



This is a repository copy of *An area of untapped potential? The use of restorative justice in the fight against serious and organized crime : a perception study.*

White Rose Research Online URL for this paper:
<https://eprints.whiterose.ac.uk/148327/>

Version: Accepted Version

Article:

D'Souza, N. and L'Hoiry, X. orcid.org/0000-0001-9138-7666 (2021) An area of untapped potential? The use of restorative justice in the fight against serious and organized crime : a perception study. *Criminology & Criminal Justice*, 21 (2). pp. 224-241. ISSN 1748-8958

<https://doi.org/10.1177/1748895819858379>

D'Souza N, L'Hoiry X. An area of untapped potential? The use of restorative justice in the fight against serious and organized crime: A perception study. *Criminology & Criminal Justice*. 2021;21(2):224-241. Copyright © 2019 The Author(s). DOI: <https://doi.org/10.1177/1748895819858379>. Article available under the terms of the CC-BY-NC-ND licence (<https://creativecommons.org/licenses/by-nc-nd/4.0/>).

Reuse

This article is distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivs (CC BY-NC-ND) licence. This licence only allows you to download this work and share it with others as long as you credit the authors, but you can't change the article in any way or use it commercially. More information and the full terms of the licence here: <https://creativecommons.org/licenses/>

Takedown

If you consider content in White Rose Research Online to be in breach of UK law, please notify us by emailing eprints@whiterose.ac.uk including the URL of the record and the reason for the withdrawal request.



eprints@whiterose.ac.uk
<https://eprints.whiterose.ac.uk/>

An area of untapped potential? The use of restorative justice in the fight against serious and organised crime: a perception study

Nikki D'Souza (Durham Constabulary and University of Sheffield) & Dr Xavier L'Hoiry (University of Sheffield)

Abstract: This paper presents the results of a perception study which examined the potential for deploying Restorative Justice (RJ) in the context of Serious and Organised Crime (SOC) offending. This is a hitherto unexplored area of debate and the study sought to engage the key stakeholders in RJ processes – victims, offenders and practitioners – to gather their views as to the suitability and desirability of extending RJ in this way. Employing a mixed methods approach, the study engaged over 40 participants across the three stakeholder groups. The findings challenge existing, deeply-embedded orthodoxies concerning the very nature of SOC offending and offenders' motivations, as well confirming the multiplicity of SOC victims' expectations. The findings also demonstrate the urgent need for further debate concerning how best to account for the complexity of SOC victims' needs which are currently unmet by the systemic limits of the criminal justice system.

Keywords: restorative justice, restorative approaches, serious and organised crime, local policing, offenders, victims

Nikki D'Souza works for Durham Constabulary and is pursuing a PhD at the University of Sheffield focusing further on the feasibility of applying restorative approaches in the serious and organised crime context.

Email: Nikki.DSouza@durham.pnn.police.uk or NDSouza2@sheffield.ac.uk

Dr Xavier L'Hoiry is a Lecturer in Criminology and Social Policy at the Department of Sociological Studies, University of Sheffield. His research interests focus on organised crime, illicit entrepreneurship, policing and surveillance.

Email: x.lhoiry@sheffield.ac.uk

Tel: 0114 222 6404

An area of untapped potential? The use of restorative justice in the fight against serious and organised crime: a perception study¹²

Introduction

Restorative justice (RJ) interventions have grown exponentially in criminal justice and are now commonly considered to result in a range of beneficial outcomes for all parties involved. In the United Kingdom, RJ is defined by the Restorative Justice Council as bringing ‘those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward’ (RJC 2016). Participants in RJ processes report significant satisfaction rates underpinned by a multitude of positive outcomes (Strang et al 2013). For victims, participation in RJ often results in feelings of closure at least partly due to being given the opportunity to explain to offenders the impact of their crimes (Shapland et al 2006b). Offenders report that RJ offers the opportunity to ‘get on with life’ by apologising to victims and taking greater responsibility for their actions (Shapland et al 2006b: 64). RJ offers both offenders and victims pathways to ‘procedural justice’ (Daly 2004), within which all parties are able to express themselves fairly and respectfully. The economic argument in support of RJ is also compelling, with potential savings quoted as high as £275 million (Matrix Evidence 2009) when compared to the costs of adversarial processes. With these benefits in mind, there has been growing debate concerning the potential for RJ to be increasingly deployed in potentially challenging domains of offending where victim-offender dichotomies may be unclear or where the nature of victimhood is likely to be highly complex.

Though the focus of this paper is in the UK, RJ traces its origins internationally with indigenous justice systems in Canada, Australia and New Zealand heavily influential in the formation of RJ practices (Nancarrow 2006). In the 1970s, early incarnations of RJ could be found in the US and Canada, such as Victim Offender Reconciliation Programs rolled out in Kitchener, Ontario and Elkhart, Indiana (Dittenhoffer and Ericson 1983). The subsequent development of RJ can be seen worldwide, with the Centre for Justice and Reconciliation listing over 100 countries across all continents in which RJ activities are taking place (CJR 2019)³. Moreover, much of RJ’s innovative applications to challenging contexts of offending have taken place in locations as diverse as Australia, Colombia, Italy, Chile and elsewhere (see Bueno 2013; Braithwaite 2016). An international community of scholars and practitioners are therefore increasingly interested in exploring new applications of RJ, some of which we discuss below to contextualise our own proposed new application.

Responding to this growing interest, this paper presents the results of an exploratory study which sought to gather the views of offenders and victims of serious and organised crime activities about

¹ The study upon which this paper is based was funded by the N8 Policing Research Partnership as part of the Staff Exchange Strand. The final project report is available here: <http://n8prp.org.uk/wp-content/uploads/2017/07/RA-and-Organised-Crime-Offending-Final-Report-Branded.pdf>

² We wish to express our thanks to the following individuals who offered comments on previous drafts of this paper: Professor Joanna Shapland, Dr Mark Brown, Professor Nathan Hughes (all University of Sheffield), David Ashton (Durham Constabulary), Paul Richardson (Merseyside Constabulary) and Tracy Holyer (College of Policing). We also wish to thank Durham Constabulary for their access and support throughout the course of the study.

