Restorative Justice as Governance: Tracing trajectories of penal politics

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A thesis submitted to the degree of
Master of Philosophy in Socio-Legal Research

Abstract

A new mode of penal governance, restorative justice has followed a turbulent trajectory in the UK. Drawing on a thematic analysis of qualitative interviews with advocates and professionals influencing criminal legal policy, this paper charts the contemporary trajectory of restorative justice in the UK in three ways. First, it argues that an interrelated composite of explanations underlay marginalizations of restorative justice—including broader punitive emotional and managerial discourses along with key decisionmakers' personal lack of attachment to the practice. Second, it advances a dichotomy between restorative justice for young people and for adults, which fractures restorative justice as a mode of governance. Finally, it posits that different political contexts and contests over sovereignty between the UK jurisdictions of England and Wales and Northern Ireland once again fractured the approach. This study contributes to the growing literature about the politics of policymaking in general, and the politics of restorative justice policy in particular.

Acknowledgements

Too many people to count helped make this research project and thesis a reality. I must begin by thanking the team at Precious Blood Ministry of Reconciliation in Chicago, who showed me the potential of restorative justice and trained me in it, as well as the Stamps Family Charitable Foundation, who offered me funding to learn from restorative justice practitioners in Europe. During that project and now this one, so many practitioners, advocates, legislators, and academics volunteered their time, connections, and insights—for which I am incredibly grateful.

Thank you to the faculty, students, and staff at the Centre for Socio-Legal Studies for your advice, community, and friendship, and to the faculty at the Centre for Criminology for your guidance. I would also like to thank my supervisor, Professor Agnieszka Kubal, for providing me instrumental guidance and encouragement throughout the research process. This project would not have been possible without your support.

Finally, thank you to the Marshall Scholarship, my family, and my friends who have helped make this past year a success.

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Introduction

[Our] plan is all about embedding restorative justice. [...] Despite all this enthusiasm and ambition, we never embedded restorative justice, [...] so the criminal justice system sort of rumbled on in its adversarial, penal populist-driven way. So, the idea now is we are not taking the perfect wheel and sticking on the outside of the vehicle—we're trying to get right into the engine. (GE, law enforcement, male, England)

Restorative justice—a method for repairing harm that uses dialogue to achieve accountability and reconciliation (U.N. Office on Drugs and Crime [UNODC], 2020)—has been growing intermittently in around the world (Wood, 2015). Encompassing a complex ensemble of practices—including conferences, letter writing, and peace circles—and a range of participants—from families and communities to therapeutic professionals, police, and lawyers—there is no single theory or history of restorative justice. Simultaneously, the practice has diffused considerably geographically, with programs on all seven continents (UNODC, 2020). Yet despite these differences, restorative justice can be more consistently characterized by its ethical orientation: it seeks to create more participatory modes of resolving harm in society, in opposition to current adversarial systems of justice perceived as failing to do so (Braithwaite, 2002; Pavlich, 2005). In this sense, restorative justice is a flexibly defined practice, but one with a "distinctive moral compass," that centers healing, and requires broad participation from victims, offenders, and community members (Pavlich, 2005, p. 2).

The United Kingdom, on one hand, has been perceived as a leading proponent of restorative justice. As one interviewee, a scholar of criminal legal policy, described: "there

is a huge amount of work that's going on" to further restorative justice (JH, academic, male, England).[1] Indeed, a wealth of legislative and administrative activity supports this view. in England and Wales, restorative justice is offered in every police district in the country, with over 170 services in operation nationally (Restorative Justice Council and UK Ministry of Justice, 2014); in Northern Ireland, several parts of the criminal legal system were largely organized around it (Chapman, 2012). In the Thames Valley alone, police officials conducted more than 5000 restorative cautions and conferences in less than 20 years (Pollard, 2001), and in Gloucestershire, thousands of crime victims are offered restorative justice annually (UK Ministry of Justice, 2024). As a result, restorative justice has become the subject of national focus and legislation. Since the 1990's, the UK Parliament has facilitated and regulated the practice several times (Hoyle and Rosenblatt, 2016), and multiple successive governing coalitions have acknowledged its importance, even calling it "part of the fabric of British society" (UK Ministry of Justice, 2013). England and Wales boast a national Restorative Justice Council, a nationwide, independent membership body for restorative justice professionals, sanctioned by the Ministry of Justice to train and evaluate practitioners (Hoyle and Rosenblatt, 2016); Northern Ireland also possesses a similar regulatory structure (McEvoy and Eriksson, 2008). Finally, in 2020, restorative justice was even enshrined in the Ministry of Justice's Victims Code, which mandated that all crime victims be informed about restorative justice and offered referrals to local services offering it (UK Ministry of Justice, 2024). The UK, therefore, has supported,

[1] Going forward, interview excerpts will be referred to as ([*initials*], [*occupation*], [*gender*], [*region of residence*]). Repeated references to the same interviewee within one paragraph will be reduced to ([*initials*]).

developed, and standardized the practice of restorative justice far more than many other countries (*c.f.* UNODC, 2020). All of these interventions inform a widespread view that restorative justice has fundamentally succeed in the UK—the impression that "restorative justice in its broadest sense, [...] restorative practices, are embedded [...] across the country" (JH).

On the other hand, despite what could be taken as a national embrace, restorative justice has also been perceived to have essentially fallen out of favor across the UK—and particularly in Scotland, England and Wales. As one former police official turned advocate for the practice complained, "restorative justice is this big [holding up two fingers, an inch apart] within the criminal justice system" (TW, law enforcement, male, England). Indeed, despite increasing funding and uptake from criminal legal administrators, legislators, and nonprofits, restorative justice remains a relatively marginal practice. According to the 2020 Crime Survey for England and Wales (CSEW), less than 6% of crime victims in England and Wales are even offered restorative justice services in the first place (UK Office for National Statistics, 2020). Moreover, the survey recounts that more than 2/3 of victims surveyed would have declined restorative services (UK Office for National Statistics, 2020). Finally, according to Ministry of Justice data, a measly three Police and Crime Commissioned Areas in England and Wales spend more than £300,000 on restorative justice services, whereas ¼ spend nothing at all (Ministry of Justice, 2024). In the words of the same former police official: "There is no political will for restorative [justice]" (TW). In Scotland, the practice remains even more sparse (Maglione et al., 2020)—as one Scottish academic

described: “we’ve got very limited progress … it is starting to feel like [restorative justice] is not really gonna happen” (JB, academic, male, Scotland).

Altogether, these binary perspectives on restorative justice in the UK each leave out potentially important features of its trajectory. The success story perspective, for instance, fails to recognize that official uptake has often not translated into institutionalized practice, while the story of restorative justice’s decline marginalizes the achievement of legislative and administrative attempts to enshrine it. As a result, more is required to understand the trajectory of the practice than binary views of its current state. As Loader and Sparks (2004) offer, parsing changes in criminal legal policy requires beginning with the actors that inaugurated such change—understood through the ideas, intentions, and ideals that inform their interventions (p. 13). Only by “recover[ing] and interpret[ing] what it is different actors argue about – the ideas they bring to bear in seeking to shape the field of crime control, the competing political futures that are at issue in relevant debates” (p. 17), they write, is it possible to understand the “political struggle” (p. 17) over penal policies like restorative justice.[2]

Research Question

In an attempt to understand restorative justice through the actors that dictated its course, this study is therefore centered around the following question: How did criminal legal decisionmakers affect the institutional trajectory of restorative justice in the United

[2] I use ‘penal policy’, ‘criminal legal policy,’ and sometimes ‘criminal justice policy’ largely interchangeably throughout this dissertation, given that the terms are understood to describe the same rough genre of policymaking in criminological and socio-legal scholarship (See, e.g., Garland, 2001; Wood, 2015).

Kingdom? This investigation merits pursuing for several reasons. First, restorative justice is an important new facet in the UK's legal regime. At once a political movement, a social philosophy, a specialized practice, and a type of legislation, the ascent of restorative justice illustrates the variety of forces that shape the UK's criminal legal system. Second, due to its history, restorative justice illustrates how UK criminal legal administration is the simultaneous product of legislative codification and social construction (Nielsen, 2023, p. 244; Hammerslev, 2005)—a process of constitution that involves several types of actors, like policymakers, interest groups, law enforcement officials, and charities. Finally, the rise of restorative justice in the UK helps shed light on the interactions between "politics, law, [and] administration" which are sometimes understood as "self-steering spheres of action or processes" (Paterson and Teubner, 2005, p. 173). Overall, this thesis argues that a discrete set of interrelated explanations and rationales underlay decisionmakers' approaches towards restorative justice. Simultaneously, it posits that their uses of restorative justice were twice fractured: in England and Wales, by a split between youth and adult, and in the UK more broadly, by a split between England and Wales and devolved Northern Ireland. In so doing—influenced by Loader and Sparks (2004)—it presents a historical sociology of restorative justice's institutionalization in the UK, focused on the agents that influenced it.

Structure of this thesis

To address this main research question, this dissertation is organized as follows: Chapter 1 reviews the limited historical literature on restorative justice in the UK, and then

surveys three theories of government action in an attempt to frame its institutional trajectory. It argues that casting restorative justice as a political rationality and mode of governance—what Foucault (1992) calls a "govern-*mentality*" (p. 82)—best exposes the organizational dynamics, social transformations, and political contestations that affected its course. Chapter 2 sets out the methodology for the study: a combination of narrative and biographical interviews with criminal legal decisionmakers and stakeholders: legislators and law enforcement officials, alongside academics, charity lobbyists, and practitioners. The chapter also explains how these interviews were analyzed using thematic analysis. Chapters 3 through 5 contain the results of this study, each describing a different feature of the trajectory restorative justice has taken. Chapter 3 argues that despite its ascent in the UK a particular combination of interrelated explanations could be employed to understand the broader marginalization of restorative justice. These explanations centered around elements of broader societal punitive emotional and managerial discourses, alongside decisionmakers' perceived lack of attachment to the practice. Chapter 4 argues that a dichotomy between restorative justice for young people and restorative justice for adults demonstrates how restorative justice as a mode of government in England and Wales has split into two. Chapter 5 extends the geographical scope of the study to the broader UK, arguing that perceived differences between restorative justice in England and Wales and restorative justice in Northern Ireland show how the practice has featured in contests not just over governance, but over sovereignty. Finally, the conclusion lays out few contributions this project might offer to the socio-legal

study of criminal legal policymaking and to the political study of restorative justice, ending by reflecting on the future of restorative justice in the UK.

1 | Historicizing restorative justice and its competing theoretical framings

Framing the institutional trajectory of restorative justice requires accounting for the contingencies of its history, and the nature of decisionmakers' interventions. The following literature review takes on both these tasks in turn. In what follows, I first survey the limited historical literature on restorative justice in the UK, assembled by a mix of criminal legal professionals, criminologists, and empirical social scientists. While this literature provides a well-supported chronology of restorative justice in the UK, I argue that it cannot explain the dynamics of its politics—and particularly which forces provided for its trajectory. Second, I apply two theories of government regulation—causal analysis theory and democratic professionalism theory—to the UK's history of experimentation with restorative justice. But while each highlights the influence of legislators and bureaucrats respectively, I suggest that neither fully explains the contingencies of restorative justice's growth. Finally, I turn to Foucauldian governmentality studies, a modern theory of government action currently rising in popularity, particularly among sociologists and criminologists. Drawing on its applications to crime policy, the sociology of law, and the

philosophy of restorative justice, I argue that the theory best allows for an analysis of restorative justice's trajectory.

Historicizing Restorative Justice in the UK

Though the UK's experiment with restorative justice is only a few decades old, several scholars and practitioners have already begun to chart its history. Their efforts, while relatively comprehensive, have come with two major foci. One type of history, mostly provided by criminologists and other social scientists, analyzes its trajectory relatively summarily, while focusing more attention on how restorative justice can be improved—most often, attempting to align history with empirical research or theory on its effective administration (e.g., Hoyle and Rosenblatt, 2016). The other type of history of restorative justice in the UK is generally offered by practitioners—*e.g.* parole, probation, and police officials—who analyze its trajectory more comprehensively, but are more self-congratulatory about its successes (e.g., Davey, 2005). Together, as I will argue, these studies provide a comprehensive chronology of restorative justice in the UK, but demonstrate very little about the political climate, organizational decision-making, and social contours that conditioned its uneven growth.

The most recent comprehensive genealogy of restorative justice in the UK is offered by Tony Marshall, a criminal justice researcher for the UK Home Office. In a 1996 paper prepared for the European Committee of Experts on Mediation and published in the *European Journal on Criminal Policy and Research*, Marshall describes the growth of restorative justice from its incipience in the late 1970's until the mid 1990's. Outlining the

conditions for the beginning of restorative justice, Marshall posits that a class of criminal legal administration professionals—mostly police and probation officials—drove initial experiments with restorative justice (p. 21). On his account, these professionals were driven less by their mandate as practitioners, but rather by a particular shared ideological disposition. The professionals who first embraced restorative justice, Marshall writes, "were exceptional practitioners who were motivated, generally because of their religious beliefs, to promote reconciliation and seek alternatives to what they saw as a destructively punitive approach inherent in criminal justice." (p. 21). These practitioners, in other words, were already predisposed away from incarceration and punishment, and were seeking other less punitive solutions. However, he writes, the practitioners were constrained by a public that had soured on diversion and lenience, and a growing subdiscipline of criminology that essentially mandated they attend exclusively to victims of crime—rather than offenders (p. 22).

As a result, Marshall argues, when a large set of UK parole officers were given the chance to directly observe North American victim-offender mediation programs, and also started to consume new literatures by prominent criminologists that justified the restorative methods in terms of helping victims, they were quickly energized by such practices (p. 23). Marshall posits that for this generation of UK criminal legal professionals, the restorative practices promoted by these study abroad trips and emerging manuals were both ideologically appealing and prudent. Namely, restorative justice could justify lower sentences and less incarceration—"the dominant rationale for such intervention"—but would also been seen as "credible" by "other agencies and [by] the public generally,"

who would judge them on the grounds of "satisfaction of victims and prevention of crime" (p. 24). In short, he argues that restorative justice in the UK was conditioned by a small, influential set of religious criminal legal professionals, ideologically driven toward reconciliation and away from punishment, who found restorative justice could make good on their aims while complying with professional and political demands on them. This early era saw experiments in restorative justice already validated as effective by American programs, such the Exeter Youth Support Team (p. 23). These programs, Marshall describes, focused mostly on youth, and involved mediation between a victim and an offender (p. 23). They were staffed by a combination of professionals and volunteers, he adds, and often did not depart too far from the procedures and processes of the criminal legal system[3]—perhaps so as to guarantee success and not be perceived as too lenient (p. 24).

Moving on to the 1980's, Marshall describes a new fleeting national governmental interest in the small-scale programs invented by professionals and outlines how a general structure for restorative programs began to take shape in the UK. "In the mid-1980s," he writes, "the Home Office took an interest in these new developments and funded four new projects for two years each as a pilot experiment … one diversion project (Cumbria) and three court-based, at Coventry, Wolverhampton and Leeds" (p. 25). Each of these projects was modeled after the victim-offender mediation program attempted in Exeter and elsewhere (p. 25). Studies at the time, Marshall maintains, portrayed these programs as

[3] As he puts it, professionals sought not to remove offenders from the criminal legal system altogether, but rather to limit their involvement—"[t]he intention of the project was to increase the rate of cautioning" (p. 23).

successful (in their effects on victims and offenders), and embraced enough by community members to continue (p. 25). However, during these trials, he describes, the professionals administering the pilot programs encountered two interrelated problems. First, he advances, they ran into a pragmatic problem—funding. Already facing low levels of resources [which] were limiting achievements" (p. 26), the national government was unwilling to provide more, because "while not being opposed to victim-offender mediation, government policy was that they should be funded out of current resources of criminal justice agencies" (p. 27). Moreover, since restorative justice programs required more funds than they were saving, professionals could not appeal to the cost-efficiency of restorative justice to plead for more funding (p. 27). Second, Marshall describes, professionals administering and advocating for restorative justice programs rapidly discovered a philosophical contradiction inherent to their experimentation. They discovered, he notes, that "aims and philosophy of victim-offender mediation were distinct from those of criminal justice, sometimes even in apparent opposition to them" (p. 26). Thus, Marshall argues, to further popularize restorative justice, its proponents needed to convince the public that its values were superior to a punitive, carceral approach to criminal justice. However, in the eyes of the public, restorative justice remained confusing, "esoteric and marginal" to many, and "had not succeeded in entering the mainstream, even in those areas where it was most prevalent" (p. 27). Taken together, Marshall argues, professionals could not justify expanding their programs on financial and philosophical grounds, "faced with a multiplicity of reasonable demands on their limited budgets and with higher priorities" (p. 27).

