework of social justice, is characterised by fragility, due to difficult balances that must be achieved every time. However, this is a synthesis that constitutes the optimal form of justice, because it combines all the positive aspects of opposing conditions and interests, eventually going back to and even tackling the primary conflict between the community and the individual, or between collectivism and individualism.

At a political level, a substantive form of this Hegelian “synthesis” (or of the “harmony” in the terminology of Heraclitus) could be found in the ideology of social democracy and social liberalism, as a “centrist” reconciliation between socialism and (neo)liberalism. Moreover, at a financial level, a similar form of this synthesis is observed in the successful model of *soziale Marktwirtschaft*, which has been, for decades, the theoretical foundation of the economic policy of the Federal Republic of Germany.⁵ Similarly, some of the so-called “mixed economy theories” have been set forth within the same theoretical framework.

However, it should be noted that social justice, although a result of a synthesis between socialism and (neo)liberalism, does not necessarily coincide with the political “centre” and social democracy. Instead, social justice should mainly be understood as overcoming the traditional division between the left and the right, which goes back to the French Revolution in 1789, and as putting the priority on “pragmatic” policies (“Realpolitik”!) that are primarily based on the effective and efficient management of power. This is the case, as it seems, with the governments that the French President Emmanuel Macron formed from 2017 onwards and, to a lesser extent, with the governments of the English statesman Tony Blair: during the ten years of his premiership (1997–2007), and in the spirit of the so-called “Third Way”, he advocated social justice, cohesion, the equal worth of each citizen, and equal opportunity combined with an emphasis of personal responsibility.⁶

Social justice is an archetypical notion, having therefore an idealistic character and concerns societies and economies studied by scholars under so-called “laboratory conditions”. On the contrary, in real contemporary societies, and especially in societies undergoing an economic crisis or distress, conditions are in a state of flux and, therefore, models are required which would be able to harmonize the proper degree of humanism and meritocracy with the respective given circumstances. When the primary focus in a society is on the economic development and on the increase of the gross domestic product, (neo)liberal policies and wealth accumulation evidently come to the forefront so as to create big, powerful businesses that will not only survive but will also prevail in the intense international competition. But once a country’s position in the regional and international economic environment is established, it becomes feasible for socialist, or social-democratic, policies to then be applied in order to achieve a fairer

4 www.un.org/esa/socdev/wssd/text-version/.

5 cf. https://de.wikipedia.org/wiki/Soziale_Marktwirtschaft.

6 – cf. https://en.wikipedia.org/wiki/Third_Way; see also Cook, 2006, esp. pp. 67 ff., where criminal policy of the Blair administration is assessed.

distribution of the already accumulated wealth (i.e. of the big “wealth pie”), especially in favour of the vulnerable social groups.

Finally, if economic development has been established, but its maintenance is put at risk due to conditions of crisis or distress, then a new model becomes essential, which may take a more complex form, combining the two main political systems (i.e. (neo)liberalism and socialism). Such a model would pursue the target of distribution of social wealth with concern to vulnerable social groups so that they do not become impoverished but also without causing any serious impact on the market economy. Achieving this fragile objective is indeed difficult, but it is probably the only solution to the problems triggered by a breaking crisis.

Introducing social justice into criminal justice policy and practice

We are now ready to turn to the question of the possibilities for social justice to help in the planning and implementation of an effective criminal policy at the legislative, judicial (sentencing) and correctional levels as well as in the social prevention of crime. We also ask what the problems are which should be taken into consideration in such an endeavour.

Social justice at the legislative level

At a legislative level, there are institutions that reinforce the idea of social solidarity and humanism, while at the same time there are other institutions that attempt to prevent any unequal treatment of citizens, thus emphasizing the promotion of meritocracy.