³ For more information on different RJ programmes across the world, see <http://restorativejustice.org/restorative-justice/about-restorative-justice/around-the-world/#sthash.eeGPHX0l.dpbs>.

the prospect of deploying RJ in the context of these offences. The study also collected the views of RJ practitioners to offer advice on its suitability, desirability and feasibility. We propose that an extension of RJ to a previously unexplored area of serious offending – Serious and Organised Crime (SOC) – should be considered, potentially allowing for parity with victims of non-SOC crime. We outline some of the academic critique of policing SOC in the UK before highlighting the growing recognition of the applicability of RJ in complex offending domains. We then present the methodological approach adopted in our research and present our findings. We conclude with a discussion of the implications of our findings, reflecting upon the pressing need for further dialogue on the utility of RJ in the SOC context.

Policing serious and organised crime in the UK

The policing of SOC has been subject to wide-ranging critique, from conceptual and definitional debates (Calderoni 2012), to discussions of operational responses (Harfield 2008). In the UK, the Serious Crime Act (2015) defines an organised crime group as ‘a group which has at its purpose, or as one of its purposes, the carrying on of criminal activities and consists of three or more people who agree to act together to further that purpose’. Other definitions often list the types of activities that encompass SOC, including drug trafficking, human trafficking, money laundering, fraud and extortion and, increasingly, cybercrime (UNODC 2018). SOC is portrayed as a significant challenge for law enforcement agencies globally and has been categorised as a constantly evolving national security threat, with highly resourceful groups exploiting opportunities presented by emerging technologies to advance their illicit profiteering (Europol 2017). Amidst this growing threat and the apocalyptic imagery surrounding some depictions of SOC, attempts to police SOC has been characterised as a long-running failure (Woodiwiss and Hobbs 2009). Governmental bodies and law enforcement agencies are variously accused of failing to grasp and keep up with the enormity of the SOC threat or, of exaggerating this ‘threat image’ (Van Duyne 2004) for their own ends, whatever these may be.

With this threat image firmly embedded within the policing landscape (Hobbs 2012), the UK law enforcement apparatus tasked with tackling SOC has been the subject of ongoing amalgamation and centralisation for many decades, reflecting the supposed evolution of SOC offending. After several iterations of organisational developments spanning over 50 years, the National Crime Agency (NCA) was established in 2013 as ‘a powerful new body of operational crime-fighters’ (Home Office 2010: 29). But the British government’s approach to combatting SOC has been subject to considerable criticism. At a conceptual level, Woodiwiss and Hobbs (2009) and Hobbs (2012) outline the ways in which successive British governments have depicted SOC as an immediate and present danger perpetrated by a series of societal ‘others’ which has created a moral panic, validating increasingly punitive law enforcement tactics which arguably impinge many civil liberties. Lavorgna and Sergi (2016) contend that the British governmental rhetoric around SOC has developed without clear definitions of terms such as ‘serious’ and ‘organised’. The result is that these ‘ambiguities around the notion of organised crime have been used in policy-making for producing consensus around increased resources and domestic powers... Arguably, defining a group of offenders as “organised” allows the approval of more intrusive and secretive investigative power’ (2016: 171).

These conceptual criticisms are supported by operational concerns. Stelfox (1998) criticised the trend of centralisation in that it ignores the fact that ‘local policing is probably the most appropriate response to the majority of organised crime found in the UK’ (1998: 405). Almost two decades on from

Stelfox's criticism, a Police Foundation (2017) report raised questions as to the effectiveness of policing SOC locally noting that local police 'efforts to target key OCG nominals... and legitimate businesses involved in facilitating organised crime are rare' (2017: 3). The report argues that despite the government's Serious and Organised Crime strategy promising to tackle SOC along a four-pronged approach of pursue, prevent, protect and prepare, 'the protect and prevent strands are underutilised, particularly the monitoring of vulnerable groups and community harm' (2017: 3). Harfield (2008) notes the policing 'gap' at local and regional levels as a result of the adoption of a vision of SOC as a transnational threat. Most recently, such concerns about ineffective or absent local policing responses have re-emerged as a result of ongoing cuts to neighbourhood policing which some senior officers have warned is likely to directly impact on the fight against SOC (Simpson 2018). Hence, while law enforcement agencies enjoy some notable successes in combating SOC, there remains considerable room for improvement and potentially innovation. We propose that RJ has the potential to play a key role here.

One facet of organised crime which has been problematised is the nature of victimhood in this type of offending. Theoretical perspectives of organised crime such as the illicit enterprise model (Reuter 1983), which conceptualise SOC activities as commercial exchanges between suppliers and consumers mirroring the licit economy, cast doubt on the nature of victimhood within such trading relationships. Previous research has highlighted SOC activities such as human smuggling and trafficking as presenting particularly complex notions of victimhood, partly due to the varying levels of consent and awareness of participants in these activities (Kleemans and Smit 2014). Other models of organised crime also challenge traditional offender-victim orthodoxies which may otherwise be unproblematic in other domains of offending. Hobbs's (1998) 'glocal' vision of SOC presents such activities as simultaneously taking place as part of global and local networks. But the increased focus on the globality of SOC has arguably displaced the notion of localised victimhood. Similarly, hierarchical models of SOC groups (i.e.: Cressey (1969) and others) suggest that some SOC offenders, insulated from 'street-level' activities, may be considerably physically removed from interacting with direct victims and hence their responsibility for the resultant victimhood may be ambiguous, such as drug traffickers who are removed from drug users and affected communities. As such, victimhood remains a problematic concept in this type of criminality and in the context of RJ interventions, the potential disconnect between SOC offenders and their victims may be particularly challenging.

Restorative justice and 'hard cases'

Recent years have seen the extension of applications of RJ to challenging contexts of offending. This expansion to a number of 'hard cases' (Hudson 2002: 616) has taken place despite concerns as to the ability of RJ to mould to domains in which victimhood (and offending) remains a highly challenging concept and whether RJ appropriately accounts for different types of victims and offenders. Such 'hard cases' have included terrorism (Bueno 2013), hate crime (Walters 2014), domestic violence (Nancarrow 2006), and sexual violence (McGlynn et al 2012). Some examples are discussed as we argue that they present many of the same perceived difficulties as SOC offending which may initially render them inappropriate for RJ. Specifically, these include inherent and perceived power imbalances between parties; the apparent remorselessness of offenders; and the multiplicity of victims.