Per Marshall, the modern state of restorative justice in England and Wales (as of 1996), had been largely unchanged since the 1980's. In the 1990's, he writes, "there has been only slow growth in the availability of victim-offender mediation in Britain, with the number of new schemes each year not greatly exceeding those discontinued" (p. 27). By the time of his writing, he concludes, insofar as restorative justice has advanced in the UK, "it is certainly because of its adoption by certain members of these professions, but they have not so far been able to persuade the mainstream" (p. 33). These professionals continued their attempts to innovate, driven by their opposition to the current criminal legal system, embracing restorative justice not for its "new paradigm of justice" (p. 33; *c.f.* Zehr, 1990), but because it helped them avoid meting out punishment and incarceration.

While Marshall's account of the trajectory of restorative justice in the UK is by far the most comprehensive, its history necessarily ends in 1996, at the time of his writing. After Marshall's article, the chronology of restorative justice in the UK is next taken up by restorative justice practitioner Les Davey in 2005, in an influential paper at an International Institute for Restorative Practices conference. Offering a history of restorative justice in the UK based on his "personal perspective," (Davey, 2005), Davey continues Marshall's history by outlining the structure of the largest program in the UK, seminal national legislation introduced in the late 1990's and early 2000's, and the ensuing diffusion of restorative justice for youth across the UK.

At the outset, Davey chronicles the same events as Marshall, describing how English police, parole, and probation officers brought restorative justice to England and Wales from North America, affirming that it was mostly used for diversion. However, unlike

Marshall, Davey emphasizes how the initial victim-offender mediation programs were mostly focused on youth (para. 14) illustrating another factor in professionals' decision to adopt the practice. Additionally, Davey describes the beginning of a 1991 restorative conferencing program for young offenders in the Thames Valley—one of the largest policing areas in the UK—based on a community policing initiative from Australia (para. 1). However, Davey does not detail the political logic nor the organizational conditions that led to these programs.

After outlining how early restorative justice efforts in the UK focused on youth along with the incipience of the Thames Valley program, Davey moves on to describe how these developments influenced the development of much larger national programs. Davey describes how at the same time as the Thames Valley program was flourishing, the UK's national Audit Commission published a national report on the failures of the youth justice system, "which laid the foundation for the 1998 Crime and Disorder Act" (para. 16). This legislation brought a multi-agency approach to the problem of youth justice, introducing "multi-agency Youth Offending Teams, called YOTs, under the guidance of the national Youth Justice Board … in each of the 154 local authorities in England and Wales" (para. 16). According to Davey, perhaps because of the success of the Thames Valley program, Charles Pollard—the former Thames Valley chief constable—was brought on board to help co-lead the effort (para. 16). Importantly, like Marshall's description of Exeter's program, the national YOT program did not always use restorative methods—though they did comprise the vast majority of YOT interventions (para. 22). Moreover, at this point, Davey notes that restorative justice had become an official, public position of the current

government. Taken together, Davey's history details the reemergence of restorative justice into national legislative focus and its implementation over a vast swath of the juvenile justice system in the England and Wales—and thus a sizable portion of the UK—though the logic behind some of these developments remains relatively sparse.

Picking up where Marshall and Davey leave off, criminologists Carolyn Hoyle and Fernanda Rosenblatt (2016) give a succinct but comprehensive history of restorative justice nationally in the ten years following Daley's article. Continuing from the end of Davey's account, the two first describe a new international influence on restorative justice practice in the UK. In 2013, they recount, the UK changed its Victims' Code to give "victims the right to information about taking part in RJ schemes" (p. 1) This change they note, was not inspired by its own merits, but rather was "explicitly aimed at implementing … the EU Victims' Directive, launched by the European Commission," which established a variety of procedures and guidelines for restorative justice processes (pp. 1–2). Next, Hoyle and Rosenblatt briefly detail the Crime and Courts Act of 2013, notable for allowing courts the power to "defer sentencing to allow for an RJ activity to take place" (p. 2). Finally, the authors explain the role of the Restorative Justice Council starting in the mid-2010's, tasked with promulgating a "Best Practice Guide for Restorative Practice" and evaluating the quality of restorative justice services across the country (p. 2). Taken together, Hoyle and Rosenblatt suggest three developments central to the history of restorative justice in the UK: a new international influence that spurred national changes, a permission structure that allowed restorative justice to be used in any case (with the permission of a

judge), and the empowerment of a civil society body to oversee and standardize the practice of restorative justice.

Overall, the combined history of restorative justice in the UK offered by Marshall, Davey, Hoyle, and Rosenblatt is quite comprehensive. Collectively, they describe a concrete chronology including its trajectory, its later diffusion and retreat, and finally, its national expansion influenced by international policy. Along the way, they even parse some of the rationalities and dispositions among criminal legal professionals, the public, and legislators that led to these developments—particularly Marshall. Nevertheless, their histories are limited by their foci: Hoyle and Rosenblatt only include a cursory history to frame the current practice of restorative justice in order to orient their suggestions for how it should be practiced; meanwhile, Daley resorts to history seemingly only to explain how a specific type of restorative practice (the Youth Offender Team[4]) works, laud a few people who personally impacted him, and extol its successes. Even Marshall, who claims to offer a comprehensive history of restorative justice in the UK, slips in his own normative judgment on the operation of specific programs. Taken together, however, they comprise a near-complete chronology—which is useful for describing the events and actors involved in the trajectory of restorative justice.

However, the four authors' scholarship also leaves open several questions about *how* restorative justice took its trajectory. For instance, how did restorative justice go from a relatively local practice fading into obsolescence (Marshall 1996), to suddenly being codified in national legislation and becoming a major part of the juvenile legal system

[4] Now called Youth Justice Teams.

(Davey 2005)? Specifically, what was so impactful about the Audit Commission's report—and how did it become the catalyst for a new national legislative embrace of restorative justice that had previously been postponed? Relatedly, if criminal legal professionals were so invested in restorative justice as a decarceral, nonpunitive tool (Marshall 1996), what led them to abandon it so quickly when funding dried up? Finally, how did the European Union lead UK legislators to once again take up restorative justice (Hoyle and Rosenblatt 2016), and how does their interconnection recast the role of local, national, and international power in its trajectory? These questions, which problematize the social, political, and organizational processes involved in restorative justice's growth in the UK, require not only a focus on the *acts* of government themselves, but also an attention to its rationalities—in other words, *how* government acts. Next, I turn to three theories of government action in an attempt to explain these processes.

Causal Analysis of UK Restorative Justice Policy

In public policy analysis, governmental actions are often described and analyzed using a sociological theory called the 'causal analysis theory of regulation.' First outlined in a paper by German sociologist Renate Mayntz (1983), causal analysis theory seeks to highlight the importance of policy design in the analysis of governmental action. In particular, as Mayntz and later commentators (*e.g.* Paterson and Teubner, 2015) suggest, causal analysis theory considers legislators and other policymakers to be the dispositive agents in government action.

In “The Conditions of Effective Public Policy: A New Challenge For Policy Analysis” (1983), Mayntz argues for a focus on public policy design over implementation, suggesting that implementation research is inconclusive and overtheorized. While implementation research was much-needed up until the 1970’s, she posits, by the 1980’s, “implementation research has flourished … to the point of becoming redundant” (p.123). Moreover, Mayntz argues, implementation research is not necessarily able to provide dispositive explanations of government action (p. 124). On this basis, Mayntz advances a theory of government action (particularly “policy effectiveness”)—as a function of the “features of program design” (p. 124). This theory of government action as policy design, she describes, involves policymakers developing “an adequate causal theory, *i.e.* correct assumptions about the explanations causing a problem and about what must be changed in order to solve it” (p. 127), and then planning how the bureaucracy and other actors will respond to the contingencies of its implementation (p. 141). In other words, Mayntz’s causal analysis theory offers a unique descriptive account of government action: her theory situates policymakers as the crucial actors who design and therefore lead government action, and the civil service and subjects of legislation as the subordinate agents whose responses are dictated by policymakers’ decisions. Put simply, policymakers *cause* government action.

This descriptive account of government action suggested in Mayntz’s causal analysis framework is made even clearer in John Paterson and Gunther Teubner’s (2015) exegesis. Summarizing Mayntz’s framework while analyzing the connection between

legislation and regulation, the two identify the kind of causal connections that her theory presupposes.

> The usual causality chain—as Renate Mayntz, for example, tells us—works like this: political goal definition → legislative act → legal norm → motivation of implementation staff → motivation of actors in the field → deviation/sanction/incentive → social behaviour → social effects. (Paterson and Teubner, 2015, p. 291)

Thus, on their interpretation, governmental action is designed at the legislative or policymaking level, carried out by professionals (like bureaucrats or the civil service) who implement it, and then actualized over a social body or population.

Causal analysis theory, as articulated collectively by these three authors, suggests an alternative perspective on the trajectory of restorative justice in the UK. Applied to the history of restorative justice, causal analysis theory suggests a structure to the government rationalities that might have conditioned its periods of growth and decline. Legislative developments in restorative justice—like those described by Davey (2005) and Hoyle and Rosenblatt (2016), seem particularly amenable to this theory. In Davey's case, causal analysis theory might suggest that parliament defined youth restorative justice as its political goal based on the Audit Commission's report on the juvenile criminal system, formulated the 1998 Crime and Disorder Act as a legislative response and ensuing legal norm, and then funded Youth Offending Teams (YOTs) who intervened in social behavior in a new way. Similarly, in Hoyle and Rosenblatt's case, the theory might suggest that the European Commission's Victims Directive led parliament to define access to and standardization of restorative justice as its goal, pass the 2013 Victims Code to realize it, and then motivate judges using legal norms to implement it—with the social effect of

making restorative justice more broadly available and regimented. In each case, causal analysis theory would propose that government action could be explained by policymakers' social goals. Resultantly, it would suggest that the rationality underlying governmental uptake of restorative justice was an overriding focus on designing programs to address social problems.

However, while causal analysis theory might be relatively easily applied to the national legislative history of restorative justice, applying it to the local origins of restorative justice described by Marshall (1996) seems more difficult. For instance, explaining how a small set of "exceptional practitioners" (p. 21) designed and implemented the UK's first restorative justice programs seems tenuous using causal analysis theory. On one hand, it does seem possible to define the political goal pursued by these professionals—*i.e.* reducing reliance on incarceration and punishment while appeasing the public and following professional standards—in a causal framework. Nonetheless, in such an analysis, these professionals would be both the policymakers and the implementation staff at once. Moreover, any ensuing legal norm would not be the result of legislative action, or even codified policy; the restorative services they created seem to more appropriately be something like governmental 'techniques' or 'practices' because they remained so marginal. Finally, in a causal framework, the complex religious and ideological dispositions and bureaucratic constraints faced by these professionals would all be compressed into the definition of their political goal, even though the interrelations between them evidently dictated how they took up restorative justice and then eventually shelved it. As Mayntz acknowledges, policy design is not only driven by

social goals, but also by struggles for political power, legal constraints, and other explanations (1983, p. 125). Unfortunately, however, causal analysis cannot parse this plurality of motivations in the case of restorative justice.

The inconsistencies involved in analyzing the origins of restorative justice using causal analysis theory point to two larger conceptual problem with using the theory to describe how government took up restorative justice. First, causal analysis theory presupposes that the policy process is closed and completely causally interconnected. It cannot, therefore, explain the relations between different instances of policymaking—or even different instances of government action. For instance, a casual framework would not be able to explain how the success of the national Youth Offender Team program was furthered by local experiments with restorative justice—nor how the YOT program influenced the 2013 Victims' Code, which brought restorative justice to all victims. Second, causal analysis theory compresses the variety of motives and forces that shape government action into the problem the government defines. The theory, for example, would be unable to contemplate how professionals deprioritized restorative justice in the late 1980's and early 1990's beyond claiming that their defined political goal had changed. Thus, causal analysis can only give sparse details about how policymakers act in the first place—how they conceptualize their political goals, how they decide on them, and how social and political structures influence how they do so. Causal analysis, in sum, might be an effective analytic for purposes of policy refinement, but it lacks the interpretive purchase to describe the empirical trajectory of restorative justice.

Restorative Justice as Democratic Professionalism

Assuming policies and practices of restorative justice in the UK are more of a product of bureaucratic innovation rather than legislative design, how then should professionals' roles be analyzed? This question closely approximates the one posed by American political scientists Susan Olson and Albert Dzur (2004) in their article "Revisiting Informal Justice: Restorative Justice and Democratic Professionalism." Analyzing restorative justice theory and a handful of American restorative justice programs, the two argue for a distinctive descriptive and prescriptive account of restorative justice.[5] Their theorization, suggests a novel interpretation of civil servant-led restorative justice in the UK, though it too struggles to fully describe the relationship between legislators and the civil service and fully explain the trajectory of restorative justice.

For Olson and Dzur, analyzing and suggesting new directions for restorative justice is required to explain the outsized role of professionals in its uptake and administration. In a critique of restorative justice theory that equally resonates with the above critique of causal analysis theory, the two seek to highlight the role of civil servants in criminal legal policy. "While not often explicitly articulated," they write, "the implied distinction between "community" and "state" pervades restorative justice theory," (p. 145). And yet, the two argue, restorative justice cannot be simply forced onto communities by detached policymakers. Rather, "in practice a great deal of the initiative for restorative justice programs has come and continues to come from professionals within the criminal justice

[5] In this review, I focus on their descriptive account for purposes of applying it to the UK context.

system"—prosecutors, social workers, probation and parole officers, and other experts (p. 145). These professionals, they argue, drive and administer restorative justice within communities—whether at the behest of the state or for their own reasons.

To characterize the important role played by such professionals, the two turn to a theory of professional administration termed "democratic professionalism." Based on a 19th-century philosophy of civil service popular among doctors, lawyers, and social workers (p. 148), the theory of democratic professionalism "holds that professionals have social responsibilities in addition to their fiduciary and function-specific obligations to their base of clients" (p. 147). Such an "ideal" of professional conduct, they argue, is both ethical and descriptive, though "rarely held in a pure form" (p. 147). Indeed, the ideal of democratic professionalism emerged as a response to the antidemocratic domination critique of expert-administered bureaucracy, as an attempt to democratize the civil service, empower the public, and oppose technocracy (p. 149). However, the two argue that this ideal has in fact come to characterize restorative justice in several instances.

Describing how restorative justice in the U.S. has been driven by democratic professionalism, Olson and Dzur turn to two case studies. First, the two analyze a restorative justice program instituted in Salt Lake City, Utah, to illustrate how this democratic impulse led to a shift away from punitive justice and towards restorative practices. Drawing on interviews with professionals who administer the city's restorative justice program, the authors describe how its uptake emerged out of its democratic potential. Outlining the institution of the program, they list testimonials from professionals wanting to uplift the role of communities in the administration of justice, recognizing their

self-interest in its inaccessibility (pp. 156–8), and thinking through how to diversify community participation (pp. 162–3). Based on these testimonials, the two conclude that the institution and administration of restorative justice in Salt Lake City was driven by democratic professionalism. Next, the two turn to a statewide restorative justice program in Vermont, which they argue comes even "closer to the ideals of democratic professionalism" (p. 165). Relying on a similar archive, the authors make an even stronger claim than they do about the Salt Lake City Program: "The reasoning behind the Vermont program has been expressly articulated," they write "and closely tracks the mix of pragmatism and idealism of democratic professionalism" (p. 165). They note that all three arguments made by Vermont professionals — 1) correctional sanctions would be ineffective for nonviolent crimes, 2) restorative approaches would free up courts and correctional officials to deal with more serious crimes, and 3) restorative approaches would return power to citizens — each line up with a democratic approach.

