

# LAW FOR CHANGE STUDENT COMPETITION 2018

TEAM <b>4</b>	PROJECT TITLE <b>Restorative Justice Family Clinic</b>
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## OVERVIEW

### Project Summary

Restorative Justice Family Clinic (“RJFC”) is an initiative aiming to introduce a new perspective to social workers in dealing with child abuse cases. The initiative will include training of how to conduct restorative justice conference, as well as advocating restorative justice into local legal system.

We have observed there is a growing use of restorative practices in domestic violence cases and its effectiveness has been acknowledged in various jurisdictions. However, similar practices have not been formally incorporated into the criminal justice system in Hong Kong.

Existing Multi-Disciplinary Case Conferences (“MDCC”) are led by professionals and victims’ participation is rare. The purpose of the conference is to allow professionals to share knowledge and concerns, plan for the protection and welfare of the child, and recommend a follow-up plan for the child and his/her family, but emotional conflicts between abusers and victims are often neglected.

RJFC intends to provide training to social works as a new way to deal with child abuse cases. Social workers will be trained to identify suitable cases for restorative justice, how to conduct the conference starting from preparation to follow-ups, as well as raising awareness of possible legal issues arising from child abuse cases.

### Social and Legal Needs Assessment

Under the Convention on the Rights of the Child, children have the right to be heard and to express their views in all matters affecting their own lives. In the context of child abuse, children’s voice is central to the issue in order to address and repair the harm done.

Chan (2011) conducted an innovative research study by presenting five vignettes of child maltreatment in the form of flash movies to 87 children to collect their views on child abuse. The study shows that child have, and are able to give, view on child abuse. Thus, looking from children’s perspective helps us to assess whether the current legal and social welfare responses is adequate in meeting their best interests.

### 1. Criminal Justice System

Similar to other common law jurisdictions, adversarial nature of the criminal justice system in Hong Kong is retributive and tends to put child victims and their abusers into opposite directions which may contribute nothing in solving the problem apart from placing the abusers into custody. More importantly, victims’ voice is lacking; they are usually unable to explain their own feelings in the court room and parties most often have legal representation.

In the context of child abuse, child victims may show reluctance in reporting the case to the police because they don’t want their parents punished or arrested (Chan, 2011). A 11-year-old child informants gave the following response:

*“I worried that they would arrest my mother... They thought my mother was very wicked because she scolded at me and beaten me up...”*

For child victims, punishment could not effectively answer their voices and needs when the abusers are the primary care providers. Victims want to stop the violence, but the courts do not have effective tools to address it. That said, the current legal system is by no means ineffective in regulating crimes. We need another justice system to fill the gap and to better promote the welfare of victims and their family members who are not satisfied by the system.

### 2. Social welfare responses to child abuse

In conjunction with criminal justice system, social welfare policies has been carried out to provide more comprehensive welfare response. Where there is suspicion of child abuse, social worker will decide whether an MDCC should be called. MDCC has evolved into an important platform where professionals contribute their expertise to understand the needs of maltreated children and to address the interventions necessary to safeguard their welfare (SWD, 2012a). In 2015 (latest data available), the total number of newly reported child abuse cases were 874, out of which 821 MDCCs were held (LegCo, 2015).

However, child abuse **participation of child victims in the MDCC is currently not a standard practice** in the Procedural Guides for Handling Child Abuse Cases in Hong Kong. Participation of child abuser of victims are **more passive** in nature.

In addition, research studies of Mok (2013) reveals that i) the use of joint interviews in Hong Kong has **not** been regarded as a **key focus of social welfare services** for child abuse case (e.g. counselling and mediation); and ii) individual interviews may not provide social workers with a complete picture and dynamics behind the problem as parties tend to look from their own perspectives.

In Hong Kong, parents are more concerned with the harsh reality of life. They tend to think that employment is important to keep their families afloat and justify the harm done to the child (neglect can be a form of child abuse). However, this is contrary to most children’s view, which was expressed by 11-year-old in the research of Chan (2011):

*“Money isn’t everything. Parent-child relationship is more important...”*

Individual interviews may not be able to bring forth such concern and difference to the table if the parties are not allowed to sit down and talk. Word-of-mouth is way more powerful and conceiving than information conveyed through an agent.

**Restorative Justice and Child Abuse**

The Father of Restorative Justice, Zehr (1990) describes restorative justice as a process to **“create obligations to make things right and the justice involves the victim, the offender, and the community in the search for solutions which promote repair, reconciliation and reassurance”**.

Restorative justice process is not simply to have victims, offenders or other parties in face-to-face dialogues but also to have a set of procedures at various stages, including case assessment, pre-conference, restorative conference and post-conference stages (Barnett,

2003). Common restorative practices includes i) victim-offender mediation (“VOM”); ii) family group conference (“FGC”); and iii) healing circles. Although different strategies are employed for each of these models, the common features of the process includes (Ministry of Justice New Zealand, 2004):

1. **Participation:** Victim offender participation is central restorative practices. Models except VOM include also their respective families and/or support persons, as well as others affected by the offence and those who may help contribute to the resolution of the conflict, including social workers)
2. **Mutual understand of the harm caused:** Participants discuss the offence, giving both victim and offender the opportunity to describe their experience and the consequences of the offence
3. **Collective agreement:** Parties then attempt to find an collective agreement, identifying the obligations of the offender to repair the harm caused by the offence.