In relation to terrorism, some have questioned whether these type of offences 'marks the limits of restorative justice' (Walgrave 2015: 282). Walgrave speculates that offenders may not wish to

participate in RJ while the multiplicity of victims presents additional challenges. However, research has suggested that RJ may indeed be appropriate here. Bueno (2013) argues that terrorist offenders in Colombia have shown a willingness to meet victims; and Braithwaite (2016) has noted the ‘inspiring’ and ‘pathbreaking’ work being undertaken in Italy, where restorative dialogues have taken place between terrorist groups such as the Red Brigades and the families of victims.

In relation to hate crimes, RJ appears to be increasingly proposed as a feasible and desirable option in some cases. Although hate crime is at times characterised as being inherently incompatible with RJ principles due to being an offence which ‘is dominated by an irreconcilable power imbalance’ (Gavrielides: 2012: 3627), recent research has suggested otherwise. Walters (2014) suggests that the use of RJ in this challenging context is feasible and indeed desirable, though he notes concerns around the lack of appropriate and robust training for some (police-based) facilitators as well as instances in which victims felt excluded as they had not been given the opportunity to speak directly to offenders. Umbreit and Ritter (2006), Umbreit et al (2003) and Coates et al (2006) have all also evidenced the various uses of RJ in this context and its successful application.

These examples are far from being exhaustive and are merely a snapshot of the RJ landscape. Debates around the use of RJ in these contexts are often vociferous, with some arguing that the highly complex and inhomogeneous nature of victimhood and offending renders RJ challenging at best and unsuitable at worst (Busch 2002; Stubbs 2007). Despite these critiques, the examples discussed above are presented to demonstrate that conflict and debate will inevitably arise whenever an expansion of RJ to a new context is proposed. Hence, we argue that the recent history of RJ being increasingly deployed in challenging domains of offending supports the *potential* for constructive discussions concerning the use of RJ in a new context: SOC offending.

Methods⁴

16 semi-structured interviews were undertaken at a dispersal prison in the UK (see Table 1). The North East Regional Specialist Operations Unit provided a list of all SOC prisoners who had been mapped using established mapping tools utilised by police forces. 37 offenders formed the eligible sample, of which 16 participated with 21 individuals declining for a variety of reasons.

<i>Offender Participant</i>	<i>Offence type</i>
01	Drug trafficking
02	Organised acquisitive crime
03	Organised environmental crime
04	Human trafficking and drug trafficking
05	Human trafficking
06	Drug trafficking
07	Money laundering
08	Fraud offences
09	Drug trafficking
010	Drug trafficking
011	Drug trafficking
012	Organised acquisitive crime
013	Drug trafficking

⁴ Nikki D’Souza completed all fieldwork as part of this research.

014	Drug trafficking
015	Drug trafficking
016	Drug trafficking

Table 1: Offender participants and offence type

13 SOC victims were interviewed (see Table 2). Victims were identified from the local force database as historical victims over the preceding two years from the commencement of the fieldwork phase. 16 SOC victims were approached; three individuals declined to take part. One of the victims (V13) was interviewed as a proxy victim - the participant was a local authority employee and represented an institutional victim of fraud.

<i>Victim Participant</i>	<i>Victim Offence</i>
V01	Organised acquisitive crime
V02	Organised acquisitive crime
V03	Organised acquisitive crime
V04	Organised acquisitive crime
V05	Organised acquisitive crime
V06	Organised acquisitive crime
V07	Organised acquisitive crime
V08	Organised acquisitive crime
V09	Assault ⁵
V10	Organised acquisitive crime
V11	Organised acquisitive crime
V12	Organised acquisitive crime
V13	Fraud

Table 2: Victim participants and the offences of which they were victims

Fifteen RJ practitioners were consulted via an open-ended answer questionnaire which was distributed via key contacts in relevant organisations (see Table 3). The questionnaire was sent via email to over 70 potential respondents. Participants had all received accredited RJ training with experience ranging from 4 months to 20 years. The questionnaire asked respondents to draw on their subject matter expertise to give their views of the desirability and suitability of using RJ in this context.

<i>Practitioner Participant</i>	<i>Affiliation</i>
P1	Restorative Solution CIC
P2	National Probation Service
P3	Local Authority Youth Offending Service (YOS)
P4	National Probation Service
P5	Office of the Police, Crime & Victims' Commissioner (OPCVC)
P6	OPCVC
P7	Police and YOS
P8	Transforming Conflict
P9	Local Authority YOS
P10	OPCVC
P11	Local Authority YOS
P12	Local Authority
P13	OPCVC

⁵ This victim participant was assaulted by a member of an organised crime group involved in a land dispute linked to their illicit activities.

P14	Restorative Justice Council
P15	Restorative Solutions

Table 3: RJ practitioner participants and their professional affiliations

The limits of confidentiality were outlined and assurances of anonymity given. Specialist support was agreed to ensure that any support needs for offenders and victims could be addressed in a timely manner. Interviews were audio recorded, transcribed and thematically analysed to determine if any common themes emerged. Some limitations of the research are evident. While sample sizes are small, SOC offenders are recognised as being a particularly hard-to-reach group (Hobbs and Antonopoulos 2014) reflecting the paucity of organised criminals willing to engage with researchers (see Bovenkerk 1995; Antonopoulos 2008). Likewise, (some) victims of SOC activities are often characterised as being exceptionally difficult to engage in research for a multitude of reasons (Hobbs and Antonopoulos 2014). In light of these challenging conditions, we reflect that the sample sizes are sufficient to open debate and stimulate further research. Relatedly, the study sought only the views of those SOC offenders who were serving prison sentences and may not represent the views of those SOC offenders living in the community.