Taking these two cases together, Olson and Dzur seem to contend that professionals take up restorative justice driven by a rationality of democratization—a philosophy of opening up the criminal legal system to a variety of stakeholders and ending their monopoly over its administration. Their theory does therefore line up with the history of restorative justice in the UK in several respects. First, far more than the causal analysis theory of regulation, Olson and Dzur's theory affirms the importance of professionals as drivers of restorative practice—consistent with Marshall's (1996) history of its origin. Under their theory, professionals like police officers in the Thames Valley, probation officers in Exeter, and Youth Offender Teams across the country are indeed ultimately responsible for

the existence and specifics of restorative justice programs. They are agentic, democratic professionalism theory would posit, capable of influencing policy and designing programs—not simply pawns of legislators. Second, many restorative justice programs across the UK are indeed structured as democratic professionalism theory would suggest. From the first tiny experiments with restorative justice in places like Exeter to the largest and most established programs in places like the Thames Valley, restorative justice programs across the UK generally operate by empowering communities to take a greater part in the criminal legal system, intentionally divesting professionals like judges, police, and probation officers of some of their control.

However, while democratic professionalism theory is well poised to explain some parts of how restorative justice emerged in the UK, it too contains explanatory blind spots and historical incongruities. For starters, the theory of democratic professionalism—by its very nature—cannot explain the relationship between higher-level policymakers, like legislators, and the professionals they oversee. As a result, the theory cannot properly explain how Parliament created two significant restorative justice schemes in 1998 and 2013, likely overemphasizing the agency of these individuals over the structural and relational features linking them. Second, and perhaps more importantly, the ideal of democratic professionalism seems like an incomplete explanation for how some restorative justice programs in the UK began. For instance, democratic professionalism theory would seem to suggest that Marshall's (1996) "exceptional practitioners" (p. 21) who first brought restorative justice to the UK did so in an attempt to democratize the criminal legal system. However, Marshall describes how these professionals were driven

instead by religious and political goals, using the language victim satisfaction and reduction of crime misrepresent their intentions. While the programs they designed do seem to adhere to a democratic professionalism framework, this did not seem to be their intention. Additionally, while democratic professionalism theory would also claim that restorative justice programs in the Thames Valley could be explained by the democratic ideals of the police force that introduced it, writings from its chief at the time, Sir Charles Pollard, disprove that. Rather, he writes, restorative justice "struck a chord with police officers" in the Thames Valley because they viewed it as a useful tool for "rebuilding social capital and community confidence" (Pollard, 2001, pp. 166–7). Thus, in both cases, democratic professionalism might be an appropriate way of characterizing both sets of restorative justice programs—and democratic ideals may have even influenced their development. But in neither case did these professionals use democratic professionalism as the rationale for conceiving and building their programs. Democratic professionalism, in other words, was never the *modus operandi*.

Restorative Justice and Governmentality

Much of the difficulty in explaining the trajectory of restorative justice in the UK is due to its diffuse connections. Restorative justice, as the above analysis shows, has been taken up and shaped by local professionals, national legislators, and international government. Its growth is the result of politics on three different levels of the state, and is both a rejection and an embrace of existing criminal law discourses and practices. Even its occasional marginalization—like in the late 1980's—seems based in, but also unrelated to,

its internal logic. The only thing that seems constant in the development of restorative justice in the UK is its focus on restoration over punishment (*C.f.* Pavlich, 2005). Though nowhere does restorative justice substitute completely for punishment (Wood, 2015; Hoyle and Rosenblatt, 2016), each restorative program is fundamentally designed to restore and bring together. In other words, restorative justice can be characterized as an ideal type of government action—or as one unified governmental technique—despite indexing a messy assemblage of practices and logics. That is, restorative justice is an identifiable technique of criminal legal administration. To use the language of Michel Foucault, restorative justice can be characterized as a single mentality of governance, or govern-*mentality*, "understood in the broad sense of [a] technique[] and procedure[] for directing human behavior" (Foucault, 1992, p. 82). This identification of restorative justice as one unified form of government action, I argue, allows for better explanations of how it emerged, and the disparate forces that impacted it. Below, I briefly state a few leading theories of governmentality and its application to law and restorative justice, suggesting how to analyze restorative justice as a form of governmentality.

In their widely-cited 2006 review article, Nikolas Rose, Pat O'Malley, and Mariana Valverde offer the most comprehensive explanation of governmentality theory and its reception. Quoting Foucault's later work, they argue that governmentality involves a "certain mentality" becoming the basis for "political thought and action" (Rose et al., 2006, p. 86). In modern parlance, they posit, governmentality is "power … operating in terms of specific rationalizations" (p. 84). Governmental mentalities or rationalizations, they argue, are always "directed toward certain ends" (p. 84)—ends as potentially various

as halting overfishing or keeping parks clean. However, governmentality is not simply an ideology or discourse. Following Foucault, Rose et al. define governmentality as set of "techniques and procedures" (2006, p. 83), or more specifically, the "ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics" allowing government to target particular ends (p. 86). Pursuant to their definition of governmentality, Rose et al. go on to offer a methodology for analyzing it. "An analysis of governmentalities then," they write, "is one that seeks to identify these different styles of thought, their conditions of formation, the principles and knowledges that they borrow from and generate, the practices that they consist of … and their contestations and alliances with other arts of governing" (p. 84). Analyses of governmentality therefore, for them, involve investigating types of government action, including the practices each type involves, the structure of its rationality and what influenced it, and its connection to other types of government action. As a result, they continue, governmentality is an "analytical perspective … far from a theory of power, authority, or even of governance" (85). Governmentality analysis therefore does not itself purport to explain government action, as causal analysis theory or the theory of democratic professionalism might—it is fundamentally an analytic.

According to the forgoing, governmentality analysis is a strong candidate for describing the trajectory and growth of restorative justice in the UK. Spanning a wide variety of institutions inside and outside formal criminal legal systems, and encompassing a variety of actors, from community members to police, probation officials, social workers, and volunteers, governmentality analysis would allow their interrelation to be parsed as

part of one essentially similar type of government action. Moreover, analyzing restorative justice as a form of governmentality would allow these practices to be associated with what scholars have described as its central rationality: managing crime through restoration and reconciliation (Pavlich 2005). It would also allow its influences and precursors to be further analyzed, like the American victim-offender mediation programs that inspired the first experiments with restorative justice in the UK (Marshall, 1996). Overall, analyzing restorative justice as governmentality would allow a more deliberate charting of its trajectory and propagation—including the politics, social systems, and organizational dynamics that influenced it.

Another important text whose theorization of governmentality might befit an analysis of restorative justice in the UK is sociologists Alan Hunt and Gary Wickham's *Foucault and Law: Towards a Sociology of Law As Governance* (1994). In this widely cited book, Hunt and Wickham use Foucault's writings on law and theory of governmentality to construct "a new framework for the sociology of law" (vii). There, Hunt and Wickham innovate on traditional descriptions of governmentality in two important ways. First, the two explicitly describe how governmentality analysis is an improvement on theories of government that view one type of agent as dispositive. "Since [Foucault] is anxious to emphasise the part played by diverse but uncoordinated agencies," they note, "he is suspicious of any accounts which imply the existence of some directing hidden hand or of some coordinating agent" (p. 28). Thus, consistent with the history of restorative justice, their theoretical framework affirms that neither legislators nor professionals can mastermind the entire development of restorative justice in the UK—contrary to what

causal analysis theory or democratic professionalism theory might suggest. Second, Hunt and Wickham also suggest a way of analyzing how restorative justice won out over—or lost to—other techniques of criminal system administration. Governmentality analysis admits that "a contest between techniques is always either happening or about to happen," they write, because "governance is subject to politics" (p. 83). In the context of restorative justice, this insight— that "all techniques are always either being challenged or awaiting challenge" (p. 82)—might explain how restorative justice filters in and out of prominence. Its initial trajectory, for example, might represent the victory of restorative techniques over the hyper-carceral approaches of the decades prior; meanwhile, its shrinking away in an era of budget cuts and public irrelevance could demonstrate the resurgence of these more carceral techniques, or perhaps even an unsteady political equilibrium between them. Thus, Hunt and Wickham's suggestion that different types of governmental action should be viewed as distinct governmentalities with their own rationalities and techniques could help parse the politics of restorative justice's trajectory.

2 | Methodology

To reiterate, this study is centered around the following question: 'How did criminal legal decisionmakers affect the institutional trajectory of restorative justice in the United Kingdom?' This question is intended to give my research a processual and relational scope, unlike most other studies on restorative justice in the UK aforementioned (*c.f.* Hoyle and Rosenblatt, 2016; Rossner and Taylor, 2024).

Where the trajectory of a process runs through a myriad of interpersonal relationships, institutional prerogatives, and amorphous public influence, there may be no straightforwardly 'right' or 'wrong' way of charting its history. As the conflicting and sometimes contradictory genealogies summarized above show, there is no one history of restorative justice in the United Kingdom. As a result, this study shies away from trying to discern a falsifiable or objective history of restorative justice, nor does it try to offer the "social facts" that determined its uptake (Durkheim, 1897). In selecting interviewees, I likewise did not prioritize their representativeness as professionals proximate to restorative justice. Moreover, I do not take my findings to be generalizable nor predictive. Rather, this study seeks empirical rigor outside of a positivist framework by taking an interpretive approach, describing phenomena in terms how it is constructed and represented. Such a limited approach, Mario Small (2005) argues, is often better suited for answering processual questions like the above.

Techniques of data collection

To inform my interpretive approach, I collected data using qualitative interviewing and a desk-based documentary review. Unlike surveys and experiments which are "inherently once-removed from empirical reality," according to Small (2005, p. 5), interviews are among the "purest empirical methods" (p. 5). As such, I sought to use interviews to guide my research, helping me understand the development of restorative justice without knowing all of its exact contours in advance. I also chose interviewing as a method for two more specific reasons. First. I chose to conduct interviews because I

expected that charting the institutional trajectory of restorative justice would involve unpacking a variety of narratives from stakeholders involved. As a result, I was drawn to interviewing as a method because it allows interviewee and interviewer to reconstruct narratives together (Morris, 2015, pp. 12–13). Second, I chose interviewing because scholarship suggested that the institutional trajectory of restorative justice was primarily driven by a small number of individual professionals (Marshall, 1996; Olson and Dzur, 2004). Interviews are especially apt for studying such professionals, who are themselves characterized by their "institutionalized authority to construct reality" (Meuser and Nagel, 2009, p. 19), and their power to shape the world through their interpretation of it (Littig, 2009).

My interviewing methodology was driven by a combination of epistemological and pragmatic concerns. Because I hoped to gather stories of restorative justice's growth grounded in the people and relationships that fostered it, I sought to combine biographical and narrative interviews. As Morris (2015) argues, these formats are compatible—and indeed, they overlap substantially in method (p. 11). Since my interviewees were mainly comprised of civil servants, advocates, and other criminal legal professionals, I treated their interviews as expert interviews. According to Littig (2009), experts are "anyone who is responsible for and has privileged access to the knowledge of specific groups of people or decision-making processes" (p. 100). I therefore chose to treat the professionals I interviewed as experts because they possessed "knowledge otherwise not accessible to researchers" (p. 100) about the interpersonal and organizational dynamics that influenced the institutional trajectory of restorative justice. Per Littig's (2009) suggestion that experts

generally expect more control over the topic progression than other interviewees (p. 105), I decided to create a less detailed interview guide. I decided on such parsimony also to avoid limiting the narratives and personal anecdotes conveyed by interviewees (Morris, 2015, p. 39).

Influenced by case study logic (Small, 2005), I used purposive sampling to select potential participants. Rather than attempting to create a representative sample of professionals—whose importance to the institutional trajectory of restorative justice I suspected would vary significantly—I selected potential interviewees based on their importance or proximity to major institutions or organizations that influenced its trajectory. To determine which institutions and organizations to focus on, I drew on limited academic literature, industry materials, and informal conversations with restorative justice experts I was already connected to. I therefore expected these participants' experiences would be most relevant to my research questions (Mason, 2002; Haskew, 2021), and existing empirical research on the development of restorative justice in the UK (e.g. Marshall, 1996). Within these groups, potential interviewees were selected using desk-based research and snowball sampling. In so selecting, I benefited considerably from introductions made by my existing contacts.

Overall, I completed 12 total interviews with 10 participants—five in person and seven over Microsoft Teams. The vast majority of participants either lived or worked in England—mostly in Gloucestershire, Oxfordshire, or Greater London. Two interviewees were based outside of England, in Scotland and Northern Ireland respectively, and were interviewed virtually. Interviewees began working with restorative justice through four main

professional pathways. Four interviewees started off working for police or probation services, where they encountered and became interested in restorative justice, three were hired by charities or NGOs promoting the practice, two encountered it in their scholarly research as academics, and one happened upon it in his work as a legislator. Despite these distinct points of entry, all ten interviewees were strong self-professed proponents of restorative justice, and several oscillated between law enforcement, charities, and academia in attempts to further the practice. Interviews lasted between thirty minutes and two hours, were recorded using an iPhone, and were transcribed digitally using a local version of Whisper AI ran using the command line. I then listened to each interview again to clean and correct the transcripts, indicating interruptions, pauses, crosstalk, laughter, and indecipherable dialogue, and fixing instances of repetition, grammatical errors, filler words (like 'um' and 'uh') and other minor verbal mistakes.[6] I also took written notes during the interviews of particularly important instances of nonverbal communication, like hand gestures, and added them into the transcripts while correcting. Altogether, the transcripts added up to a cumulative 259 pages—over 130,000 words of rich qualitative data.

A relational approach

While Marshall (1996) contends that criminal legal decisionmakers (like police and probation officials, practitioners, legislators, and lobbyists), drove the institutional

[6] Laughter is indicated by '*[laughter]*', crosstalk and interruptions by a trailing backslash at the end of the line in question ('\'), pauses by '*…*', and indecipherable dialogue by '*[indecipherable __ seconds]*.' Excerpts from interviews reported below were also corrected for repetition, clarity, minor grammatical errors, filler words, and other small verbal mistakes—all indicated by […].

trajectory of restorative justice, his history makes clear that they did not do so as isolated, atomized individuals. Indeed, his analysis emphasizes that the incipience of restorative justice as well the ebbs and flows in its institutional support was the result of relational networks and influences—between U.K. criminal legal professionals, between these professionals and policymakers, and between professionals and advocates outside the country. Therefore, understanding how restorative justice competed with other techniques of criminal legal governance requires digging deeper than "exceptional practitioners" motivated by "their religious beliefs" (Marshall, 1996, p. 21). As Emirbayer's (1997) relational sociology would suggest, rather than viewing their agency as "self-actional" (p. 294) and their power as individually possessed (pp. 292, 295), both are "inseparable from the unfolding dynamics of situations," the result of "concrete transactions within relational contexts" (p. 294). In other words, understanding the role of criminal legal decisionmakers in the institutional trajectory of restorative justice requires parsing the dynamics of the organizational and political networks they navigate.

I focused on these relationships in my interviews, attempting to draw out these interconnections along some of the following general lines:

- How did peer attitudes affect how decisionmakers took up restorative practices? Did these professionals benefit from the support of their colleagues and subordinates, or rather from their ambivalence?
- To what extent did varying political mandates (electoral, appointed, etc.) affect how decisionmakers made choices about restorative justice? And how did political

accountability to voters or other officials—or fiscal accountability to other political bodies—shape the trajectory of their support for restorative justice?

