

# The Exclusion of Serious and Organised Offenders and their Victims from the Offer of Restorative Justice

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## ABSTRACT

There is scarce research evidence of restorative justice getting used within the context of great and organised crime offending. This study sought to explore the feasibility of using restorative justice by canvassing the views of experts, serious and organised crime offenders and high and organised crime victims in England. Offenders and victims got the chance to interact during a restorative justice initiative and individual cases were pursued accordingly as a series of case studies. Case studies were limited to large-scale serious and organised fraud. Stark differences in views were apparent between serious and organised crime experts and restorative justice experts, the previous doubting offenders' motivations and pointing to their dangerousness without fully considering victim perspectives. Despite high attrition rates among some offenders expressing an initial willingness to pursue restorative justice, where both parties wished to participate, sustained motivation was observed. This study highlights inequities within the way that police forces have implemented the 2015 Victims Code requirements for restorative justice in England and Wales, potentially blocking opportunities for closure, social integration and reduced reoffending.

**Keywords:** Local policing; Restorative justice; Serious and organised crime; Victims; Victim's code

## INTRODUCTION

Restorative justice (RJ) interventions have grown in popularity globally, playing an increasingly larger role in resolving conflict in numerous sectors. Within the criminal justice sector, RJ has received much attention for low-level offending and its use has been extended to some serious and sophisticated cases. Yet, there's one area it seems where RJ has not penetrated – the world of great and organised crime (SOC). Many SOC offences don't have identifiable individual victims (such as drug trafficking) but others do, like human trafficking with considerable harm suffered by victims. This raises the question of how the police make assessments about eligibility and suitability for RJ.

This study builds on previous research by undertaking attitudinal surveys with RJ and police SOC experts, SOC offenders and SOC victims. Offenders and victims were offered the chance to pursue RJ if they so wished. As SOC may be a hotly contested term, this may be explored before considering the utilization of RJ in various serious and sophisticated contexts to explore the relative successes and therefore the specific aspects which trouble critics. The methodology are going to be outlined before presenting the findings and discussing the implications for local policing, offenders and victims. Restorative justice may be a process whereby parties with a stake during a specific offence collectively resolve the way to affect the aftermath of the offence

and its implications for the longer term.

RJ is more often used for more minor crime than serious crime. Shewan found that over 77% of police forces used RJ across England and Wales, mostly for low-level crime. A 'postcode lottery' in RJ usage, though RJ is increasingly deployed in some serious and sophisticated contexts like violence and hate crime, terrorism and sexual violence. Within the context of organised criminality, describes how, in Southern Italy, the presence of mafia subcultures inhibits the utilization of victim offender mediation. Mutual consent to require part is thwarted by the silencing of victims scared of reprisals and intimidation into compliance by mafia leaders committed to retaining power but involved in resolving local conflict, often at the request of police. In Northern Ireland, found scope for changing deep-seated violent cultures with the catalyst for change being the experience of using RJ values at a private level and influencing conflict resolution practices at an organisational level. The role of former combatants at grassroots level promoted ownership of crime management. Additionally, in post-conflict situations, the South African Truth and Reconciliation Commission and therefore the Gacaca Courts in Rwanda were deemed successful though controversial. However, in such cases, the talk continues to rage, with cautions against its use thanks to perceived power imbalances between parties and therefore the extremely complex

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nature of victimhood rendering this intervention more harmful. Despite this, numerous scholars assert that RJ may be a feasible option and even desirable. However, there are not any published studies exploring the utilization of RJ within the SOC context in England and Wales before 2015, with studies limited to exploratory research and a pilot case study. This is often not a matter simply of entitlement to a service, but the denial of the chance for victims to potentially 'move on' from their experiences and lead a psychologically healthier life also as potentially becoming more satisfied with RJ outcomes than with either reparation or restitution, thanks to their greater involvement within the process.

The Victims Code 2015 specifies an onus on police in England and

Wales to tell victims about how they will participate in RJ where the offender is an adult and RJ is locally available. Additionally, where victims request participation in RJ, they ought to not be precluded supported the crime perpetrated against them. It remains to be seen whether the difficulties in offering RJ within the SOC context are thanks to the conceptualisation of SOC or if there's something qualitatively different about SOC that it shouldn't be used for RJ. This exclusion of SOC victims from RJ considerations may show a disparity with the stated values of fairness, impartiality and non-discriminatory services in reference to marginalised communities with protected characteristics, and will be argued to use to those with enhanced vulnerabilities.