Findings

Three key themes emerge across the responses of each group which we propose reflect foundational principles of RJ: RJ as an opportunity to overcome perceived barriers between offenders and victims; RJ as a vehicle through which victims' needs can be restored to the heart of the justice process; and RJ as a potentially transformative process through which offenders can gain understanding of the nature of their offending, the harms caused and the opportunities for reparation (Zehr and Mika 2004; Johnstone and Van Ness 2006). We return to these themes in our discussion of the findings below.

Offenders

Not a single offender claimed to have been offered the opportunity to participate in RJ in connection with their SOC offences, supporting the idea that RJ is rarely deployed in a SOC context. Despite this, nearly all (15 out of 16) offenders indicated a willingness to take part in RJ given the opportunity. One respondent typified the feeling of many:

“Yeah, 100 per cent... I think if I was definitely offered something along them lines I would have obviously took it because I was being remorseful [during the court process] without being offered something. So had I been offered [RJ], yeah, I'd have jumped at the chance.”
(013)

The significance of this finding should not be overlooked. A fundamental principle of any RJ intervention is that all parties should enter into the process willingly and voluntarily. Without this crucial pre-requisite, RJ cannot be deployed. Many popular (and law enforcement) visions of SOC depict individuals and groups bound by fiercely internal, secretive codes of conduct giving the impression that any form of dialogue about criminal activities would immediately be refused by SOC offenders. In stating a desire to participate in RJ, offenders overcame one of the first barriers of RJ events: showing the willingness to do so.

Offenders recognised both benefits to themselves (in terms of atoning for their offending) as well as benefits to victims, centred around seeking the opportunity to apologise to victims; wishing to

reassure victims that they were not personally targeted; and hoping to repair the harm caused to victims and communities by their offending.

“I'd say sorry and I'd try and explain that was my past and it wasn't personal against them. Because I think a lot of people in society think it's personal.” (016)

“I could prove that to the victims or to the people who knows me like, I know I've done something wrong and so forgive me, I just could ask for their forgiveness, that's the only thing I could say and got to give me like just in my heart I could say I've done something right, that I would never do this again.” (08)

Notably, these views reflect the anticipated outcomes echoed in previous research concerning RJ in non-SOC contexts (Shapland et al 2007). Offenders reported that participation may assist them to think more deeply about their offending with a view to shaping future behaviour as well as seeing RJ as an opportunity to reintegrate oneself into society upon release.

“Maybe [RJ] could be another way of thinking about what I was doing and how I was affecting people, because when I was younger obviously I didn't think like that and it's took until now for me to really regret what I've been doing.” (010)

“[If I took part in RJ] I would be accepted in the society where they see me another time they would say, 'oh, hello, hi'. But, at the minute, if they know [what I've done], they wouldn't even talk to me. So, I just want that acceptance in this community and society.” (08)

Notions of self-improvement, regret and the prospect of a crime-free life following release from prison featured heavily. None of the offenders discussed whether engaging in RJ would affect sentencing or parole decisions. Instead, their motivations to engage were based primarily around repairing harm to victims and improving their chances of avoiding reoffending upon release, echoing benefits of RJ on reducing re-offending identified in previous research (Shapland et al 2008; Sherman and Strang 2007). This suggests that the motivations of offenders in this study align with the proven benefits and key principles of RJ more generally.

However, offenders expressed worries over nervousness, embarrassment and the potentially overwhelming nature of facing one's victims, particularly when the type of offence committed may have impacted multiple victims.

“[My offending affected] so many victims, so I wouldn't be able to do it, every victim kind of thing, you know, like a one on one thing because I'd be saying the same thing to 30 people.” (04)

“I think there's a lot of embarrassment as well... Because where I live is a small town, so it's not like a big Manchester or a big Leeds or anything like that, a small town. But everybody knows that most of the heroin distribution would have been through me.” (016)

These views are not at odds with the concerns expressed by non-SOC offenders prior to participating in RJ according to previous research (Shapland et al 2007; Umbreit and Coates 1993). However, some offenders minimised their responsibility for their offending, employing various techniques of neutralisation (Sykes and Matza 1957) to diminish their own role and the impact of the harm caused.

For instance, several participants cited the notion of indirect (as opposed to direct) victims as a barrier to an RJ intervention. Those having committed drug trafficking offences explained that their offending took place at a remove from the 'street-level' and therefore did not impact any individual directly but rather indirectly as a result of the actions of other offenders. As such, they struggled to conceptualise who a victim of their offending might be and how such a victim would enter into an RJ process with them.

"I don't understand who my indirect victims are... I wasn't like street dealing. I just got caught up in a chain where I lent money to somebody else and et cetera et cetera so I didn't really understand who the victim in my case was." (06)

"I wasn't dealing on a street level. I was in for importation you see, so I wasn't actually dealing with the people that are the users as such. I was more dealing with suppliers." (011)

Further still, 5 out of the 16 offenders interviewed refuted the notion that their offending had caused any harm *whatsoever* by employing the rationale that all participants within their offending were willing consumers and/or co-offenders as opposed to victims. Such responses clearly employ denial of the victim and denial of harm strategies to minimise offenders' responsibility (Sykes and Matza 1957).

"If you're selling drugs just to your friends, they're going to go and get it off someone anyway. And then obviously there's no need for the restorative justice on that." (015)

[Discussing whether prostitutes should be classed as victims in a prostitution ring] "I haven't a clue, haven't a clue because these are people who have been in this life a long time... they've been prostitutes for a while." (04)