- How did the trajectory of restorative justice reflect a network of committed but isolated advocates—or rather, broader political or intra-institutional interest in the practice?
- Was the trajectory of restorative justice in the various jurisdictions (England and Wales, Scotland, and Northern Ireland) and various systems (youth justice systems, adult justice systems) essentially similar, or characteristically different?

As the study progressed, each interview helped me better understand the relational dynamics of interviewees' networks, which allowed me to ask more specific questions in subsequent interviews.

In the process of conducting interviews, my positionality as a researcher mediated my access to these relational networks. On one hand, my past experience studying and training in restorative justice may have positioned me as an insider. Two years before starting this study, I was trained as a restorative justice circle keeper in the United States, and afterwards, I informally interviewed several practitioners in Europe about their work—including several in the UK. In my initial outreach to potential participants, I found myself drawing upon my training and relationships to implicitly cast myself as part of their networks of people experienced in and knowledgeable about restorative justice. On the other hand, my status as a student and an American might have cast me as an outsider—albeit an informed and trustworthy one. In correspondence and during interviews, I frequently stressed that I was an American citizen, and sometimes replied to interviewee's

observations about UK penal policy with my own about the US. Whether for this reason or because I was a student and far younger than them (often between twenty and forty years younger), interviewees frequently expressed a desire to school me about politics and restorative justice in the UK. Diligently explaining political and policy developments that most of their associates would probably be aware of, their reflections were granular and personal, perhaps because I seemed somewhat external to their professional networks. Overall, cognizant of these perceptions, I tried to come across as someone with whom they could have a good and meaningful conversation.

From data collection to analysis

Describing the development of RJ as a mode of government requires focusing not just on what professionals discussed and implemented, but also on the historical, political, and organizational context involved. In their seminal paper on governmentality analysis, Colombo and Quassoli (2016) agree with the basic definition as Rose et. al (2006) and Hunt and Wickham (1996), stating that governmentality is an interconnected set of governmental rationalities and techniques (p. 323). As a result, they write, governmentality involves "strictly interconnected" discursive and non-discursive practices, ranging from administrative categorizations to acts by officials (p. 324). Governmentality analysis, they go on to suggest, therefore "works best in combination with other theoretical traditions and interdisciplinary scenes." Most often, governmentality analyses of penal policy is carried out using variations of discourse analysis (Colombo and Quassoli, 2016; Rose, 2000)—including governmentality analyses of restorative justice policy (Maglione, 2024)—

in order to widely chart the genesis and extent of governmental rationalities involved. However, as Garland (1997) pioneers, explaining governmental action requires more than simply identifying the operative rationalities involved (p. 202)—more than illuminating the relevant "discursive formations" (Alejandro and Zhao, 2024, p. 463). As Garland writes:

> The process of switching between rationalities, or moving from one discursive register … to another … is very much a political process, structured by conflicting interests within government departments and the offices of state, and motivated by all sorts of exigencies, political calculations and short-term interests. (1997, p. 202)

As a result, I chose to analyze my interview data using thematic analysis, a method that looks at discourses, but also beyond them (pp. 465–6). Involving "a close pattern-finding examination of themes present in the material studied" (p. 467), I used thematic analysis hoping to expose not just operative discourses, but also the particular contexts, histories, and mechanisms in which they were employed.

Specifically, in this study, I employed what Braun and Clarke (2006) call 'reflexive thematic analysis': "a method for identifying, analysing and reporting patterns (themes) within data" (p. 79). Per their framework, I carried out a "theoretical thematic analysis" (p. 84), attempting to offer more detailed analysis of aspects of the interview data that lined up with my research question about the trajectory of restorative justice, framing it with literature about governmental action (pp. 84–5). To identify themes, I began by coding "patterns of meaning" (p. 82) as widely as possible by hand, using NVivo. I then categorized coded extracts according to their similarities, differences, overlaps, and disjunctions to construct several broader themes. Next, I defined and tested these themes against the entire corpus of interviews to test their coherence and consistency. Finally, I

wrote up each theme, offering an "accompanying narrative" (p. 92), comprised of coded extracts, connections to other historical, sociological, and criminological scholarship, and broader reflections.

A reflexive method, Braun and Clarke call for thematic analyses that acknowledges the "active role the researcher always plays in identifying patterns/themes, selecting which are of interest, and reporting them" (2006, p. 80). This study, therefore, does not purport that the themes described below "emerged," or were simply "discovered" from the interview data (p. 80), unmediated by my positionality and analytical choices. Two brief observations regarding my position towards and approach to the interview data are in order. First, as an American citizen studying the UK's criminal legal systems, I was invested in my data showing coherent trends that felt meaningful and important to the trajectory of UK penal policy. This tendency towards aggregation may have helped identify patterns of meaning that might go otherwise unnoticed, but also could overextend the relevance of events and relationships. Second, my background and interest in restorative justice inclined me towards portraying the practice in a positive light, and as a consistent technique. Even though this below analysis is descriptive, not normative, this investment might have influenced how I described the practice, and how I assessed its coherence as one roughly unified technique while identifying and reporting themes. However, this background and interest might also have benefitted my analyses by providing a richer, deeper, and more contextualized understanding of the practices involved.

Based on the qualitative interview data collected, I identified three main themes. These first two themes centered around restorative justice in England and Wales—the largest legal jurisdiction in the UK and home to most interviewees—while the third contrasted restorative justice in England and Wales and restorative justice in Northern Ireland. Each theme addressed a different component of how criminal legal decisionmakers affected the trajectory of restorative justice. First, a theme typologizing the marginalization of restorative justice demonstrates the variety of explanations and rationales that underlay decisionmakers' choices to stymie the practice. This theme shows both the discursive and interpersonal mechanisms by which decisionmakers influenced the decline of restorative justice, and points to enduring "paradigms and frames of reference" (Loader and Sparks, 2004, p. 13) essential to its political trajectory. Second, a theme centered around a dichotomy between restorative justice for young people and for adults in England and Wales lays bare how criminal legal decisionmakers' treatment of restorative justice reflected a deeper cultural common sense, leading to a fracture within restorative justice as a governmentality. Finally, a theme centered around a perceived difference between restorative justice in England and Wales and in Northern Ireland displays the outer limit of decisionmakers' influence faced with contested state sovereignty.

3 | A Typology of Marginalization: explanations stymieing restorative justice

In criminology, scholars indebted to the governmentality analytical perspective understandably tend to focus on what criminal legal systems *do* rather than what they *do not*. Intuitively, this seems reasonable: to understand what happens in a criminal legal system, analyzing what it *does* seems far more important that what it *does not*. Moreover, as the governmentality approach predicts, changes in criminal legal policy and practice also leave enormous archives in their wake (e.g. Garland, 2001, Chapter 3), offering scholars far more conclusive evidence to explain why and how they occurred. For these reasons, the fact that scholars of governmentality have yet to theorize how government doesn't act—what it ignores, overlooks, marginalizes, and rejects—makes sense.[7]

Evidence abounds, however, for such an analysis using the governmentality approach. While the policies and practices government adopt often produce the largest documentary archives and feature most prominently in the memories and lives of people proximate to them, practices pushed to the margins always still exist to their advocates. As Goodman, Page, and Phelps (2017) put it, "advocates of particular penal orientations do not simply go away once their preferred penal perspective falls out of favour. They keep struggling" (p. 14). The experience of their struggle then provides the link to the existing documentary archive, even if their preferred penal orientation does not feature overly

[7] Scholars of political institutions also exhibit selection bias towards modes of governance that do make it onto the agenda, to the exclusion of those that don't (Schmidt, 2008, p. 307).

explicitly in it. For instance, nonprofit executives and policy professionals described to me meetings with ministers and legislators that explained *why* new restorative justice provisions didn't become a part of the 2024 Victims and Prisoners Act. Studying these marginalizations is important to better understand how the competition between governing techniques, i.e. politics (Hunt and Wickham, 1994, pp. 82–3), shapes penal policy. But perhaps equally importantly, studying these marginalizations also offers social policy researchers and advocates a view towards the horizon of transformation.

Unsurprisingly, a pattern related to the marginalization of restorative justice featured prominently within the interview data. While explaining how restorative justice was explicitly opposed, rejected implicitly, or inadvertently stymied, interviewees described a constellation of explanations and rationales underneath its marginalization. Specifically, their descriptions of how restorative justice was marginalized evoked a particular composite of three interrelated explanations described as central to decisionmakers' choices to do so:

1) *A punitive emotional discourse of penal policymaking*, used to cast restorative justice as insufficiently punitive. For instance, as one former police official described, restorative justice was often cast aside for seeming too "pink and fluffy" (TW, law enforcement, male, England).
2) *A managerial discourse of penal policymaking*, used to conceptualize restorative justice as too expensive, cost inefficient, or lacking evidence of effectiveness—inherently, and relative to other practices. To some decisionmakers, "restorative

justice hasn't been shown to be valuable enough" (JS, NGO worker, male England), the same nonprofit executive posited.

3) *A lack of personal attachment* to restorative justice among decisionmakers. For instance, one academic complained that the local marginalization of restorative justice was often "driven by personal opinion," hinging on "whether or not a Police and Crime Commissioner likes it" (JH, academic, male, England).

Indeed, as criminological and sociological scholarship has outlined, these explanations are closely related to other recognized transformations in penal policy (Garland, 2001; Brownlee, 2002; Muncie, 2006; Loader, 2011). This composite of explanations seemed to underlie the marginalization of restorative justice—in combination, but also individually. In combination, these explanations together were described as essential to decisionmakers' rejections of the practice. As one nonprofit executive hypothesized, pulling together managerialism and punitive emotionality: "I think [marginalization] is a mix of both [...] there are other priorities that come along [...] and a general mistrust of restorative justice" (JS). But moreover, each interviewee attributed decisionmakers' marginalizations of restorative justice to only one individual explanation. For instance, as one charity lobbyist described the Labour government's rejection of the practice owing simply to punitive emotionality: "when you've got a government who is wanting to look tough on crime [...] they seem to believe that that can't coincide with supporting restorative justice because stereotypically it's seen as sort of a soft on crime approach" (KB, NGO worker, female, England). In tandem and individually, this composite of explanations highlights enduring

discourses and practices of penal policy, demonstrating how alliances and competition between them takes shape (Rose et al., 2006).

Marginalizing in combination: specificity and interrelation

The first way this composite of explanations took shape was in unity, or in conjunction. While describing specific policymaking processes and trends that marginalized restorative justice, interviewees often invoked combinations of these explanations to explain why. Two examples of moments when restorative justice was stymied illustrate how they combine. First, interviewee narratives charting the decline of restorative justice in the Thames Valley evoked a mixture of all three explanations: punitive emotionalism, managerialism, and lack of attachment. In the region, once the national standard-bearer for restorative justice in England and Wales (Marshall, 1996), the practice was defunded partially over "skepticism [...] that it sounds soft" (GE, law enforcement, male, England). 'Softness,' constructs penal policy in a societal emotional register dichotomizing "soft" and "hard" justice (Ministry of Justice, 2019), where 'softness' had long since become the affect to avoid (Loader, 2006, p. 578). Indeed, both parties had explicitly pledged to be "tough on crime" since Blair's government (Downes, 1998)—a punitive, 'hard' approach to penal policy.

Interviewees also cited budget and cost issues as stymieing restorative justice, framed in two ways:

> Thames Valley Police and Crime Commissioner Area [...] terminated their restorative justice program altogether because they had didn't have the money to invest in it. (JS, NGO worker, male, England)

> If you looked at a kind of balance sheet in terms of cost per case, it just wasn't— it became not a good investment. (GE, law enforcement, male, England)

In the first excerpt, restorative justice is useful but unaffordable—highlighting the budget constraints Commissioners have repeatedly faced; in the second, it is actively a bad investment, suggesting that it failed to realize broader law enforcement objectives—perhaps in contrast to other victim services considered more important. Both, emphasizing evaluating policy on a monetary basis, evoke the centrality of managerial discourses of penal policy—a paradigm which measures and proritizes programs based on their professionalism and cost-effectiveness (Maglione, 2019, p. 551). Finally, the last reason interviewees cited as a catalyst for the decline of restorative justice in the Thames Valley was disinterest in the practice among decisionmakers. Whereas previous top law enforcement officials had been "sold" on the practice (GE), interviewees described how the current Police and Crime Commissioner had "fallen out with restorative justice" (GE). Such a contrast evokes a turning away from the practice among law enforcement officials in the region, culminating in the personal detachment of the commissioner who finally decided to defund it. Taken together, these three explanations were described as underlying the marginalization of restorative justice in the region, with one former probation official even citing the three in sequence. Drawing on a combination punitive emotional and managerial logics, the marginalization of restorative justice in the Thames Valley illustrates how "more often than not, more than one discourse can be detected in

the rationale for a policy shift" (Fergusson, 2007, p. 5). But additionally, the effect of decisionmakers' detachment on the decline of restorative justice shows how personal factors and not just political discourses played a role. Influenced by how the Thames Valley Police and Crime Commissioner shed his attachment to the practice, its decline in the region demonstrates the effect of "low politics," like "changes in opinion" among relevant decisionmakers (Garland, 1997, p. 202). As the probation official's recollection combining both discourses with this personal dimension show, the specific conjunction of these explanations underpinned the reported decline of restorative justice in the Thames Valley.

Another example of how this composite of explanations for marginalization combined can be even better seen on the national level. Here too, interviewees' characterization of the failure to enshrine restorative justice through an amendment to the 2024 Victims and Prisoners act evoked a similar combination of punitive emotionalism and managerialism—now even more closely intertwined. First, descriptions of the Starmer Government's disapproval of restorative justice once again positioned the practice as 'soft,' evoking punitive emotional discourse: "Well, I think again, it links a lot to the punitive approach [...] this idea that it's a soft-on-crime approach and therefore they don't necessarily want to endorse it" (KB, NGO worker, female, England). But simultaneously, characterizations of the government's rejection evoked discourses of managerialism in a new way. Describing opposition to a proposed amendment that would have mandated and funded restorative justice nationally, one charity officer described the Starmer Government's objection at follows:

> When it was discussed in Parliament, it was widely acknowledged that it was a positive thing, but the government at the time didn't want to put it specifically into legislation because they said [...] that you couldn't name [i.e. fund] a support service specifically like restorative justice without naming all of the others. (KB)

In this framing, the government is depicted as supporting restorative justice in principle, but opposed to mandating and funding it or other victim's services. Unlike the punitive populist objection which reject the practice of restorative justice explicitly, this objection explicitly affirms the practice in concept, but rejects it implicitly on budgetary grounds; evoking how managerial discourse can overcome even 'good' policy. These two poles of opposition to the amendment were represented as not just both relevant, but as specifically interrelated. According to the same charity officer, the Government's opposition to the amendment was a "combination of the ideological side of things and also just the practical side that they have so much to consider" (KB). Thus, like decisionmakers in the Thames Valley, the Starmer government's opposition to restorative justice was multivariate, reflecting simultaneous explicit and implicit opposition based in discourses of punitive emotion and managerialism.

That several specific explanations in conjunction influenced the decline of restorative justice illustrates the particularity of its marginalization. More than just a simple disavowal or a straightforward progression in penological techniques, the marginalization of restorative justice was fragmentary and multivariate. Much like how Maglione (2019) describes the emergence of restorative justice as a mode of government, the practice declined in the same way: because of specific "governmental actors and their context, unexpected convergences and [...] fragmentary responses" (p. 548). The result of

established discourses in penal policy, larger structural changes, and the interests and attachments of decisionmakers, restorative justice was stymied using a combination of explanations. Therefore, in contrast to Garland (2001) who largely attributes transformations in penal policy to structural changes, and Rose et al. (2006) who attribute such transformations to shifting political rationalities, the marginalization of restorative justice is depicted as far more particular. Put differently, the repeated convergence of these explanations shows how the "contest between techniques" by which governmentalities appear and decline (Hunt and Wickham, 1994, p. 83) is deeply contextual—more than an arbitrary decision by decisionmakers between two candidate techniques. In the Thames Valley and in Parliament, decisions to marginalize restorative justice were not made on the basis of some essentialized understanding of the practice, but were based, rather, on a composite of specific explanations. To further parse the historical particularity of these explanations and their interrelations requires turning to each individually.