With respect to the first part of the issue just mentioned (i.e. social solidarity and humanism), criminal law penalizes the behaviour of any person who does not show solidarity with their fellow citizens and who is not willing to protect them from life-threatening danger, as long as he/she can do it without risking his/ her own life or health (e.g. see – cf. art. 307 Greek Penal Code and art. 422b ff. Belgian Penal Code; see also Feinberg, 1984, 165 ff). Furthermore, the punishment becomes more severe when the person who fails to take such an action has a special legal obligation to do so (e.g. a father who is able to swim and does not do so to save his child from drowning is liable for intentional homicide (cf. art 15 Greek Penal Code and § 13 German Penal Code). In addition, a criminal sanction can be inflicted if a person fails to offer the assistance requested in the case of a fatal accident, of a common danger or of general emergency, provided that this assistance may be offered without putting themselves in substantial danger (cf. art. 288 para. 2 Greek Penal Code and § 323c German Penal Code). Finally, punishment is also imposed on anyone who, in the case of self-defence, exceeds the limits of its proper exercise and badly injures, for instance, a child or a mentally disabled person who steals something from their garden. Apparently, such an act is contrary to the prerequisite of solidarity towards vulnerable persons and furthermore violates the principle of proportionality, which of course plays a decisive role in most legal relations (cf. art. 22 Greek Penal Code and § 32 German Penal Code).

At a more general level, social solidarity and social justice are also recognized as primary principles. In fact, some constitutions, such as the Italian (article 2) and the Greek (article 25 para. 4) ones, stipulate that the state has the right to claim of all citizens to fulfil the duty of social and national solidarity. Moreover, in the existing Treaty of the European Union (article 3 para. 3) there is a clear reference to the obligation of the European Union to promote, *inter alia*, “social justice and protection”.⁷ Likewise, of particular importance, at the level of soft-law,

7 www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-1-common-provisions/4-article-3.html.

is the provision (art. 1) of the Universal Declaration of Human Rights (1948), under which people must treat each other in a spirit of brotherhood.⁸ It is noteworthy to recall that brotherhood (fraternité) was also one of the principles of the French Revolution of 1789, along with freedom and equality.

Apart from penal regulations concerning social solidarity, there are also relevant institutions which seek to ensure an equal and meritocratic treatment in the distribution of tax burdens in proportion to the citizens' means (cf. article 13 of the Declaration of the Rights of Man and of the Citizen, 1789)⁹. The violation of the relevant provisions because of tax evasion has serious implications and, in the case of Greece, it can even lead to felony sentencing, especially if it exceeds a certain amount of money (art. 8, Law-Nr. 4337/2015) and/or occurs concurrently with the offence of money-laundering. Under this aspect, legislation on taxation indeed attempts to moderate economic inequality and, therefore to enhance social justice. However, this rule is reversed when legislation leaves room for tax avoidance, as happens, for example, when an offshore company is established, particularly in the so-called "tax havens" (cf. Zucman, 2013). As a result of this legislative loophole, a lot of wealthy taxpayers avoid paying taxes "according to the law", while, on the other hand, the majority of the tax burden is placed on those whose income cannot be hidden (mainly salaried employees and pensioners).

Similar problems of legislative inequality in the treatment of citizens, in the context of criminal legislation, arise with regard to financial crimes. The inequality in this domain was stressed particularly by Edwin Sutherland in his well-known theory of white-collar crime back in 1939 (see his paper "White-Collar Criminality", published in *American Sociological Review*, 5: 1940, 1–12). According to this theory, financial crime, at least in the United States, is not always primarily treated on the basis of criminal provisions (instead, administrative regulations and fines are preferred). In addition, even when treatment is of a criminal nature, the penalties provided are not severe enough and rarely lead to the perpetrators' imprisonment, even in cases where the damage caused may be particularly great.

However, it needs to be acknowledged that over the last few years, due to the financial crisis, this lenient legislative approach towards financial crimes has changed, and several prominent businessmen have already been convicted and imprisoned in the US and elsewhere because of fraud, stock market manipulation and so on.¹⁰ This is a positive evolution, given that society cannot be lenient to persons who, exploiting their high socio-economic situation, violate important laws, thus giving a bad example to the others. In contrast, persons from vulnerable social groups should be treated in a more lenient manner, since they usually do not bear alone the whole responsibility for their illegal acts. Most of them, according to research, have faced problems during their childhood and afterwards, being excluded from school, finding no work as adults and consequently having little or no legal income.¹¹

Issues of inequality may also be observed at other levels of criminal repression, thus violating the principles of social justice.

8 www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf.