These responses may be problematic insofar as gauging the suitability of such individuals for RJ processes. Shapland et al (2006a) have argued that RJ situated in criminal justice usually proceeds when offenders have accepted responsibility for their offending, and although discussions within the event itself may be fluid, the allocation of the roles of offender and victim is 'pre-cast and cannot be rejected' (2006a: 509). When offenders begin to dilute their criminal responsibility - by denying all blame or by blaming co-offenders - significant problems in the RJ process may arise. Of the 285 RJ interventions they observed, Shapland et al (2006a) assert that the few which broke down were typically linked to denial of responsibility by offenders. However, such responses are not particularly unusual according to previous research. Shapland et al (2006b) note that a minority of offenders who partook in RJ 'minimised their culpability - by implicating others, refusing to accept that anyone had been harmed, or referring to their drug or alcohol dependency as having an effect on them committing the offence' (2006b: 55). Further, Antonopoulos and Winterdyk (2005) have argued that techniques of neutralization are often employed by SOC offenders who use various strategies to minimise their own negative perceptions of their offending. Nevertheless, Shapland et al's (2008) research also shows that within their sample, there was no statistical correlation between the level of responsibility offenders were willing to take for their actions and their re-offending rates after partaking in RJ. Rather, the *entire* experience of the RJ process is what appeared to affect future offending as opposed to offenders simply appearing to take responsibility for their actions. Thus, although some offenders in this study minimised their own responsibility, we argue this should not render them as unsuitable for RJ but rather points to the importance of the preparatory work necessary with offenders before any RJ process. It is a reality of SOC offending that some offences may appear disconnected from an

identifiable victim. This is something of a unique challenge since in the other examples of 'hard cases' outlined above, a clear connection between offender(s) and victim(s) typically exists. A key distinction for RJ applications to SOC may be between offenders accepting that they are guilty of an offence and offenders recognising they have caused harm to one or more victims, either directly or indirectly. We suggest that as an essential pre-requisite, offenders partaking in RJ for their SOC offending must accept they are guilty of the offence. From this starting point, entering into a RJ event with direct/indirect victims (or representatives thereof) may help offenders to comprehend the nature of their offending and their responsibility for perpetrating harm. Hence, RJ can be transformative even for serious offenders who initially fail to visualise those harmed by their offending. Perhaps these individuals may in fact benefit the most from entering into a dialogue with those impacted by their actions, as Sherman and Strang (2007) propose that RJ can act as a mechanism to overcome such challenges since 'fewer offenders will deny responsibility if offered the prospect of RJ than they do with CJ' (2007: 13).

Victims

Victims of SOC activities were very sceptical about the possibility of applying RJ processes to this type of offending, believing that offenders would be unwilling to take part; that RJ would be ineffective for SOC offenders; that any apology would be insincere; and that taking part in RJ may lead to further victimisation in the form of reprisals from associates of the offender(s).

"I don't think they would probably want to take part in it. I think it's probably a bit of a hassle for them and a bit of embarrassment as well. But I think they would benefit as well, as I've previously said, just knowing how much effort we put into a business and how hard it is. And they'll maybe think twice before committing a crime." (V06)

"I don't think you'd get them to do [RJ] actually, so I don't think they would gain anything. The type of people they are I don't think they'd want to." (V08)

"I just feel as though you might hit lucky with an odd one or two [offenders] doing it that way, but I think a lot of these criminals, that's how they make their living and they just don't know anything else." (V11)

These valid concerns need to be addressed as part of preparation, but we also argue that they are not significantly different from the worries expressed by victims in other contexts of offending. For instance, 1 in 4 victims in Umbreit and Coates's (1993) study stated their nervousness ahead of RJ while Strang et al report 'varying degrees' (2006: 303) of fear amongst victims prior to meeting their offenders, with the eventual result being almost universal victim satisfaction following RJ participation. With respect to expectations of apologies, the pessimistic views of victims in our study reflect the views of some victims in Shapland et al's (2007) sample, 29% of whom did not think an offender would apologise. This suggests the importance of preparatory work with victims, placing their concerns at the heart of the process but also explaining to them that these concerns are not entirely unusual and to explain that the history of RJ shows that they can be overcome.

Despite this, some victims identified benefits to taking part in RJ: 5 out of 13 victim interviewees indicated a willingness to engage in RJ if an offender was also willing to participate. While these participants still expressed reservations, they reflected that RJ would be worth trying if risk assessment

and safeguarding procedures were in place to account for their individual needs. They identified value in speaking to offenders and outlining the depth of the harm caused to them as well as trying to understand offenders' motivations.

"If you could get a better understanding from the offenders - there might be a lot of reasons why he done it, it might have been out of just complete desperation. I don't think so, because this wasn't a desperate act, this was planned. But the reasons behind it." (V10)

"I think it makes you feel a bit better knowing why they did it... Why is it victimised against us? But it's not necessarily us, it's not a personal approach." (V06)

As with offenders' expectations of RJ, these victim responses mirror many of the views of victims captured in previous research. Shapland et al (2007) report that 77% of the victims in their sample were motivated to take part in RJ in order to speak directly to their offenders and, echoing the responses above, 78% wished to ask questions about the offence itself. Likewise, Strang et al (2006) found that victims used RJ as an opportunity to assuage their fears and felt considerably better after being given the opportunity to ask the 'why me' question. Umbreit and Coates (1993) also report that victims wanted to relay the harmful effects of the crime as well as to ask questions about the offence specifically, which ultimately led to lower levels of fear among victims. By giving victims the opportunity to ask these questions and to elucidate the harm perpetrated upon them by offenders, RJ in a SOC context may not only potentially empower victims but inherently place their needs at the heart of the justice process. This crucial, victim-centric need is currently unmet by the absence of RJ in SOC cases.

Practitioners

RJ practitioners were very positive about the prospect of extending the use of RJ to SOC and 14 of 15 participants favoured deploying RJ in this context so long as extensive preparation and victim-centric risk assessments were conducted. One respondent echoed the views of many when he stated:

"[RJ] is an eclectic problem-solving tool and is only limited by the imagination of people who use the approach." (P1)

As a flexible tool, RJ was seen as ideally suited to innovative applications and since deploying RJ to a SOC context has not been systematically attempted to date, respondents argued that it is impossible to judge whether it will be successful or not.