1. Punitive emotional discourse: targeting popular sentimentality

While interviewees often described specific instances where restorative justice had been stymied, they also frequently framed its marginalization or decline in the abstract. As one official who helped run the Thames Valley Police's nationally-leading restorative cautioning program reflected generally: "I [now] don't see a significant political will for restorative justice" (TW, law enforcement, male, England). In abstract descriptions of rejection and decline like these, interviewees more often invoked the composite of

explanations for marginalization individually. Most often, the explanation interviewees invoked to describe decisionmakers' rejections of restorative justice was punitive emotionality. For instance, the same police official attributed the general decline of restorative justice to its perception as "pink and fluffy, rather than—you know—the very punitive lock-'em-up, throw-away-the-key kind of approach" (TW). This characterization, illustratively, cast restorative justice in terms connoting the rejected emotionality of 'softness,' and simultaneously contrasted it with a depiction of desirable punitive penal governance. These two elements framed interviewee's descriptions of how punitive emotionalism underpinned the marginalization of restorative justice.

First, interviewees described restorative justice as incompatible with the desired emotional valence of modern penal policy discourse, which made for its marginalization. Invoking the familiar dichotomy of 'soft' versus 'hard' or 'tough' penal policy, one charity official and lobbyist explained that "when you've got a government who is wanting to look tough-on-crime, for some reason they seem to believe that that can't coincide with supporting restorative justice, because stereotypically it's seen as sort of a soft-on-crime approach" (KB, NGO officer, female, England). In other words, restorative justice was depicted as unsuitable because it evoked an undesirable emotionality. According to criminologists, the re-emergence of such emotionality in penal policy occurred only recently. Where previously "liberal elitism [...] stood in fear of the risks of letting untutored emotions loose in the field of crime and punishment" (Loader, 2006, p. 528), Margaret Thatcher's premiership inaugurated "a more expressive emotivism that claims to communicate the sentiments of an aroused and angry public" (Garland, 2022, p. 252). In

the terms of this new, emotionalist penal policy discourse, restorative justice was constructed as soft. As another charity official and lobbyist outlined, this characterization proceeded from a perception about what restorative justice essentially involved. “When I when I first spoke to parliamentarians about restorative justice,” he described, “their basic view was that [restorative justice] is where you just get two people in the room, and as long as one apologizes, [...] all is good” (JS, NGO worker, male, England). As a result, he continued, “it's seen as quite a soft option” (JS). In such punitive emotional discourse, restorative justice is narrativized as essentially decarceral, and cast as ‘soft’ as a result. Depicted as ‘soft,’ restorative justice therefore “fail[s] to correspond to how people feel about crime, or to match-up to the affective investments they have made in ‘tough’ policing and penal methods of addressing crime” (Loader, 2011, p. 348). As a result, this association makes restorative justice incompatible with the dictates of punitive emotional discourse, prefiguring its marginalization.

Second, interviewees described how restorative justice was cast as undermining the populist political narrative that framed punitive emotional discourse, once again making for its marginalization. Interviewees repeatedly described how penal policy in England and Wales had embraced a so-called ‘penal populism’: “the pursuit of a set of penal policies to win votes rather than to reduce crime rates or to promote justice” (Roberts et al., 2003, p. 5). As a former senior parole official described, “penal populism” meant that politicians were “much more worried about the Daily Mail”—and how the Mail might hurt their electoral chances—"than they are about academics interested in restorative justice” (GE, law enforcement, male, England). If cast as ‘soft’ or otherwise

denigrated, he continued, negative media portrayals could sour voters on politicians who supported restorative justice, making support for the practice "politically risky" (GE). As David Garland explains such populist logic: "for politicians facing electoral challenge, a series of negative tabloid headlines may carry more weight than a whole shelf of research reports." (2022, p. 259). Even though "there have been [...] few instances of popular movements formed around penal demands, and fewer still that mobilise mass popular action" (Garland, 2022, p. 256), interviewees described how obsession with media portrayal and public perception incentivized elected officials to adhere to a "narrative of being tough on crime" (JS, charity worker, male, England) that would be well received. As two charity officers and prominent lobbyists put it:

> There was more of a shift to do be needing to be seen very visibly and publicly to be tougher on crime. (JS)

> In general, prospective governments tend to have quite a punitive attitude— they want to be seen as tough on crime in order to be elected. (KB, NGO worker, female, England)

These descriptions illustrate both the *structure* and *effect* of punitive emotional discourse. Both highlighting the centrality of the 'tough on crime' narrative, their analyses first depict being 'tough on crime' as forming the "grid of intelligibility" (Foucault, 2020) for punitive emotional discourse. In other words, punitive emotional discourse evaluates penal policy in terms of its relation to the 'tough on crime' narrative. Second, emphasizing the necessity and desirability of being seen as 'tough on crime,' their comments link punitive emotional discourse with popular electoral success. On these grounds, one of the lobbyists described how punitive emotional discourse was used to oppose restorative justice: while

punitive, carceral solutions like “focusing more on building more prisons [and] making sentences longer [...] fit the narrative of being tough on crime,” so too did “moving away from RJ [restorative justice]” (JS). Cast as contravening the narrative that structured punitive emotional discourse and secured its electoral appeal, punitive emotional discourse marginalizes restorative justice. Specifically, in discursive institutionalist terms, this larger punitive emotional discourse infects coordinative discourses through which penal policy was made, recasting restorative justice in negative terms and pushing for its rejection.

2. Managerial discourse: direct and indirect marginalization

Another explanation for restorative justice’s marginalization that interviewees frequently invoked individually was managerialism, which was described in two distinct ways. Like with punitive emotionalism, managerialism was first depicted as an explanation used to stymie restorative justice in the abstract. As one lobbyist and industry representative described generally: “RJ [restorative justice] hasn't been shown to be valuable enough to not get hit with a cut” (JS, NGO worker, male, England). In abstract depictions like these, questions of ‘value,’ ‘cost-efficiency,’ ‘effectiveness,’ and ‘budget priorities’ evoked a managerial discourse used to marginalize the practice. Unlike with punitive emotionalism, however, managerialism was also conceptualized as the force behind larger legal and structural changes that marginalized restorative justice incidentally. According to interviewees, changes like the so-called ‘Fair and Sustainable’ reorganization of the probation service were justified in managerialist terms, and stymied

restorative justice without even contemplating it (GE, law enforcement, male, England). These two processes demonstrate the role of established discourses on multiple levels of policy change, and reaffirm the specificity of their effect on restorative justice in England and Wales.

Explicitly and implicitly, managerialism was perhaps the explanation most frequently invoked to describe the marginalization of restorative justice overall. These abstract invocations drew on two interrelated conceptualizations: restorative justice was either cast as unaffordable or too expensive relative to other penal policies ("they didn't have the money to invest in it" [JS, NGO worker, male, England]), or was portrayed as insufficiently effective or cost efficient ("they didn't have the evidence base to demonstrate impact" [EC, political official, male, England]). Emphasizing unaffordability, interviewees repeatedly invoked the budget woes of national and local government that impeded restorative justice. Often, budget limits were described as stymieing restorative justice because other penal policies were generally perceived as more important:

> At a national level [...] we're trying to balance budgets—we've got limited resources; we've got other priorities such as increasing prison capacity, such as, and whatnot, that we are focused on, and repairing the prison estate. (EC)

> So I think some [local areas] are being hit by [lacking] central government funding—and if it comes down to needing to spend money on more police officers or other priorities, RJ, is seen as one of those 'nice to have' things, so actually we can scale that back. (JS)

In these descriptions, budgets are depicted as constraining penal policy selection, requiring officials to choose between candidate programs like prisons, policing, and restorative justice. Conceptualizing choice in terms of budget prioritization, the two

comments evoke what Wang (2018) calls “neoliberal penality” (p. 22) central to managerial discourse (Maglione, 2019, p. 551). On these terms, the two descriptions cast restorative justice as inessential or “nice to have” (JS) under managerial discourse, compared to carceral programs like policing and prisons. Even when restorative justice was elsewhere described as “too expensive” (GE, law enforcement, male, England) on its own terms, such characterizations evoked the same managerial discourse, implicitly subordinating the practice to other programs whose expense would have been perceived as warranted.

Interviewees also invoked managerialism abstractly in conceptualizing restorative justice as insufficiently effective or cost efficient. Beyond lacking “the evidence base to demonstrate impact” (EC, political official, male, England), the practice was also cast as undesirable because “the cost per case, even when you've got the cases coming through, is still relatively high” (LJ, charity worker, female, England). Both these rationales for stymieing restorative justice reflect “actuarialism” a policy evaluation framework that Fergusson (2007, p. 8) identifies central to managerial discourse: the necessity of an evidence base evokes the actuarial “overt insistence on evidence-based policy making” (p. 8), while a high cost per case evokes an actuarial “prioritization of economy and cost efficiency (p. 12). Under this logic, restorative justice is denigrated on its own terms under managerial discourse, rather than relative to other policies.

Finally, interviewees invoked managerialism abstractly in a way that combined both conceptualizations. As one lobbyist and charity officer illustratively described:

> They, they've got a huge budget, but [...] will have to have to make decisions. And RJ hasn't been shown to be valuable enough to not get hit with a cut. [...] You wouldn't cut something where there was a significant value where you just can't afford to do

> it. So, for whatever reason, the data that those Police and Crime Commissioners, um, are getting back is not showing value, so therefore, it is easy to get rid of [restorative justice] and put that money somewhere else where I will get value. (JS, NGO worker, male, England)

Describing how budget constraints force choices in terms of the "value" of prospective policies, the lobbyist's comment evokes "an economically oriented approach to criminal and penal matters" structured around "cost-effectiveness" (Maglione, 2019, p. 551) and "the competitive pursuit of efficiency" (Fergusson, 2007, p. 4)—both central to managerial discourse. This example demonstrates how managerialism was depicted as central to the marginalization of restorative justice, constructed as incompatible with the discourse's interconnected defining features. In discursive institutionalist terms, managerial discourse opposed restorative justice when it entered penal policy coordinative discourses, contributing to its marginalization.

While managerialism was cast as denigrating and consequently marginalizing restorative justice directly, it was also invoked as indirectly stymieing restorative justice. Describing interrelated large-scale changes during the Blair and Cameron governments, interviewees depicted managerialism as the animating discourse behind larger structural changes that foiled restorative justice programs. In the court system, restorative justice was offered as a pilot program in 10 Crown Courts, factoring into the production of a 'presentence report' used by magistrates to decide how to sentence convicted defendants. But this program collapsed, one former police official described, when the Blair government Ministry of Justice introduced "performance measures around speedy justice" (TW, law enforcement, male, England) compelling magistrates to produce the pre-

sentence report on the day of conviction, usually within three hours. Hardly enough time to offer restorative justice, which usually took weeks, the pilot program immediately collapsed. In the Prison Service and the Probation Service, an attempted national rollout of restorative justice spanning both department was ended by two different austerity measures. First, under the Blair government, the Probation Service was largely privatized, giving 14 community rehabilitation companies full responsibility over probation administration. In the process, the privatization process abolished the regional Probation Service offices participating in the rollout, effectively ending its participation. The Government's logic, interviewees recounted, was that private companies, incentivized monetarily to "effectively manage offenders and reduce reoffending," would do so "more cost effectively" (GE, law enforcement, male, England) Next, under the Cameron government, the Prison Service underwent an employee reclassification scheme called 'Fair and Sustainable.' The program rigidly reclassified and reassigned employees, as one former probation officer explained, "to make sure that everybody get paid exactly the right amount" (GE). In the process, the types of Prison Service employees allowed by their classification to offer restorative justice was significantly limited, also ending their participation in the rollout. Overall, interviewees descriptions of why these changes occurred all centered on government's intention to create a 'faster,' 'more efficient,' and more 'cost-effective' justice system, once again evoking managerial discourse with its "economically oriented approach to criminal and penal matters" (Maglione, 2019, p. 551). However, unlike interviewees' descriptions of how restorative justice was denigrated and

marginalized in managerial terms, managerial discourse here frames the structural changes that marginalized restorative justice without addressing the practice itself.

Depicted as simply fading away during larger structural changes to the justice system, interviewees suggested that managerial logic indirectly stymied restorative justice. According to interviewees, these changes based in managerialism did marginalize restorative justice, but without rejecting it, or even positioning it as relatively less important. In fact, no interviewee even implied that existing restorative justice programs were even contemplated in the process of crafting these larger changes to the justice system. However, interviews did emphasize the insignificance of restorative justice to the court, prison, and probation systems. One charity executive described, for instance, how restorative justice "has ever only been that much [holds up two fingers, pointer and thumb, close together] of those services, it's just never been part of those services" (TW, law enforcement, male, England), and the same probation officer described how "there was always a sense that [restorative justice] was— there was a risk that it was the flavor of the month" (GE, law enforcement, male, England). Altogether, this combination suggests that while managerial discourse similarly influenced the coordinative discourse underpinning structural changes to the justice system, restorative justice might have been entirely absent from this coordinative discourse. Rather than rejecting restorative justice in coordinative discourse using a managerial logic, descriptions of these structural changes cast the marginalization of restorative justice as an indirect result. This marginalization of restorative justice as a mere biproduct evokes what Miller and Rose (1990) call 'action at a distance': "indirect mechanisms that link the conduct of [...] organizations to political

objectives" (p. 1) without "shattering their formally distinct or 'autonomous' character" (p. 14). Under these mechanisms used to diffuse governmentalities (pp. 10, 14), political objectives and values are "translated" onto each level of government on "its own terms" (p. 10). So as the Ministry of Justice embraced managerialism to restructure the justice system, judges, prison officers, and probation staff translated their objectives as requiring the end of their restorative justice pilot programs. In other words, without necessarily even contemplating it, managerial discourse was used to stifle restorative justice—indirectly, and at a distance.

3. Lacking attachment: individual affect and opinion

The final explanation for marginalization that interviewees invoked was decisionmakers' perceived lack of attachment to restorative justice. Some decisionmakers, for instance, were portrayed as losing interest or souring on the practice—like the Thames Valley Police and Crime Commissioner, who was described as having "fallen out with restorative justice" (GE, law enforcement, male, England). Other decisionmakers' lack of attachment was depicted more statically as less than what would be required for them to take action—like Members of Parliament whose "ambivalence" towards restorative justice led them to marginalize it in order to save money (EC, political official, male, England). But overall, decisionmakers' feelings towards and personal interest in restorative justice was portrayed as underpinning their decisions. For instance, one academic suggested that local restorative justice funding was largely the result of decisionmakers' feelings and opinion about the practice: funding authority give to

individual individual Police and Crime Commissioners, he described "lead[s] to decisions that then are driven by personal opinion and personal ideology—which actually what we've seen in the case of restorative justice is, has often come down to whether or not a Police and Crime Commissioner likes it" (JH, academic, male, England). Positioning whether or not a decisionmaker 'likes' restorative justice as determinative, his characterization constructs personal feelings towards policy as relevant to decision-making—suggesting, like Sasley (2010) that "affect is used in decision-making by providing a short cut from our thinking/feeling processes to a decision" (p. 689). As opposed to decisionmakers' mobilization of a broader (assumed) *societal* emotivism, the academic's observation highlights the relevance of decisionmakers' *personal* feelings.