By providing an occasion for child victims and domestic abusers to meet in a direct, safe and sincere manner, potential positive outcomes include:

**For child victim:** Letting their voices be heard helps to better address their **actual needs**, be it psychological or physical. Sometimes a hug or apologise letter work as effective as community service in the eyes of the child victims. Therefore, **more active participation** empowers victims by promoting their satisfaction with the process of justice.

**For abusers:** They are given an opportunity to hear about the impact of their wrongdoing **directly** from victims and family members. It not only foster mutual understanding but also empower them to be accountable and to repair harm done by invoking remorse and moral guilt.

**For the family:** Restorative justice processes encourage all parties to discuss their future actions and possibilities with them taking the lead, whereas this opportunity doesn’t arise through a retributive approach or even MDCC. Mutual acceptable agreement tends to reduce recidivism and restore harmony.

Restorative practices has been used to address offences against children such as domestic violence. However, **it is by no means the panacea for all types of child abuse cases**. Mok (2013) has summarised all the basic conditions for the use of restorative justice to assist social welfare practitioners to assess the suitability of the couples and to screen out unsuitable cases, e.g. when safety of child victim cannot be assured and or when abusers do not feel remorse for the wrongdoings. This area of assessment requires practitioner’s professional judgment and expertise. Nonetheless, bringing restorative practices to the forefront is important in furthering the international commitment of protecting child’s best interest- especially in the context of child abuse as minor’s voices could easily be left unheard.

**Aims and Objectives**

Whilst the concepts of restorative justice may be new to social welfare practitioners, they may have identified or even employed some, if not all, of the abovementioned restorative approaches in their casework. However, introducing to them a holistic concept of restorative justice could more comprehensively further their social welfare provision. As such, the aims and objectives out the initiative include:

1	To introduce the concept and practices of restorative justice to child protection social workers in Hong Kong;
2	To advocate restorative justice approach as an social welfare response to child domestic abuse;
3	To advocate restorative justice as an alternative to retributive and punitive measures;
4	To increase legal awareness among social workers in dealing with domestic violence fill the inadequacy in existing social welfare response to child abuse cases;
5	To provide mentoring/networking opportunities to lawyers, social workers and students.

# DETAILED PROJECT PROPOSAL

## Stakeholders Engaged

<b>Programme Organisers</b>	Promote RJFC, contact and coordinate with other stakeholders, administrative work
<b>Restorative Justice Practitioners</b>	Overseas and local practitioners, such as Mr Jae Young Lee (Director of the Korea Peacebuilding Institute & Restorative Justice Practitioner), Mr Hiro Katano (Board member, Mennonite Peace Missions Centre Hokkaido & Restorative Justice Practitioner) & Dr Mok Wai Yin (lecturer in Hong Kong Community College), will be invited to conduct the training workshop
<b>Universities</b>	School of Law and Department of Social Work and Social Administration will be invited to assist in promotion and recruitment
<b>University Law and Social Work Students</b>	Participate in RJFC, receive training, assist the Restorative Justice Practitioners to prepare for the training workshops (materials and content) and engage in the workshops
<b>Law Firm Partners/Legal Practitioners</b>	Scrutinise materials prepared by students and provide advice to RJFC
<b>NGOs/Social Service Providers</b>	Key contact points for approaching the target groups, the venue for training workshops, assist in identifying key issues

## Project Timeline

Stage	Activities	Duration
<b>Project Initiation</b>	Contacting Restorative Justice Practitioners, Universities, NGOs and law firms; recruiting student helpers	Months 1-3
	Coordinating logistical arrangements for overseas Restorative Justice Practitioners	
	Recruiting and training the first batch of student helpers in assisting training workshops	
	Finalising the content of training workshops	
	Finding venues for training workshops	
	Creating and disseminating promotional material to NGOs	
<b>Implementation</b>	Conduct training workshops with social workers, detailed feedback will be requested from participants	Months 4-12
	Analysis the feedbacks received and fine-tune the training workshops	
	Continue recruitment for social worker participants and student helpers	
<b>Post-implementation</b>	Invite workshops participants to implement restorative justice into their practice	Months 12 onwards
	Advocating restorative justice to be introduced into local legal system and incorporating restorative justice training into social worker qualification curriculum	

## Activities and Targets to be reached

### Stage 1: Project Initiation

1. Contacting Restorative Justice Practitioners, Universities and NGOs

**Target:** Partner with at least one University and one NGO dealing with child abuse cases.

We have touched base with Against Child Abuse (“ACA”) which is a non-government child protection agency in Hong Kong against child abuse. Their existing services include investigation, casework and counselling service. We will continue to approach them and invite their social workers to participate in our training workshops.