"I believe that new concepts and approaches should be tried, how else can it be determined if they are to be successful?" (P2)

"I believe there is a place for [RJ] in almost all cases that come through the criminal justice system as long as they are carefully assessed and managed on an individual basis with careful planning and preparation and where the needs of all parties are paramount." (P9)

Respondents stated that RJ may help offenders to comprehend the consequences of what may be long-term and embedded offending, offering the possibility of considering and appreciating offenders' needs (Zehr and Mika 2004):

“Many offenders involved in organised crime may have become ‘closed off’ to the fact that what they are doing affects people at all levels and having to face up to this may be the one thing that sparks a change in their behaviour when other interventions have failed.” (P7)

Others argued that specific forms of RJ may be particularly useful to a SOC context, such as restorative circles (due to the impact of SOC offending on groups and communities) and shuttle mediation where victims may be reluctant to meet face-to-face. Practitioners also proposed that RJ may be a useful vehicle through which to engender community participation in combating SOC through the use of community representatives as proxies for the harm felt by communities. Here again, the link to foundational principles of RJ emerges, such as enabling ‘community members [to be] actively involved in doing justice’ and ensuring that ‘(t)he justice process draws from community resources and, in turn, contributes to the building and strengthening of community’ (Zehr and Mika 2004: 42). In this way, those SOC offenders claiming not to have ‘direct’ victims could in fact see the impact of their offences upon communities and neighbourhoods.

“I would seek out community leaders willing to come to a meeting, or record them in a restorative conversation about community impact.” (P5) “I have held [RJ] meetings where the community has been affected. This has involved local community reps such as councillors, neighbourhood policing teams and ASB officers who are able to represent the views of the community and highlight any issues, concerns and fears that are held by those members in the local community.” (P9)

Concerns expressed included the need for additional safeguarding to avoid repercussions and re-victimisation, requiring extensive preparatory work, risk assessment, the sharing of multi-agency intelligence and bespoke safeguarding. Attention also needs to be paid to the fact that many SOC offenders may in fact be victims themselves, a comment made by two respondents which is consistent with academic research (Siegel and de Blank 2010). A clear confidence gap amongst practitioners was also noted, questioning whether they held the right knowledge and skills to undertake such practices, requiring specific training, guidance and extensive preparation.

Discussion

Returning to the key themes emerging from the findings, many of the challenges of undertaking RJ with ‘hard cases’ alluded to earlier are all present in the context of SOC, but we also propose that RJ may have potential to overcome these difficulties. Firstly, the reflections of SOC offenders and victims above suggest that the perceived barriers of RJ in this context could be dispelled were RJ deployed. Specifically, the introduction of RJ has the potential to de-mystify much of the apocalyptic imagery associated with organised criminals (Antonopoulos 2008) which seemingly presents SOC offending as unsuitable for RJ. These self-perpetuating myths of organised criminals as an ‘existential threat’ (Cabinet Office 2008: 4) have enabled SOC to prosper thanks to the use of fearful reputations which are regurgitated in popular media and (some) policing depictions of the SOC ‘problem’ (Van Duyne 2004).

Secondly, using RJ in a SOC context may serve as a much-needed vehicle to recognise the multiplicity and complexity of victimhood in SOC offending and embed the specific needs of victims around safeguarding and potential reparation. Victimhood in SOC is a complex, multi-layered notion. Victims may also be offenders; they may not perceive themselves as victims; they may often be reluctant to

engage with statutory agencies; and they may become re-victimised (see Siegel and de Blank 2010; Hughes 2014). But these challenges also support the case for the extension of RJ to this context as this offers the potential for policing responses to be more inclusive as victims would not be automatically excluded from such approaches by dint of their victimisation experiences. As such, a more inclusive approach in line with the obligations under the Victims Code (Ministry of Justice 2015) would apply, placing an onus on operational staff to give due consideration to SOC offenders and victims – and to develop practices for preparation and risk assessment in SOC cases - so that benefits to both parties may be realised. Thirdly, the proposed use of RJ for SOC offending opens the possibility of deepening our understanding of offenders’ profiles, penetrating beyond facile notions of SOC offenders and allowing for potentially transformative experiences for these individuals. SOC offenders are often presented as persistent, committed, remorseless, extremely resourceful and often bound to their co-offenders by ritualistic codes of conduct – all of which is said to mark them out as more entrenched in their offending than non-organised criminals. But the reflections of offenders outlined above paint a different picture and indeed offenders’ motivations and expectations of RJ in fact largely echoed the thoughts of non-SOC offenders documented elsewhere. This suggests SOC offenders may be responsive to opportunities to understand and eventually repair the harm they have caused. Indeed, despite the alleged entrenched nature of SOC offending, Sherman and Strang (2007) have even argued that ‘RJ may work better with more serious crimes rather than with less serious crimes, contrary to the conventional wisdom’ (2007: 68), furthering the case in support of extending RJ to the challenging domain of SOC.

Finally, extending RJ to SOC offences has the potential to provide a more localised policing response in combatting SOC, in that it promotes a dialogue between the affected parties. This may give police forces more ownership in their responses to SOC originating from their areas and may also enable forces to develop a more composite picture of the threats and risks facing their local communities. RJ may provide a suitable mechanism for galvanising community action and increase the potential for offenders to be accepted back into their local communities. Crocker et al (2018) have forcefully argued for the importance of engaging communities in the fight against SOC, explaining that ‘above all, giving victims and communities a voice and an option for change is the primary way that the impact [of organised crime] on local communities can be reduced’. There appears to be growing recognition that organised criminals in the UK are increasingly using their local knowledge and reputations to exploit vulnerable individuals thanks to the precarious social positions many find themselves in (BBC 2018). This changing landscape has prompted calls for ‘a stronger set of partnerships across policing, community groups and service providers in order to better identify and address vulnerability and exploitation linked to organised crime’ (BBC 2018). RJ offers an opportunity to answer this call by embedding responses to SOC at a local level and engaging communities in producing bespoke solutions to addressing victimisation and offender recidivism (Walters 2014; Zehr and Mika 2004). In promoting community-centred responses, there is also the potential to disrupt the protective enclaves of some SOC offenders who rely on the acquiescence or the fear of their local community in order to prosper (Crocker et al 2018).