Similarly, decisionmakers' relative disinterest in restorative justice compared to other policies was depicted as underpinning their decisions to marginalize it. Describing the decline of restorative justice in the Thames Valley Police after Chief Constable Charles Pollard—its progenitor—had left, one former police official described how Pollard's successor defunded restorative justice because he was less attached to it than other policies. "Every Chief Constable has their own vision, campaign, crusade—call it what you like," he explained, "[it's] natural. So the new guy came in—[restorative justice] wasn't his campaign" (TW, law enforcement, male, England). Constructing restorative justice in contrast to the 'vision' or 'crusade' that Pollard's replacement was more attached to, his explanation evokes how "affective attachments thus order priorities for leaders," in that "objects that leaders are attached to will figure more centrally in their [...] decision-making on issues concerning that object" (Sasley, 2010, p. 693). Under this logic, Pollard's

replacement may have been insufficiently attached to restorative justice, such that a stronger attachment to what he felt was his policy 'vision' or 'crusade' led him to fund it over restorative justice.

Another way interviewees invoked a lack of attachment to describe the marginalization of restorative justice was by suggesting that decisionmakers didn't really 'understand' the practice. As one charity executive put it, describing policymaker opposition, "people don't necessarily understand the power of restorative justice" (KB, NGO worker, female, England). This 'power,' a practitioner with decades of experience asserted, could only be 'understood' by witnessing or experiencing restorative justice. He described how he would often "sit in front of people with PowerPoints and cold research and people would say, 'Yes, it sounds like a good idea, yeah, yeah'" (TC, law enforcement, male, Northern Ireland); however, he maintained, "they don't get it. No, they don't. Until they experience it. Unless they feel it" (TC). This view echoes criminological scholarship which maintains that the 'power' of restorative justice is itself affective (Van Stokkom, 2002; Braithwaite, 2020), suggesting that decisionmakers lacked an affective attachment to restorative justice because they had not yet experienced its affective effect. On this account, decisionmakers would 'understand' restorative justice if they had experienced its 'power'—depicted as connecting them emotionally to the practice. Decisionmakers who decided to marginalize restorative justice were cast as having yet to experience restorative justice, meaning they lacked the 'understanding' and corresponding attachment to it.

Overall, the importance ascribed to decisionmakers' attachments to restorative justice illustrates the importance of individual personality in the actualization of

governmentalities. On Garland's (1997) account, governmentalities—along with the discourses and rationalities they encompass—are ideal types, their presence in real-world policy always mediated by real people, their opinions, and their relationships (pp. 201–202). Beyond identifying governmentalities, he writes, an analysis of governmental action must "must concern itself with low politics" (202). Describing how a lack of attachment to restorative justice often underpinned its marginalization, interviewees highlighted the role of concrete individuals in the rejection and decline of the practice. Moreover, interviewees depicted decisionmakers' lack of attachment as influenced by other marginalizing discourses. For instance, describing how managerial discourse disinclined decisionmakers from taking up restorative justice, one legislator explained how his peers were "ambivalent" towards restorative justice, which "never [therefore] entered their psyche," because they though it "didn't have the evidence base to demonstrate impact" and saw eliminating it as a "potential cost saving" (EC, political official, male, England). Portraying legislators as personally disinterested in restorative justice due to managerialist considerations of efficiency and cost effectiveness, his account depicts their lack of attachment as due to managerial discourse. In governmentality terms, managerialist discourse was mediated through and combined with their lack of attachment to restorative justice, leading them to turn away from the practice. Indeed his account suggests that these two processes may have been intertwined: denigrating restorative justice under a managerialist logic might have influenced legislators' lack of attachment to the practice, while their lack of attachment to restorative justice might have made it easier to reject it on managerialist grounds.

4 | Governing Youth; Governing Adults: a split discourse

Another prevailing pattern among interviewees descriptions of the dynamics and trajectories of implementation (and non-take up) of restorative justice in England and Wales was a dichotomy that framed the trajectory of the practice. This dichotomy evoked two categories: restorative justice for youth and restorative justice for adults. Youth *deserved* restorative justice (KB, NGO worker, female, England), and decisionmakers *committed to* (JS, NGO worker, male, England) and *enshrined* (PW, law enforcement, male, England) their access to it; adults didn't (KB), and decisionmakers *opposed* (GE, law enforcement, male, England) and *devalued* (EC, political official, male, England) their access. Indeed, such a dichotomy has long defined *who* restorative justice was for: in the early 2000's, as restorative justice was taken up as a centerpiece of the newly established youth justice system (Muncie, 2006), it was simultaneously rejected for adults during the devolution of victim services to local Police and Crime Commissioners. This dichotomy seemed to operate on three interconnected levels, as two lobbyists together summarized. First, one emphasized, on the level of political common sense, "people's attitudes towards punishment and rehabilitation tend to be quite different" (KB) for young people compared to adults. Second—structurally—she emphasized that the youth justice system and adult justice systems are very "different system[s]" (KB), incorporating or opposing restorative justice in vastly different ways. Finally, as the other lobbyist maintained, agents who administer the youth justice system exhibit a cultural commitment to restorative justice—

“invested[ing] so much time that it's just become core and it's not even questioned” (JS)—which those who administer the adult justice system lack. Together, these three levels index the fracturing of two interrelated modes of governmentality—at the most articulable level of policy planning carried out by politicians and criminal legal professionals, and the lowest level of semi-articulable “notions of social and human realities [...] and versions of justice” (Miller and Rose, 1990, p. 6) among a broader public.

One way the dichotomy between young people and adults seemed to take shape was *normative*: what did young people and adults *deserve*? Interviewee’s portrayals of sentiments about how penal policy should treat each group seemed to hinge on the perceived moral character of each one. Young people, reported sentiments evoked, were less responsible for breaking the law: those who did were perceived to have come from “deprived or disadvantaged backgrounds” or “broken homes” (EC, political official, male, England) where they lacked a “life chance” (JS, charity worker, male, England). These challenges were the reason for their lawbreaking, and their actions were constructed to be largely out of their hands. Emphasizing their perceived lack of agency, one policy professional illustratively commented that the public conception of young people who break the law involved “treating [young] offenders as almost victims in and of themselves” (EC). This logic constructs young people only negatively, in terms of what they are not: they are *not* criminals; they are *not* responsible for their actions. Such a portrayal therefore evokes a “recurring feature” of young people’s construction in criminal legal discourse across the Anglosphere, “that young people are largely defined in terms of what they *lack* rather than by what they are or do” (Muncie, 2006, p. 786, emphasis added).

Constructed as lacking criminality and responsibility, interviewees' descriptions of public sentiment invoked resulting positive feelings towards young people that linked to how they should be treated. The public felt compassion and sympathy for young people, because they possessed an "understanding of why young people might commit crime" (GE, law enforcement, male, England). As a result, descriptions of public sentiment invoked an impulse to give them the "life chance" (JS, NGO worker, male, England) they didn't have before, "divert[ing] young people from a life of crime" (LJ, NGO worker, female, England), and "turn[ing] their life around" (KB, NGO worker, female, England). Such a renewal evoked the necessity of an intervention: young people were constructed as deserving and needing reform. Moreover, even though their character was fundamentally fixed in the context of the agency and responsibility they lacked for breaking the law, their character was fundamentally changeable in the context of the state's response to their lawbreaking. According to interviewee's descriptions of public sentiment, young people were constructed as changeable through state intervention that would reform them and help them become responsible for their actions. This interest in intervention, according to interviewees, evoked an interest in rehabilitating young people in a way that impress agency upon them. One practitioner described interventions like restorative justice as achieving this kind of goal in the eyes of the public, analogizing it to how to treat a child who spilled milk: "it's like you spill milk, don't worry about it, but just get down on your knees and kind of, and clean it up and then we can all put it behind us" (PW, law enforcement, male, England). In this analogy, restorative justice is the reform that allows the young person to become responsible and move on from their mistake.

In contrast to constructions of young people which emphasized their lack of agency and the necessity of their reform, characterizations of adult's perceived moral character highlighted their incorrigibility. As opposed to young people who were defined by their circumstances and constructed to lack responsibility as a result, adults were defined by their lawbreaking and entirely responsible for it. And in contrast to the characterization of young people that negated their criminality, agency, and responsibility, adults were essentially characterized by criminality. Two lobbyists illustrated the perceived difference in underlying character as follows:

> Often, for people that have committed crimes, when it's a young person, people want them to change—they want 'em to turn their life around. Whereas [...] when it's an adult, there seems to be this perception that they're kind of a bad person and therefore nothing that you do is necessarily gonna change that. (KB, NGO worker, female, England)

> Whereas with adults, it's almost like it's too late, and the public perception is if you're a criminal, you're always going to be a criminal. (JS, NGO worker, male, England)

In both descriptions, adults who break the law are constructed as *becoming* their criminality: positioning lawbreaking adults, in turn, as essentially 'bad people' or 'criminals', the descriptions suggest that these adults can no longer be detached from the crimes they commit. Moreover, contrasting with the construction of young people, both quotes also illustrate how adults' essential criminality evoked the futility of intervening to reform them, evoking what Garland (2001) calls the "failure model" (p.61). As a result, interviewees descriptions of the public sentiment evoked a desire to remove lawbreaking adults from society—a public penal philosophy of incapacitation (Wang, 2018). As one

charity officer and lobbyist summarized: “get them off the street and they're no longer a problem” (JS). What these adults deserved, this suggests, was incarceration—not the kind of intervention associated with ‘reforms’ like restorative justice.

While the construction of lawbreaking adults as unreformable essential criminals who must be removed from society underscored an implicit opposition to restorative justice for them, this opposition was also explicit. Reported characterizations of restorative justice for adults evoked a nervousness about misapplication. In the public perception as reported by interviewees, restorative justice was imagined to be a replacement to something like incarceration.[8] The combination of these two perceptions evoked a fear of offering restorative justice to the wrong adult, evoking a hypothetical scene where the adult criminal is released and goes on about their lawbreaking ways. The constructed possibility of this outcome positioned restorative justice for adults as risky—as one policy professional summarized, “there was a lot of fear [...] when we got into adults, there [were] a lot more tradeoffs” (EC, political official, male, England). In other words, to whatever limited extent adults might deserve restorative justice—or something generally less punitive than incarceration—restorative justice came with risks. Interviewees descriptions of the public’s perception of restorative justice constructed adults as only deserving restorative justice for petty, often nonviolent crime as a result. As one former probation officer described, to the public, “restorative justice is good for people who steal a lawnmower from your garden shed,” not “more serious crime” (GE, law

[8] Even though, as previously mentioned, restorative justice in the UK is nearly always a *complement* to incarceration rather than a *supplement* for it—particularly for adults (Wood, 2015).

enforcement, male, England). The adult lawnmower thief, even if an incorrigible criminal, would do little harm in the imagined scenario where they are offered restorative justice instead of incarceration and go on to offend again; the imagined violent offender would do far worse (*c.f.* Wang, 2018).

Beyond this normative difference explored by interviewees which contrasted young people and adults, interviewees also explored this dichotomy descriptively. This facet of the dichotomy between youth and adults emphasized how—structurally and institutionally—the youth justice system was organized around offering restorative justice in a way the adult system wasn't.

Describing the structure of the youth justice system, interviewees responses constructed restorative justice as a fixed, sturdy foundation, contrasting with an adult justice system was restorative justice was unintegrated and at best patchy. These descriptions painted a picture of a youth justice system where the dust had settled after decades of transformation. As one study summarized, "[s]ince the election of the first New Labour government in the UK, in 1997, the youth justice system has been a locus of near-permanent reform" (Goldson, 2010, p. 155). But when describing the result of such change, interviewees depicted stability and fixity, positioning restorative justice at the center of the youth justice system. As one lobbyist described: "I think it it's far more embedded in youth justice for most youth justice services. It's part of their core, or considered part of their core work" (JS, NGO worker, male, England). Explanations of what made restorative justice the 'core' of youth justice took different forms—it was constructed, variously, as a core budget priority, a common part of the procedure of

working with young people, and effectively enabled by durable legislation. One longtime member of a local Youth Justice Team recounted what such stability during continuous reform looked like: “So, my job title's changed a few times, and the name of the team has changed at least four times. But [the] core of my work has remained pretty constant” (PW, law enforcement, male, England). Illustratively, the same lobbyist continued: “it's just part of what [they] do. It's not a little bolt on, nice-to-have thing it. It is a core part of youth justice work” (JS). But such descriptions also evoked the specific policy priorities of the Blair and Brown governments to create a youth justice system that centered restorative justice. “The principles of restorative justice – and its potential for restitution, reparation, informalism, reconciliation, public participation and harm minimization – have been widely claimed to underpin New Labour’s modernizing reforms,” recounted one study (Muncie, 2006, p. 778).

Moreover, descriptions of restorative justice’s centrality to the youth justice system seemed to construct restorative justice as now almost rational to how the system operates. The same lobbyist raised this possibility by describing how hard it would be for youth justice system administrators to move away from restorative justice:

> And I actually think within the YJB now, it would be really difficult for anyone to come in and say “don't do it.” They've done such a good job of making sure that every youth justice service is working restoratively in one way or another, but actually just to suddenly change that is really hard [...] if it's in policy, when your next CEO comes in, that's a massive job to change policy. So if it's ingrained in there, it's easier just to say, "I'll pick off the bits," you know, [and] if I want to put my foot down and do something different, I'll pick something where actually it's just really easy to do. (JS, NGO worker, male, England)

Put differently, this description constructs restorative justice as so difficult to remove from the youth justice system, that if a new leader came in, they would be disincentivized to change restorative justice rather than something else.

Overall, restorative justice had been institutionalized along all three axes considered by scholars of so-called 'new institutionalism' (Schmidt, 2008): historically, in terms of the legislative progression that enshrined it; culturally, in terms of a new standard of acceptable practice that now required it; and rationally, insofar as it had become imprudent for decisionmakers to oppose it.

Such characterizations of restorative justice as 'embedded,' 'core,' and 'part of what they do' in the youth justice system contrasted with descriptions of the adult justice system which emphasized precisely the opposite. Characterizing Police and Crime Commissioner-funded restorative justice services—the main way restorative justice featured in the adult justice system—interviewees frequently depicted services as patchy and sparse. Often opting for a term by the All-Party Parliamentary Working Group on Restorative Justice by positioning it as a 'postcode lottery,' their responses highlighted the power of local decisionmakers to dictate access to restorative justice, and demonstrated the nonuniformity of their interest:

> And we very quickly sort of worked out that you had areas where it was really minimal spend—£50,000, £60,000, a year. And then other areas, London for example, was just short of £1,000,000 a year [...] it created this sort of 'post code lottery' of RJ. So if you're in one area, you might get a really good service in another area you might not access anything and this one you'll get somewhere in between. (JS, NGO worker, male, England)

In addition to characterizations of restorative justice as patchy, interviewees also characterized its practice in the adult justice system as so infrequent overall that it was basically nonexistent. Their responses evoked a lack of public knowledge about restorative justice, often citing a widely-circulated statistic from the Crime Survey for England and Wales that only 5% of victims were even offered restorative justice. Drawing on this lack of knowledge, one former high-ranking police official commented that "if [restorative justice] disappeared, most people would never know" (TW, law enforcement, male, England). This lack of knowledge seemed to index a larger structural disinvestment, pointing to how restorative justice was nowhere near embedded in the adult justice system as in the youth system.

The final way that interviewees dichotomized restorative justice young people and for adults was by describing difference in decisionmakers' commitment to the practice for each group. At times, these characterizations evoked the contingency of decisionmakers attachment to restorative justice (or lack thereof); but at others, they demonstrated the position of restorative justice in institutional discourse more broadly. On this first pole, multiple advocates who lobbied the Youth Justice Board (YJB)—who oversees the youth justice system—maintained that members of the board had long been personally committed to the practice of restorative justice. "I think like people like the YJB have got [restorative justice] right," one lobbyist described, "because they wanted to do it, they've made it happen, they've involved people, it's remained a priority" (JS, NGO worker, male, England). Another interviewee explained that another reason the YJB was committed to restorative justice was because advocates had convinced proponents of restorative

justice to join the Board. Altogether, these descriptions of explicit commitment to restorative justice in the youth justice system among its leaders evoked the contingent importance of their agency (*see* Marshall, 1996). Understood relationally, attributing the continuity of restorative justice in the youth justice system to the commitment of YJB members also evokes their power in the youth penal policy coordinative discourse to influence it from the "top-down" (Schmidt, 2008, p. 311). But other descriptions given by interviewees suggested that practitioners on Youth Justice Teams—the local unit of the youth justice system—were similarly committed to restorative justice and asked for their views on it. Describing frequent consultations, regional forums, and invitations to present to the board, interviewees outlined a youth justice system broadly committed to restorative justice—evoking how support for restorative justice in the coordinative discourse was also from the "bottom-up" (Schmidt, 2008, p. 311).