9 https://fr.wikipedia.org/wiki/Imp%C3%B4t_progressif and <https://de.wikipedia.org/wiki/Steuerprogression#Deutschland>.

10 <http://money.cnn.com/2016/04/28/news/companies/bankers-prison/>.

11 – cf. a *Home Office* white paper published in February 2001 under the title: *Criminal Justice: The Way Ahead*, p. 41, also accessible online: www.gov.uk/government/uploads/system/uploads/attachment_data/file/250876/5074.pdf.

Social justice at the sentencing level

At the level of sentencing, an important question arises as to whether judges, prosecutors, police officers and other law enforcement officials are guided or not in their judgements by a spirit of solidarity and equity in favour of the socially marginalised defendants who belong to vulnerable social groups and deserve some special support so as not to relapse.

According to some scholars, especially those supporting the ideas of “Radical Criminology”, the competent law enforcement officials neither treat the less-favoured citizens in a spirit of solidarity, nor behave in a spirit of impartiality and fairness towards the wealthy citizens.¹² However, research in some European countries reveals that things are more complex. In particular, according to the results of various studies on this topic, it seems that a basic “extra-legal” factor that influences the behaviour of law enforcement agencies is whether the suspect or defendant meets the characteristics of a “socially integrated person”. This means that judges or other law enforcement officials are more lenient if the defendant has a permanent job (even if the person is poor!), has never before had any issues with the law, has a family and, in general, neither causes any problems in society nor is likely to create such problems in the future by committing new criminal acts (cf. mainly the research findings of Pollück, 1977: 282 ff., of Blankenburg, Sessar, and Steffen, 1978: 268 ff., 292–294, 302 ff. and of Kapardis, 2014, 185–199).

Certainly, this perspective does not satisfy those who would like to see a stronger spirit of solidarity, equity and “gentleness” in the treatment of suffering people by the law enforcement agencies. But even so, it would be difficult for these judicial and police officials to be proved to be prejudiced against a suspect or defendant who simply has a low socio-economic situation. However, the situation seems to be different in the United States, where there are strong indications that “unwarranted racial disparities persist”, especially if the perpetrator or the victim is African American (Reamer, 2014, 276 ff.) or Latino (Caravelis and Robinson, 2016, 138 ff., 260 ff; cf. on this topic: Reiman and Leighton, 2012, Wacquant, 2009, Spohn, 2009; see also the findings of a research conducted in Canada: *National Council of Welfare*, 2009).¹³

Furthermore, it seems that the objections of those who believe that the court cases of socially powerful defendants in financial crimes rarely lead to their conviction or severe punishment are rather valid. In fact, during the trial of such cases, the well-paid lawyers of the defendants, who are presumed to be experienced, socially connected and with excellent legal education, usually do have the knowledge to find out and emphasize the deficiencies, obscurities and gaps of the law to be applied. As a result, in such cases the defendant cannot easily be found guilty “beyond a reasonable doubt” and hence be convicted. On the contrary, it is more likely to be declared innocent “because of doubts”.

Moreover, in the case of financial crimes, legislation lacks the required vigour to tackle them, while further difficulties also arise during the procuring of evidence, and this mainly for two reasons: Firstly, because, usually, the “objective causal connection” between a defendant’s conduct and its result cannot easily and firmly be established (for example, that the sea environment was polluted by wastewater as a result of activities of a specific factory and, further, as a result of activities of a specific individual). Secondly, it is difficult to find plaintiffs, witnesses for the prosecution or experts who are willing to get involved in disputes on economic interests of great importance and to give evidence against powerful businesspersons before the court. Along with these facts, the usually “positive” background of financially prominent defendants

12 cf. https://en.wikipedia.org/wiki/Radical_criminology.

13 www.oaith.ca/assets/files/Publications/justice_andthe_poor.pdf

may be taken into consideration by the judges as well, also for the reason that these businesspersons provide employment to dozens or even hundreds of workers and consequently appear as the “pillars of society”, even when their actions demonstrate that in essence they are primarily interested only in themselves and in their profit.