No doubt, the nature of SOC offending presents challenges for RJ interventions. The potential disconnect between some offenders and victims renders some forms of RJ problematic, particularly where direct or identifiable victims are difficult to locate. Likewise, victims may be legitimately reluctant to partake in RJ with SOC offenders, particularly in face-to-face settings given the serious physical and/or psychological harm suffered. However, we suggest that the flexible and diverse nature

of RJ can overcome such issues. For instance, the use of proxy victims acting as community or institutional representatives may help to present an identifiable victim within RJ events when the specific SOC offence appears too widespread to identify a single individual victim. Elsewhere, victims' reticence to engage in face-to-face interventions can be addressed by alternative forms of RJ such as shuttle mediation or letters of apology, as per the suggestions of RJ practitioners above. We do not naively assume that such an extension of RJ to as challenging a domain as SOC would be non-problematic. What we propose however, is that the views of participants in this study support the case for further discussion of whether RJ can and should be deployed in this context and whether the potential exists for RJ to become one of a number of options to tackle SOC more effectively at a local level. In the fight against SOC, perhaps now is the time to try something new.

References

- Antonopoulos, G. A. (2008) 'The Greek Connection(s): The Social Organization of the Cigarette-Smuggling Business in Greece', *European Journal of Criminology*, 5: 263-288
- Antonopoulos, G. A. and Winterdyk, J. A. (2005) 'Techniques of Neutralizing the Traffic of Women', *European Journal of Crime, Criminal Law and Criminal Justice*, 13: 136-147
- BBC (2018) 'Organised crime less about guns and more about 'preying on the vulnerable'', 4 June 2018, available online at <https://www.bbc.com/news/uk-scotland-44349385> (last accessed 13 July 2018)
- Bovenkerk, F. (1995) *La Bella Bettien*. Amsterdam: Meulenhoff
- Braithwaite, J. (2016) 'Understanding Terrorism Through Restorative Justice', available online at <http://johnbraithwaite.com/2016/11/15/understanding-terrorism-through-restorative-justice/> (last accessed 31 July 2018)
- Bueno, I. (2013) *Mass victimization and restorative justice in Colombia: pathways towards peace and reconciliation?* PhD thesis, KU Leuven.
- Busch, R. (2002) 'Domestic Violence and Restorative Justice: Who Pays If We Get It Wrong?', in H. Strang and J. Braithwaite (eds) *Restorative Justice and Family Violence*, pp. 223–48. Melbourne: Cambridge University Press.
- Cabinet Office (2008) *The National Security Strategy of the United Kingdom: Security in an Interdependent World*. London: The Stationary Office
- Calderoni, F. (2012) 'A Definition that Does Not Work: The Impact of the EU Framework Decision on the Fight Against Organized Crime', *Common Market Law Review*, 49: 1365-1394
- Centre for Justice and Reconciliation (2019) 'World Map', available online at: <http://restorativejustice.org/world-map/#sthash.7Q0dWYJ1.dpbs> (last accessed 12 April 2019)
- Coates, R. B., Umbreit, M. S. and Voss, B. (2006) 'Responding to Hate Crime Through Restorative Justice Dialogue', *Contemporary Justice Review*, 9(1): 7-21
- Cressey, D. R. (1969) *Theft of the nation*. New York: Harper & Row
- Crocker, R., Webb, S., Skidmore, M., Garner, S., Gill, M. and Graham, J. (2018) 'Tackling local organised crime groups: lessons from research in two UK cities', *Trends in Organized Crime*, available online at <http://dx.doi.org/sheffield.idm.oclc.org/10.1007/s12117-018-9335-x>
- Daly, K. (2004) 'A tale of two studies: restorative justice from a victim's perspective', in E. Elliott and R. Gordon (eds) *Restorative justice: emerging issues in practice and evaluation*. Cullompton: Willan
- Dittenhoffer, T. and Ericson, R. V. (1983) 'The Victim/Offender Reconciliation Program: A Message to Correctional Reformers', *U. Toronto. L. J.*, 33(2): 315-347

Europol (2017) *Serious and Organised Crime Threat Assessment – Crime in the age of technology*, available online at <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment-2017> (last accessed 31 July 2017)

Gavrielides, T. (2012) 'Contextualizing restorative justice for hate crime', *Journal of Interpersonal Violence*, 27(18): 3624–3643

Harfield, C. (2008) 'Paradigms, Pathologies, and Practicalities – Policing Organized Crime in England and Wales', *Policing*, 2(1): 63-73

Her Majesty's Government (2018) *Serious and Organised Crime Strategy*, available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752850/SOC-2018-web.pdf (last accessed 19 November 2018)

Her Majesty's Government (2015) *Serious Crime Act 2015*. Available online at <http://www.legislation.gov.uk/ukpga/2015/9/contents/enacted> (last accessed 12 April 2019)

Hobbs, D. (1998) 'Going down the glocal: The local context of organised crime', *The Howard Journal of Criminal Justice*, 37(4): 407-422

Hobbs, D. (2012) 'It was never about the money' – Market society, organised crime and UK criminology', in Hall, S. and Winlow, S. (eds) *New Directions in Criminological Theory*. London: Routledge

Hobbs, D. and Antonopoulos, G. A. (2014) 'How to Research Organized Crime', in Paoli, L. (ed) *The Oxford Handbook of Organized Crime*. Oxford: Oxford University Press

Home Office (2010) *Policing in the 21st Century: Reconnecting Police and the People*, available online at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118241/policing-21st-full-pdf.pdf (last accessed 31 July 2017)

Hudson, B. (2002) 'Restorative justice and gendered violence: Diversion or effective justice?', *The British Journal of Criminology*, 42(3): 616-634

Hughes, D. M. (2014) 'Trafficking in Human Beings in the European Union: Gender, Sexual Exploitation, and Digital Communication Technologies', *SAGE Open*, 4: 1-8

Johnstone, G. and Van Ness, D. W. (2006) 'The meaning of restorative justice', in G. Johnstone and D. W. Van Ness (eds) *Handbook of Restorative Justice*. London: Willan

Kleemans, E. R. and Smit, M. (2014) 'Human Smuggling, Human Trafficking, and Exploitation in the Sex Industry', in Paoli, L. (ed) *The Oxford Handbook of Organized Crime*. Oxford: Oxford University Press.