Regarding the adult justice system on the other hand, interviewees repeatedly articulated a *lack* of commitment to restorative justice. For some, the practice was only a passing interest, or as one former probation official put it, the "flavor of the month" (GE, law enforcement, male, England). Characterizations like these were often based on the supposition that restorative justice was, to some extent, a fad—not a widely held policy priority. And indeed, several interviewees suggested that other paradigms of penal policy were now in vogue, like desistence theory (*see* McNeill, 2006; Weaver 2019), replacing restorative justice in the limelight.[9] These characterizations point to a distinction made by

[9] Scholars like Shadd Maruna (2016) have convincingly argued that restorative justice and desistence theory are largely compatible paradigms. Nevertheless, he acknowledges that criminal legal institutions' interest migrated from restorative justice to desistence theory, somewhat marginalizing the former in the process.

discursive institutionalists between *coordinative* discourse where policy is made, and the *communicative* discourse where the broader goals of policy are debated (Schmidt, 2008, p. 310). 'Flavor of the month' evokes how restorative justice might have been something that decisionmakers aspired to or found interesting, something communicated about—but not something that eventually affected policy, or sufficiently registered in the coordinative discourse required to bring it about. Additionally, some interviewees suggested that the policymaking structure of the adult justice system—in particular the Ministry of Justice—ensured that the practice wouldn't become embedded, even if practitioners were committed to it locally. Specifically, contrasting the Youth Justice Board, constructed as democratically influenced by local Youth Justice Teams to embrace restorative justice, one interviewee outlined why restorative justice would never flourish due to local interest in the adult system:

> I don't think Ministry of Justice, [nor] HMPPS are good at getting that buy-in. They, they're good at surface-level consultation [...] but you don't see that reflected in "this is why we've made this decision." So the consultation part almost seems to be "there's a box to tick to say we've asked," but actually you don't really care what comes back from that. (JS, NGO worker, male, England)

This example suggests why constant restorative justice pilots in so many regions were never fully integrated into national policy: this account constructs the adult justice system as a 'top-down' coordinative discourse for policymaking, and evokes how relevant decisionmakers at the top were never sufficiently committed to restorative justice.

Altogether, the dichotomy between youth and adult depicts two criminal legal systems organized around two different objects of governance. At the core of this organization is a central conceptual distinction: in their criminality, youth and adults are

different. On one level, as an interviewee described, this distinction and resulting split system seems simply nonsensical:

> [I]n England and Wales, the system is split. So if the young person [is] under 18, they would come under the Youth Justice Service, um. But if you are a victim of crime, you are, you are dealt with by the Youth Justice Service or the adult service or the victim service, depending on the age of your person who attacked you, which I always think is really absurd. (LJ, NGO worker, female, England)

But on another level, this difference indexes two distinct governmentalities: two "political rationalities" (Miller and Rose, 1990, p. 5) that identify "'problems' [...] in need of amelioration" (p. 3). Both youth offending and adult offending, as the above shows, are 'problems,' but cultural common sense dictates they must be addressed differently, by different "institutions, procedures, [...] and tactics" (Rose et al., 2006, p. 86). In England and Wales adult and youth offending are addressed by different justice systems which are structured entirely differently, are differently responsive to the interests of local practitioners versus decisionmakers, and approach criminality differently. As the preceding shows, the shape of these two governmentalities in implementation has greatly affected the trajectory of restorative justice and its shape.

In the context of a split between governing youth criminality and adult criminality, restorative justice as a governmentality itself has fractured between the two. As Rose et al. (2006) describe, modes of governance often contest or ally with one another. As restorative justice emerged in the youth justice system by way of the Blair and Brown governments, it largely allied with the existing mode of governing youth criminality. There, restorative justice was seen as a solution to youth criminality, successfully integrated in practice, and committed to in institutional discourse. In the adult system however,

restorative justice was seen as contesting the prevailing mode of governance, nonexistent in practice, and absent at the determinative level of institutional discourse. To be sure, governance of youth criminality is certainly not disjoint from the governance of adult criminality, and often the justice systems organized around carrying out such governance are influenced by the same determinants or adopt the same techniques. One overlapping factor identified by interviewees was 'penal populism', central to punitive emotional discourse described above. But this factor affected restorative justice as a mode of governance differently in the youth justice system and the adult justice system. In the adult justice system, penal populism may have helped construct or exacerbate the emotional opposition to restorative justice for adults conceived as incorrigible criminals; in the youth justice system, as one probation officer described, processes of penal populism eroded away at a more sympathetic understanding of youth criminality, but could not destroy the rationale for restorative justice (GE, law enforcement, male, England).

5 | Northern Ireland over England and Wales: sovereignty and restorative justice

As mentioned, the UK contains not one criminal legal system but three: while criminal justice in England and Wales is administered centrally by the UK Parliament in Westminster, authority over criminal justice in Scotland and Northern Ireland is devolved to their respective parliaments. Thus far, this study has primarily focused on restorative

justice in England and Wales where restorative justice has followed an uneven trajectory of growth and decline. In contrast, interviewees' descriptions of restorative justice in Scotland positioned it as even more marginal than in England and Wales, in agreement with existing literature (Maglione, 2020; Maglione, 2021; Kirkwood and Kritikos, 2025). However, interviewees depicted restorative justice in Northern Ireland as fundamentally different than both other jurisdictions, where, as one academic synthesized: "in Northern Ireland, the route of restorative justice is very different" (JH, academic, male, England). Most often, interviewees juxtaposed the exceptionality of restorative justice in Northern Ireland against restorative justice in England and Wales. Such a fracture formed a final prevailing pattern in interviewees' descriptions of its trajectory: a difference between restorative justice in England and Wales, on one hand, and Northern Ireland on the other. To this effect, interviewees characterized restorative justice in Northern Ireland as a case study of everything it wasn't in England and Wales. First, in terms of its diffusion, restorative justice emerged as a "semi-organic response" in the former but was instituted from the "top-down" in the latter (JH). Second, its size and structure made Northern Ireland "right for a non-adversarial approach to justice" (TC, law enforcement, male, Northern Ireland), whereas restorative justice in England and Wales lacked a "national picture" (JS, NGO worker, male, England) and a "coherent strategy" (TC), and was continuously underfunded (EC, political official, male, England). Finally, where restorative justice became state policy in Northern Ireland out of a sense of necessity—a sense that "we better do this too" (TC), there was never sufficient "political will" (EC) for national uptake in England and Wales, despite substantial lobbying. Central to this split was the

Northern Irish conflict, “at its core a political struggle over the legitimacy of the state of Northern Ireland” (Chapman, 2012, p. 573). In its enormity, the conflict was a registered as a discursive and institutional catalyst (McEvoy and Eriksson, 2008) by interviewees in England, Wales, and Northern Ireland alike, cast as essential to what made restorative justice in Northern Ireland so exceptional—and so different from England and Wales. Indeed, the conflict underpinned the fracture in how restorative was represented as a mode of government in each jurisdiction, but also in how governance itself occurred.

The first way the difference between restorative justice in Northern Ireland and restorative justice in England and Wales appeared was in terms of how the practice emerged in each jurisdiction. Interviewees framed this element of the difference as representing part of an ongoing debate about how to institutionalize restorative justice, a choice between a “bottom-up” approach “that is a response to the needs of communities” or a “top-down” approach driven by the state (JH, academic, male, England). England and Wales, according to interviewees, exemplified the ‘top-down’ pole of this debate: restorative justice there had been taken up first according to the “strategic priorities of Chief Constables” (TW, law enforcement, male, England), then later the “interests” of Police and Crime Commissioners (JH) and the “Invest to Save” approach of New Labour (JS, NGO worker, male, England) that revamped the youth justice system. As a result, interviewees argued, restorative justice was at the mercy of the institutions where it was enacted and their prerogatives. “Top-down restorative justice,” one academic argued “is sort of bastardized or reshaped by the institutions in which it becomes embedded” (JH). As a result, restorative justice in England and Wales was constructed as malleable through

changes in the institutions where it was enacted, and vulnerable to the forces that affected them. In the Thames Valley, for instance, where restorative justice was initiated top-down by Chief Constable Charles Pollard, interviewees described how the practice was later stymied by his successor who had a new "vision, campaign, [and] crusade" (TW). Even in the youth justice system, where a top-down approach to restorative justice "has found most traction" (JH),[10] one probation official described how "penal populism"— an entrenched institutional force[11]—"jumped on it" (GE, law enforcement, male, England), mounting a growing challenge. Altogether, these characterizations of 'top-down' restorative justice in England and Wales depicted it as a weaker mode of penal policy implementation—one more readily susceptible to attrition.

In contrast to its 'top-down' deployment England and Wales, restorative justice in Northern Ireland was constructed as emerging from the 'bottom-up' in communities—driven by their needs and desires during the troubles—and was depicted as far more durable as a result. As the same academic explained, the practice emerged first among paramilitaries during the conflict, as a means of building community safety:

> The restorative justice agencies there—so CRJ [Community Restorative Justice] and [Northern Ireland] Alternatives—each represented movements within the different religious communities in Northern Ireland that grew from the Troubles. And they didn't emerge initially as restorative justice agencies—they emerged as community groups that were working to build peace effectively. (JH, academic, male, England)

[10] To be sure, as addressed above, restorative justice grew substantially in the youth justice system partially through the 'bottom-up' interventions of practitioners in the coordinative discourse. However, the restorative features of the youth justice system itself were originally enacted 'top-down' by New Labour-driven legislation prior to this (Muncie, 2006).

[11] As described above, 'penal populism' represents a component of the punitive emotional discourse that frequently underpinned marginalizations of restorative justice.

Specifically, the paramilitaries were portrayed as taking up restorative justice upon recognizing that their more usual violent means of deterring interpersonal harm did not lend political legitimacy. Where their peacebuilding strategy was described as initially relying on "punishment violence" like "kneecapping" (TC, law enforcement, male, Northern Ireland)—shooting a perpetrator of perceived crime in the knees—one longtime practitioner detailed how these practices did not seem to comport with their political position and ambitions for self-government, explaining the political calculus of the Catholic community-affiliated Irish Republican Army as follows:

> Especially as one of [their] main planks is human rights, you know—that we've been an oppressed minority and our rights haven't been observed—people will say, well, how are you treating your own people? [...] That was partly their pragmatic thing, that if we're going to go into the political arena, now we need to clean up our act and, um, we can't just be shooting people. (TC)

As a result, he continued, "they discovered restorative justice and started doing it before anybody in the state was" (TC). Altogether, this narrative of the paramilitaries' shift from 'punishment violence' to restorative justice highlights how restorative justice emerged from a community-administered public safety strategy—a strategy not just influenced by a community desire to "build peace effectively" (JH), but also by ambitions for political legitimacy in the anticipated peace process. Depicted as designed and administered by community, community restorative justice in Northern Ireland is cast as wholly apart from traditional state criminal legal institutions and largely impervious to their 'bastardizing' influence. Indeed, as McEvoy and Eriksson (2008) note, despite collaboration with the Northern Irish state, these agencies have retained the autonomy to take thousands of cases entirely apart from it—quantities larger than some of the most successful adult

restorative justice programs in England and Wales (p. 167; *cf.* Ministry of Justice, 2024). Rather than vulnerable to Northern Irish criminal legal institutions, restorative justice there was characterized as actually *constituting* these institutions. One practitioner described how the success of the 'bottom-up' restorative justice forced the state to incorporate the practice into its policing and prosecution: "the state saw this happening and actually panicked, and I think they said, 'we better do this too'" (TC). Overall, 'bottom-up' restorative justice in Northern Ireland was cast as engendering a durable future for the practice. In contrast to the 'top-down' approach cast as replete with problems in England and Wales, the 'bottom-up' approach in Northern Ireland was therefore approvingly characterized as "the template" that "hadn't spilled over into the rest of the UK" (JH). This construction of bottom-up restorative justice in Northern Ireland as a 'template' for jurisdictions like England and Wales accordingly positioned it as an exemplar over them—a paragon for them to aspire to.

Another aspect of the difference between restorative justice in England and Wales and restorative justice in Northern Ireland centered around the size and structure of each jurisdiction. In contrast to their focus on emergence, which contrasted contingent political and institutional conditions—participants' emphasis on size and structure suggested that each jurisdiction's basic composition influenced the difficulty of enshrining restorative justice there. In the context of England and Wales, interviewee's cast the diffused structure of the jurisdiction's justice systems as impeding consistent and reliable access to restorative justice. One academic declared that the present "diffused" structure of adult restorative justice—where regional Police and Crime Commissioners determined whether

and how much the practice would be funded—as largely responsible for the "postcode lottery" of uneven access that resulted (JH, academic, male, England). Even in the youth justice system, where the academic extolled a "greater willingness to embed and pursue restorative justice," he also lamented a historical lack of centralized "[restorative justice] policy for the whole country" (JH), which new Youth Justice Board changes were only beginning to solve. Emphasizing the same point, a longtime youth justice practitioner admitted even though restorative justice among Youth Justice Teams was "going in the right direction," their relative independence had led to the teams being "kind of been patchy with the [...] RJ work" (PW, law enforcement, male, England). In both these cases, the diffused structure of the adult and youth justice systems were portrayed as creating inconsistent access to restorative justice, reflecting what Morison (2001) calls the "reduction in capacity that comes from [...] multi-level and multi-form governance" (p. 300). As interviewees elsewhere explained, this structure reflected the well-meaning intention to have "a national picture but [give] local responsibility" (JS, NGO worker, male, England). But in effect, one Northern Irish former probation official discerned, the configuration created in England and Wales "a sort of McDonaldization of [restorative justice], where they would have sort of just a little franchise in every area," which did not amount to "a coherent strategy" (TC, law enforcement, male, England).

Related to how the basic structure of England and Wales' justice system was constructed as impeding restorative justice, interviewees also described the size of the jurisdiction as a barrier to institutionalizing the practice. On their view, the size of England and Wales as a jurisdiction made the centralized enactment of restorative justice far more

difficult. The basic problem, one lobbyist and charity executive in England and Wales commented, was that "over here [the jurisdiction] is just too big" (JS, NGO worker, male, England). As a result, the lobbyist continued, there was a "recognition that we can't control everything centrally" because England alone was nearly ten times the size of Northern Ireland (JS). This logic therefore constructed government's ability to consistently implement a centrally-administered penal approach like restorative justice as limited by the size of its jurisdiction, consequently implying that restorative justice in England and Wales was impeded by the size of the jurisdiction itself. Moreover, the depiction of large jurisdictions as hindering centrally-administered policy was also connected to interviewee's characterizations of how jurisdictional structure did the same. As the same academic argued, "smaller systems" provided for "joined-up thinking," where "national organization[s]" help "structure and manage" policy centrally, whereas larger systems did not (JH, academic, male, England)—suggesting that larger systems incentivized instead the diffused "multi-level and multi-form governance" (Morison, 2001, p. 300), depicted as impeding consistent access to restorative justice. Altogether, the depiction of England and Wales as requiring an 'incoherent' diffused approach to restorative justice because the jurisdiction was 'too big' to do otherwise, positioned the practice as a virtual impossibility there.