Social justice at the correctional level

Finally, at the correctional level (i.e. when the criminal decision is issued and the convicted criminal has to be imprisoned or has to serve a non-custodial sanction), social justice can be essential, both for social solidarity and meritocratic fairness. Indeed, social solidarity may be evinced if convicts are given all the possible opportunities to develop their personality and improve themselves. On the other hand, meritocratic fairness and impartiality are ensured if correctional officers treat the convict the same as they treat other prisoners as well as if convicts’ personalities are fully respected, irrespective of their socio-economic situation. In view of this double function of social justice at the correctional stage, one could make a parallel to the two classical models of correctional policy, that is, respectively: (a) the *welfare model*, which places emphasis on the social reintegration of the prisoner through education and appropriate treatment and support by the society, and (b) the *justice model*, which focuses on respecting the prisoner’s rights, and, furthermore, on ensuring the conditions necessary for their decent and equitable living in prison or, in less severe cases, on serving properly a non-custodial sanction (for example a community service order).

These remarks should be considered along with the critical question concerning whether the treatment of prisoners is affected by factors relating to their socio-economic situation (i.e. if prisoners facing financial difficulties receive less favourable treatment by correctional officers than those of a higher economic status). At this point, it should be mentioned that research on this topic is, generally, limited due to the “dark figure” of existing evidence. More specifically, prisoners tend to avoid making complaints about any discriminatory behaviour against them in fear of the consequences. As a result, the number of reported incidents of prisoners’ unfavourable treatment by correctional officers is usually small. Furthermore, it is just recently –mainly due to the financial crisis – that eminent politicians or businesspersons in the US and elsewhere, even as a result of “scapegoating”, have been sent to prison for serious financial crimes, usually connected with fraud or with corruption (rake-off) committed on the occasion of armament programmes or of public works.

Although the number of prisoners that have been sent to prison in such cases is still relatively small, these new developments create the conditions for further, more thorough research as concerns the question whether the way in which prisoners are treated by the correctional officers may be influenced by their socio-economic situation, in violation of the internal and international regulations which protect the rights of prisoners (cf. on such research: Stadler/Benson/ Cullen, 2013; Logan, 2015).

Social justice at the social prevention level

The two basic principles of social justice (i.e. social solidarity and meritocratic fairness) may contribute decisively in two respective directions: that citizens of vulnerable social groups could be prevented become impoverished, while at the same time talented citizens would gain prominence within a wider framework of opportunities and mobility, similar to what Plato had envisioned in his allegories in *The Republic* (415 a 1 ff.).

Actions that might be taken by governments towards social prevention of crime can move in a double direction. Firstly, actions can improve the opportunities for housing, education, healthcare services, social care and protection of children and of the elderly, while ensuring employment opportunities for all social groups and especially for the vulnerable ones. Secondly, actions can combat lack of meritocracy, clientele relations and corruption, as well as the factors which lead to these phenomena (cf. Kapardis and Courakis, 2016). In such cases, the recruitment or the promotion of an employee through acquaintances or political intervention, but also the assignment of a public work and the issuance of a permit for investment following a transaction with the state service, can reasonably lead to the malfunctioning of society and eventually to the gradual decline of the whole state, where such situations are fostered.

Among the previously mentioned actions, those concerning the latter issue of fight against lack of meritocracy do not require any significant financial cost. Instead, what is needed is political will for the better functioning of public administration and, mainly, for having a confrontation on the part of political leaders with the mentality of patronage and favouritism, which is primarily promoted by trade-unionists, suppliers of the state and strong local politicians. This ought to be, obviously, an acute confrontation, the outcome of which is uncertain. Yet its undertaking and carrying out is essential, especially in Southern European countries, in order for them to achieve the necessary modernization which will set the pace for the 21st century.

Conversely, the measures aimed at achieving a decent standard of living entail various problems and require a considerable budget, which is, indeed, hard to find in the current time of financial distress. In addition, things are even more difficult in these countries, due to a high level of unemployment and of impoverishment of large groups of the population, even of scholars, which started taking place in the 1990s. This situation has been mainly the result of some new worldwide developments which unfortunately cannot be reversed, such as the further opening of markets (globalisation) and the subsequent growth of multinational enterprises, in connection with the competitive low wages of other countries which are in a state of rapid development (India, China, Korea, etc.) and the predominance of new technologies favouring computerisation/“robotisation” of work and thus eliminating a lot of jobs.