Lavorgna, A. and Sergi, A. (2016) 'Serious, therefore Organised? A Critique of the Emerging "Cyber-Organised Crime" Rhetoric in the United Kingdom', *International Journal of Cyber Criminology*, 10(2): 170-187

Matrix Evidence (2009) *Economic analysis of interventions for young adult offenders*, available online at <https://www.restorativejustice.org.uk/sites/default/files/resources/files/Matrix%20Evidence%20>

[%20Economic%20Analysis%20of%20interventions%20for%20young%20offenders..pdf](#) (last accessed 31 July 2017)

McGlynn, C., Westmarland, N. and Godden, N. (2012) “‘I just wanted him to hear me’”: sexual violence and the possibilities of restorative justice’, *Journal of Law and Society*, 39(2): 213-240

Ministry of Justice (2015) *Code of Practice for Victims of Crime*, available online at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF (last accessed 22 January 2018)

Nancarrow, H. (2006) ‘In search of justice for domestic and family violence - Indigenous and non-indigenous Australian women’s perspectives’, *Theoretical Criminology*, 10(1): 87-106

Police Foundation (2017) *The impact of organised crime in local communities*, available online at http://www.police-foundation.org.uk/uploads/holding/projects/oc_in_local_communities_final.pdf (last accessed 31 July 2017)

Restorative Justice Council (2016) ‘What is restorative justice?’, available online at <https://restorativejustice.org.uk/what-restorative-justice> (last accessed 19 November 2018)

Reuter, P. (1983) *Disorganized Crime: the economics of the visible hand*. Cambridge, MA: MIT Press

Shapland, J., Atkinson, A., Atkinson, H., Colledge, E., Dignan, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2006a) ‘Situating restorative justice within criminal justice’, *Theoretical Criminology*, 10(4): 505-532

Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Colledge, E., Dignan, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2006b) *Restorative Justice in Practice – The second report from the evaluation of three schemes*, available online at https://www.sheffield.ac.uk/polopoly_fs/1.7831/file/RestorativeJustice2ndReport.pdf (last accessed 31 July 2017)

Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Dignan, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2007) *Restorative justice: the views of victims and offenders - The third report from the evaluation of three schemes*. MoJ Research Series 3/07, available online at <http://www.restorativejusticescotland.org.uk/Restorative-Justice.pdf> (last accessed 31 July 2017)

Shapland, J., Atkinson, A., Atkinson, H., Dignan, J., Edwards, L., Hibbert, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2008) *Does Restorative Justice Affect Reconviction? The Fourth Report from the evaluation of three schemes*. MoJ Research Series 10/08, available online at <https://www.restorativejustice.org.uk/sites/default/files/resources/files/Does%20restorative%20justice%20affect%20reconviction.pdf> (last accessed 31 July 2017)

Sherman, L. W. and Strang, H. (2007) *Restorative justice: the evidence*, available online at http://www.iirp.edu/pdf/RJ_full_report.pdf (last accessed 31 July 2017)

Siegel, D. and de Blank, S. (2010) ‘Women who traffic women: the role of women in human trafficking networks – Dutch cases’, *Global Crime*, 11(4): 436-447

- Simpson, J. (2018) 'Cuts to bobbies on the beat harming war against gangs', *The Times*, 4 January 2018, available online at <https://www.thetimes.co.uk/article/cuts-to-bobbies-on-the-beat-harming-war-against-gangs-lqcb7cgx> (last accessed 18 January 2018)
- Stelfox, P. (1998) 'Policing Lower Levels of Organised Crime in England and Wales', *The Howard Journal*, 37(4): 393-406
- Strang, H., Sherman, L. W., Angel, C. M., Woods, D. J., Bennett, S., Newbury-Birch, D. and Inkpen, N. (2006) 'Victim evaluations of face-to-face restorative justice conference: A quasi-experimental analysis', *Journal of Social Sciences*, 62(2): 281-306
- Strang, H., Sherman, L. W., Mayo-Wilson, E., Woods, D. and Ariel, B. (2013) *Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A systematic Review*, available online at http://www.crim.cam.ac.uk/people/academic_research/heather_strang/rj_strang_review.pdf (last accessed 31 July 2017)
- Stubbs, J. (2007) 'Beyond Apology? Domestic violence and critical questions for restorative justice', *Criminology and Criminal Justice*, 7(2): 169-187
- Sykes, G. And Matza, D. (1957) 'Techniques of Neutralization: A Theory of Delinquency', *American Sociological Review*, 22: 664-670
- Umbreit, M. S. and Coates, R. B. (1993) 'Cross-site Analysis of Offender-Victim Mediation in Four States', *Crime and Delinquency*, 39(4): 565-585
- Umbreit, M. S., Lewis, T. and Burns, H. (2003) 'A community response to a 9/11 hate crime: Restorative justice through dialogue', *Contemporary Justice Review*, 6(4): 383-391
- Umbreit, M. S. and Ritter, R. (2006) 'Arab offenders meet Jewish victim: Restorative family dialogue in Israel', *Conflict Resolution Quarterly*, 24(1): 99-109
- United Nations Office on Drugs and Crime (2018) 'Key Issues', available online at: <https://www.unodc.org/e4j/en/organized-crime/module-3/key-issues/index.html> (last accessed 12 April 2019)
- Van Duyne, P. C. (2004) 'The creation of a threat image: Media, policy making and organised crime', in P. C. van Duyne, M. Jager, K. von Lampe and J. L. Newell (eds.) *Threats and Phantoms of Organised Crime, Corruption and Terrorism: Rhetoric and critical perspectives*. Nijmegen: Wolf Legal Publishers
- Walgrave, L. (2015) 'Domestic terrorism: A challenge for restorative justice', *Restorative Justice*, 3(2): 282-290
- Walters, M. (2014) *Hate Crime and Restorative Justice*. Oxford: Oxford University Press
- Woodiwiss, M. and Hobbs, D. (2009) 'Organized Evil and the Atlantic Alliance: Moral panics and the rhetoric of organized crime policing in America and Britain', *British Journal of Criminology*, 49(1): 106-128

Zehr, H. and Mika, H. (2004) 'Fundamental concepts of restorative justice', in E. McLaughlin, R. Fergusson, G. Hughes and L. Westmarland (eds) *Restorative Justice: Critical Issues*. Thousand Oaks: Sage Publications