On the other hand, interviewees characterized the jurisdictional structure and size of Northern Ireland as far more amenable to restorative justice. In contrast to England and Wales which were "just too big" (JS) for centralized restorative justice, Northern Ireland epitomized the "benefit of [...] smaller systems" (JH, academic, male, England)—that their

smaller size made it easier to "do things as a whole" (JS, NGO worker, male, England). Specifically, "joined-up thinking" on restorative justice between national policymakers and local practitioners (JH) was depicted as easier where policymakers had a "level of responsibility" over less "area" (JS). In other words, Northern Ireland was cast as more fertile ground for restorative justice, because its smaller area made centrally-administered penal policy—like restorative justice—easier to implement. The size of Northern Ireland, one English charity officer summarized, therefore influenced why restorative justice was "more successful" there (JS).

Moreover, the structure of justice administration in Northern Ireland was also cast as furthering the success of restorative justice in the jurisdiction—and in fact, the structure was depicted as *organized* around restorative justice. As interviewees explained, restorative justice represented a foundational strategy of centralized justice administration in the jurisdiction. In the state-led formal justice system that emerged from the Conflict, one former Northern Irish probation officer outlined how "quite a radical law" was passed to offer a form of restorative justice to "any young person under the age of 18 who admitted to an offense" (TC, law enforcement, male, Northern Ireland), either by the police, or through a "diversionary youth conference" arranged by the Public Prosecution Service (Zinsstag and Chapman, 2012, p. 175–6). Moreover, as previously mentioned, the paramilitary-born community justice services that administered justice and resolved conflict separately from the state also took up restorative justice as their defining focus. As a result, one academic described, the practice had become a "central policy" in the jurisdiction (JH, academic, male, England). Underscoring how restorative justice had

become a unifying feature of justice administration in Northern Ireland, the same probation official described how the state and community justice services were so in alignment on the use of restorative justice that they agreed to participate in a training to further the use of best practices:

> But when, when we were training community Restorative Justice Ireland, the first guy who walked into the teaching room at Ulster University was the [paramilitary leader] I used to meet to talk about kneecapping. And he looked at me, and I looked at him and we knew, but we didn't say anything for about another three weeks until we got friendly again. And then we were able to talk about it. And he's, he's still, he's, he's the head of the Community Restorative Justice Ireland group. (TC)

Besides depicting a telling moment of reconciliation, this vignette also illustrates the strength of shared commitment to restorative justice between the community and the state. As the same official spelled out, the "coherent strategy" (TC) of restorative justice was an organizing feature of justice administration in Northern Ireland for community and state alike. In other words, the structure of justice administration in the jurisdiction was more than just *amenable* to restorative justice—it was partially *constituted* by restorative justice. Unlike the diffused adult justice system in England and Wales which *lacked* such a strategy and the partially diffused youth justice system where implementation was "patchy" (PW, law enforcement, male, England), restorative justice in Northern Ireland was therefore depicted as foundational. Taken together, Northern Ireland's justice administration was depicted as structured around restorative justice—partially as facilitated by the jurisdiction's small size—positioning the practice there as nearly unshakable.

The final element of the difference between restorative justice in England and Wales and restorative justice in Northern Ireland centered around each government's political will towards in restorative justice, and the pressure required to secure it. As one English charity officer framed the distinction, restorative justice uptake "very much depends on the government" and the "lobby[ing]" involved (KB, NGO worker, female, England). In England and Wales, according to interviewees, the state exhibited no "significant political will for restorative justice" (TW, law enforcement, male, England), despite a substantial multi-decade lobbying push. The perceived robustness of this pressure campaign was underscored by interviewees' descriptions of its three main tactics. First, interviewees depicted the strength of the campaign by describing how advocates for restorative justice built the relationships that would allow them to repeatedly cajole high-ranking decisionmakers. Advocates recounted colleagues who could "phone up and get a breakfast meeting on Downing Street"[12] (TW), described a "VIP network" of "people in high places" including "senior judges, senior police officers," Prime Minister "Tony Blair" and "Lord [Ian] Blair" (GE, law enforcement, male, England)—connections that allowed them to exert personal influence on criminal legal policy leaders. Second, interviewees underscored the vigor of the campaign by describing the efficiency of its coalition lobbying. Multiple interviewees, for instance, detailed how a recently created All-Party Parliamentary Working Group (APPG) lobbying for restorative justice had brought advocates together, and had become "one of the top-performing APPG's that were actually [...] making a difference, encouraging Parliamentary activity" (JS, NGO worker, male, England)—positioning the

[12] Home and office to the Prime Minister.

campaign as legislatively influential. Finally, interviewees cast the breadth and depth of interest among restorative justice practitioners as a key facet of the campaign's clout. As interviewees professed, the "the biggest supporters of restorative justice are the restorative justice services in each area," whose practitioners were persistently "lobbying very hard" for the practice (KB), sometimes with an almost "evangelical" commitment (JH). All told, depictions of these three tactics positioned the lobbying push for restorative justice in England and Wales as well connected, effectively organized, and widely supported. Nevertheless, as one former senior probation official recalled, while the campaign secured the ostensible support of legislators, ministers, and judges, these "people in high places [...] didn't necessarily deliver" (GE). Interviewees lamented how advocates' pressure had yielded scant results: several attempts to further the practice legislatively had failed; "some of the bigger [Police and Crime Commissioner] areas" were "cutting back" investments in restorative justice (JS); and even the last governmental plan to further the practice had "finished around 2017–18" without success (JS). Together, outcomes like these underpinned characterizations of limited "political will for restorative justice" (TW) by the state in England and Wales: that such vigorous lobbying for restorative justice had failed suggested that overcoming such reticence would be nearly infeasible.

By comparison, the Northern Irish state was cast as displaying significant political will for institutionalizing restorative justice—not as a result of a concerted lobbying effort, but rather on its own prerogative. As interviewees explained, no lobbying push was needed to force the state to take up restorative justice, since the state already viewed the practice as a vehicle for regaining legitimacy. Because one important effect of the conflict was "the

credibility of the criminal justice system was severely weakened" (Chapman, 2012, p. 583), one former Northern Irish probation official described how one the state's main objectives was to "reestablish [...] some credibility in communities" (TC, law enforcement, male, Northern Ireland). Depicting the state's investment in being perceived as the legitimate arbiter of justice, the probation official's characterization evokes what McEvoy and Eriksson (2008) identify as a powerful drive of the post-conflict state whose "power and legitimacy of the state have been directly and violently challenged"—a drive "towards a firm reassertion of the state's monopoly over justice" (p. 163). Put differently, the state's attempt to restore credibility towards its criminal justice system represented part of a larger effort to regain its place as the arbiter of justice—and its power and legitimacy in the process. Specifically trying to reestablish credibility among Republican communities historically mistreated by the justice system, the same official described how this ambition pushed the state towards restorative justice. When the paramilitaries—effectively the arbiters of justice among Republican communities—largely eschewed punishment in favor of restorative justice, he explained how "the state saw this happening and actually panicked, [saying] 'we better do this too'" (TC). Restorative justice was accordingly "competitive for a while" (TC), he continued, as the state attempted to regain legitimacy by adopting this new, community-supported technique of justice administration as its own. Put differently, his account positioned the state as trying to regain legitimacy and restore credibility to its criminal justice system by adopting the core tactic of a community justice system already perceived as credible. The Northern Irish state's political will for restorative justice, therefore, was conceptualized as a self-initiated attempt to garner

power and legitimacy, not as the result of a lobbying campaign. In contrast to England and Wales, the Northern Irish state was consequently depicted as possessing real political will for restorative justice—a will which was borne out in "radical law" (TC) that situated the practice near the center of the justice system. Moreover, unlike the insufficient will for restorative justice ascribed to England and Wales that was generated by lobbying, this more substantial political will for restorative justice in Northern Ireland was cast as emerging from inside the state as an attempt at regaining sovereignty.

Overall, the difference between restorative justice in Northern Ireland and in England and Wales depicts how the practice fared in two different struggles for preeminence. But though explaining the difference involved both struggles using shared terms—mode of emergence, size and structure, and political will—these terms meant something different in each context. These terms of contrast, for England and Wales, represented reasons for the relative failure of restorative justice: its top-down mode of emergence had weakened its institutional standing; the diffused structure and large size of the jurisdiction had made consistently implementing it difficult; and anemic political will for it had stymied even vigorous lobbying. However, these same terms, for Northern Ireland, represented measures of the practice's success: its bottom-up emergence demonstrated how it had come to constitute institutions themselves; its centrality to justice administration illustrated how it had become structurally foundational; and self-initiated state action to enshrine it demonstrated substantial political will for it. Put differently, the different trajectories of restorative justice offered hypothesis for failure contrasted with stories of success. At the root of this contrast was a more foundational

difference between the political terrains: the event of the Northern Irish conflict. The condition for "real, radical" restorative justice in Northern Ireland, a practitioner there explained, was "30 years of violent conflict"; without it, he speculated, "we wouldn't have such a radical approach" (TC, law enforcement, male, Northern Ireland). For Northern Ireland therefore, the conflict provided the central narrative through which restorative justice was described to prevail, while for England and Wales, its absence left only conjectures about the practice's collapse.

Once again, on the terrain of governance, the conflict registered as a fracture. The conflict not only bifurcated restorative justice as a mode of governance between the two jurisdictions; it also made incommensurable the two political environments where restorative justice competed for predominance. Restorative justice in England and Wales competed to become the favored governmentality—the favored "technique[] and procedure[] for directing human behavior" (Rose et al., 2006, p. 83)—on a terrain where state sovereignty lay unquestioned, where "territorial integrity no longer mattered" (Whatmore, 2021, p. 104). In contrast, restorative justice in Northern Ireland competed for predominance in a context where territorial integrity and sovereignty assuredly still mattered—a terrain Foucault described as preceding governmentality itself (Rose et al., 2006, p. 87). On Foucault's account, (as Rose et al. summarize), states had long been primarily concerned with securing control over their territory (p. 87). However, at "a particular historical moment" where the territorial sovereignty lay unquestioned in a state, state apparatuses became "governmentalized," focused on administering populations (p.

87).[13] At this point, Whatamore (2021) argues, "governmentality became the central function of the state" (p. 104), now determined by a competition between techniques (Hunt and Wickham, 2021). However, restorative justice in the Northern Irish context shows, competition of a different sort preceded the governmentalization of the state. Rather than competing in the contest over *how* Northern Ireland would be governed, restorative justice featured in the more foundational competition over sovereignty, over *who* would govern Northern Ireland. It was through *this* competition that restorative justice emerged in Northern Ireland: the bottom-up success of the practice, its central position in the structure of the jurisdiction, and the outsized political will to pursue the practice all represented attempts by the state and its opponents to exercise sovereignty. Despite interviewees' attempts to contrast restorative justice in the two jurisdictions along shared axes, their categorically distinct political environments precluded such comparison.

Conclusion

As the preceding shows, agents mediated the trajectory of restorative justice through uptake and rejection, across justice systems, and between jurisdictions, flexibly interweaving broader discourses into immediate, on-the-ground politics. Charting facets of this trajectory, this study contributes to the growing literature about the politics of penal policymaking in general, and the politics of restorative justice policy in particular.

[13] That is, what Whatmore (2021) identifies as "biopolitics"—another Foucaultian epoch of government (p. 104).

Encompassing a multiplicity of practices, scholars have conceptualized restorative justice as a mode of government—a govern*mentality*—due to the shared philosophical underpinnings of its many instances (Pavlich, 2005) and the political commonalities between its mobilizations (Maglione, 2019). Past scholarship has therefore parsed restorative justice as a political rationality—in concept and in context—particularly by exploring its emergence and its internal logic (*ibid*; Foucault, 2020). This study attempts to take the socio-legal study of restorative justice one step further: inspired by Hunt and Wickham (1994), it focuses on the historical sociology of the struggle for restorative justice, charting the institutional politics that have affected its trajectory. Overall, this study demonstrates how restorative justice in the UK has competed for prominence across level of government, systems of government, and even across jurisdictional lines. One way to think of the current state of restorative justice in the UK is as itself fractured: approaching ubiquity in England and Wales youth justice and in Northern Ireland generally, the practice remains marginal for adults in England, Wales, and Scotland—all for different reasons. In no two sites of struggle, moreover, has the trajectory of restorative justice been the same.

Overall, this study has analyzed how criminal decisionmakers affected the institutional trajectory of restorative justice according to three main themes. In Chapter 3, I identified a particular combination of interrelated explanations were employed to marginalize restorative justice, focused around broader societal punitive emotional and managerial discourses, alongside decisionmakers' perceived lack of attachment to the practice. In Chapter 4, I argued that a dichotomy between restorative justice for young

people and restorative justice for adults fractured restorative justice as a mode of government into two. In Chapter 5, I enlarged the scope to the broader UK, arguing that perceived differences between restorative justice in England and Wales and restorative justice in Northern Ireland indicate how the practice fractures according to contests for sovereignty.

As the thematic analysis of interviews with advocates, practitioners, and scholars of restorative justice indicates, this study shows how the varying trajectory of restorative justice across the UK can help uncover the structure and machinations of UK penal policy. First, the determinants of its marginalization in England and Wales sheds light on the enduring relevance of managerialism and punitive emotionalism—a pair of intertwined neoliberal discourses (Wang, 2018), and also demonstrates how penal politics hinges ultimately on the individuals making it. Second, the dichotomy between youth and adult restorative justice helps illustrate the institutional and philosophical chasm between the governance of youth criminality and adult criminality—and how modes of penal governance can split between the two. Finally, the contrast between restorative justice in England and Wales and in Northern Ireland demonstrates how contested sovereignty can radically reorient criminal legal policy, allowing penal governmentalities significantly difference influence than they would have under an uncontested state.

The results of this study suggest several avenues for further research. Related to the politics of restorative justice itself, one way of expanding this research might involve studying the practice from a different standpoint. For instance, while interviewees for this study—proponents of restorative justice—help shed light on the political trajectory of the

practice, interviewing professionals who stymied the practice might provide more insight into how it had been marginalized. Likewise, interviewing individuals who experienced restorative justice might help uncover how the practice fits into a larger regime of penal control, and the kind of subjectivities it produces. Alternatively, the very same research project could be carried out with either of these prospective sets of interviewees, potentially generating different results. Beyond exclusively considering restorative justice, another avenue for further research could involve researching restorative justice alongside related practices—for instance, in relation to the 'community resolutions' pushed for by many UK police forces (Westmarland et al., 2017); or as an outgrowth of abolitionist-inspired community justice processes (Ryan and Ward, 2014).

Ultimately, the multitude of ways that restorative justice has emerged and been contested in the UK suggests several possibilities for its future. As interviewees described the outsized role that regional Police and Crime Commissioners played in the trajectory of restorative justice in the UK thus far, they noted how the position itself was newly at risk. Under a new Starmer government policy aimed at reorganizing and optimizing local government, the independent role of Police and Crime Commissioner will soon be eliminated across most of England and Wales, with their powers transferred to a series of "regional mayors" responsible for a wide variety of policy areas beyond criminal justice administration (House of Commons Library, 2025). Interviewees acknowledged that though this reorganization was "not the sexiest thing in the world" (EC, political official, male, England), the reforms could inaugurate a shift in restorative justice policy just as large as when funding for the practice was devolved to Police and Crime Commissioners

back in 2012. Interviewees hypotheses about how this change would affect restorative justice varied widely: one suggested that it would cause Westminster to "claw back a little bit of responsibility for [restorative justice] centrally" and presumably expand it (EC); another argued that regional mayors "responsible for everything" in an area—beyond just penal policy—would further marginalize restorative justice (JS, NGO worker, male, England), now viewing the practice as an even lower priority. Either way, as this study and others (Morrison, 2001) show, further devolving power and policy control may well breed inconsistent practice—just as devolutions to Police and Crime Commissioners and to Northern Irish government did previously. Regardless, interviewees explained, the struggle to enact restorative justice everywhere in the UK lies ahead: between a new pilot program in the Thames Valley, incremental lobbying gains with the Starmer government, a national effort in Scotland, and an attempted expansion to prisons in Northern Ireland, the story of the practice is far from over. No matter whether restorative justice grows or shrinks—whether it reaches the entire UK or retreats into obsolescence—its struggle for predominance continues.

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