However, the problem of securing resources in favour of vulnerable social groups could be resolved to a great extent, and this could be done without requiring citizens to pay an excessive amount of taxes or suffer retrenchments in salaries and pensions. This would be the case if the public administration could function more appropriately and if patronage together with corruption could be drastically reduced, in accordance with what has been stated earlier. More specifically, a state can certainly attract significant investments, so that thousands of new jobs can be created, if it creates a mechanism by which (a) there are no bureaucracy, clientele relations and corruption, (b) nearly all transactions are done electronically through computers – as seems to occur, for example, in Estonia, (c) there exists a stable, investor-friendly tax system and an equally stable and attractive level of interest rates and (d) all transactions rely on the state’s trustworthiness. As a result, these measures may conduce to better standards of living and may equally strengthen citizens’ confidence in meritocracy. Besides, from the angle of criminal policy, a great part of offences which can be attributed to bad living conditions and to anomic situations might be diminished.

A redistribution of wealth through progressive taxation may enhance social justice. Nevertheless, special attention needs to be paid to how to achieve this objective. Indeed, there is a danger that, under such political initiatives, the incentives of the individuals who have both the ability and willingness to build wealth and, hence, to contribute to the economic growth of their country will become weaker or will even be wiped out. It is, thus, likely that the continuous and oppressive taxation of those who build the national wealth will result,

according to an astute and popular idiom, in “killing the goose that lays the golden egg”. Therefore, a pertinent combination of measures is required so that a decent standard of living is ensured without, however, compromising economic growth. This is a difficult undertaking, just like social justice itself, especially in times of distress, when extreme political views and populism may be developed and distort the balance which is necessary for obtaining the optimal result. However, the objective of social justice is worth pursuing, all the more because this is the only way to achieve, in this currently competitive world, a more humane and socially fair society.

Concluding thoughts

We are currently experiencing considerable disparities in the distribution of wealth and power. The recent economic crisis has exacerbated the need for a more equal society. Therefore, the vision for a society that is focused on goals such as combating socio-economic disparities and providing substantial opportunities to all members of society can be a primary objective, worthy of captivating us. Restorative justice has emerged from ancient traditions to teach us in both theory and practice that the victim and the community must also be prioritized alongside the need for just deserts and offender rehabilitation. There has been a plethora of papers and projects on restorative justice, and yet its potential for moving beyond the direct and indirect parties in conflict have been limited. This chapter challenges current thinking and writing by arguing that the new target for criminal justice policy and practice should be social justice. It also argues that restorative justice must move into new project areas – first, for a fairer, meritocratic distribution of social goods, and second, for greater solidarity towards the weaker members of society. We are referring here to all the socially marginalized and often impoverished groups of people, who are scientifically characterized as “weak” or “vulnerable” or “socially excluded” and who try, with great courage, to survive without surmounting the threshold of criminal law, although, according to research, the situation is not always encouraging.¹⁴

Similarly, there is a need to assist crime victims who suffer from the consequences of an illegal, punishable behaviour against them and who are sometimes unable, due to their financial condition, to participate in a process and claim the restoration of their damage. Apart from securing to these persons a legal aid, so that they can present their claims before the court, a further idea which could be helpful to them is that the state compensate such poor victims via a fund which would be financed by a part of the fines that the convicts pay by court decision to the state for their offences.

If one of the aims of criminal justice policy is to generate solutions to the problems of crime, then it should not solely be limited to facilitating the repair of damage and the conciliation of victim and perpetrator. We have argued that one of the primary aims of criminal justice policy should be to address the causative factors of crime, socio-economic inequalities and other forms of injustice which trigger social reactions, attitudes and a sequence of serious criminal acts (see also Aristotle’s *Politics* V. 1301 b 27, 1301 a 32 ff., 1266 b 40). Put another way, restorative justice in its current normative and implementation form is inadequate in helping criminal justice policy to achieve its new goal around socio-economic inequality. We have proposed a “restorative justice plus” version, which we have referred to as “social justice” and extends beyond the criminal justice system.

¹⁴ For example in the UK, “crime increased dramatically during the same period that rates of relative poverty escalated” (Garside, 2006, 46).

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