We have already invited Mr Jae Young Lee & Mr Hiro Katano to provide training. They are both experience practitioners in the region (See Appendix for their executive profile). We will also invite Dr Mok Mo Wai Yin, researcher in the field to provide training on Restorative Justice approach in the local context.

We will be approaching law schools and departments of social work from various universities to get involved in RJFC.

Partnering with NGOs and universities would provide the key channel for approaching our target social worker audience and promoting restorative justice practice to local child abuse practitioners. These collaborators could also provide venues for the workshops.

2. Logistical Arrangements for overseas Restorative Justice Practitioners

Mr Jae Young Lee & Mr Hiro Katano sponsor their round-trip tickets. In the budget, two return tickets are included as contingency. We will be responsible for the accommodation and living expenses during their stay in Hong Kong (in the form of an allowance. See Budget below). Each of them will be responsible for a two-day training; one training for each training programme (in total two training programmes).

3. Contacting law firms/legal practitioners

**Target:** Partner with approximately two law firms who will provide the necessary legal supervision and training to students. Advice will also be sought from legal practitioners for training session on possible legal issues arising from child abuse cases.

We will approach law firms and practitioners. In order to create interest among law firms, we would emphasise the mentorship opportunity and would offer to include the firm’s name in the related distributed materials for marketing.

4. Recruiting student helpers

**Target:** Recruit 15 law students and 15 social work students,

Students will be recruited with assistance from the University through mass emails. To attract students’ participation, it would be emphasised that RJFC is a good chance for them to engage in networking and expand their connections with practitioners. They could also utilise their academic knowledge in reality. Training sessions will also be provided.

5. Creating and disseminating promotional materials to NGOs

**Target:** Distribute promotional materials to NGOs and the workshops are open for enrollment.

We aim to have at least 40 social workers signing up for the training workshops. In order to attract social workers’ participation, feedback of existing child abuse case management and the encouraging empirical results from other jurisdictions will be stressed.

### Stage 2: Implementation

1. Conducting training workshops with social workers

**Target:** Conducting training workshops for social workers (eight sessions of training workshops for each training programme; there will be in total two training programmes).

We aim to have 20 social workers participating in each training programme. Training sessions will cover topics including introduction to local child abuse situation and restorative justice, local and overseas practice, case study and legal issues arising from child abuse cases. Feedbacks will be collected from the first round of training programme and the programme will be fine-tuned accordingly if necessary.

Local and overseas researcher and practitioners will be invited to share their respective experiences. Considering the availability of social workers, eight sessions of training will be spread across 2 months. One session will be held each week with the exception for sessions responsible by overseas practitioners. He will hold a 2-day training.

2. Continue recruitment for social worker participants and student helpers

**Target:** Conduct fine-tuned workshops and introduce the practice of restorative justice to more social workers.

Promotion materials will continue to be distributed to Universities and NGOs. Depends on number of participants, more workshops will be conducted.

### Stage 3: Post-implementation

1. Invite workshops participants to implement restorative justice into their practice

**Target:** Social workers who have participated in the workshops could introduce Restorative Justice Conference as one of their tactics in dealing with child abuse cases.

Social workers and NGOs would be encouraged to identify suitable clients, possibly less severe child abuse cases, and put Restorative Justice Conference into practice. Support will be provided if necessary.

2. Advocating restorative justice to be introduced into local legal system and incorporating restorative justice training into social worker qualification curriculum

**Target:** To promote restorative justice in Hong Kong's legal system and as a usual practice for social worker to deal with child abuse cases.

Interviews will be conducted to analyse the effectiveness and practicality of Restorative Justice in Hong Kong. The Hong Kong Government has told the Legislative Council in 2007 (Legislative Council, 2007) that it did not support restorative justice due to lack of empirical evidence indicating that victim/offender conferencing would reduce recidivism. The result will serve as a foundation for the Hong Kong Government to reconsider restorative justice.

Upon holding various successful RJFC programmes, training materials and structures will be shared with the social worker training providers to consider incorporating restorative justice into their formal teaching courses.

### Budget

Category	Item	No. of units	Cost per unit (HK\$)	Expected Cost (HK\$)
Project Initiation	Print: Helpers' recruitment posters	20	2	40
	Print: Recruitment leaflets	60	1	60
	Roll-up banner stands for recruitment	3	95	285
	Print: Helpers' training sessions handouts	30	0.5	15
	Print: Workshops posters	60	2	120
	Print: Workshops leaflets	150	1	150
Implementation	Overseas Practitioner: Flights	2 (return tickets)	2,000	4,000
	Overseas Practitioner: Daily allowance	6 (days)	300	1,800
	Overseas Practitioner: Accommodation	6 (nights)	500	3,000
	Local Practitioner: Daily allowance	4 (days)	300	1,200
	Print: Training workshop handouts	40	10	400
	Print: Feedback surveys	40	0.5	20
	Refreshments	16	500	8,000
Contingency Expenditure	Venue booking	48 (hours)	480 (per hour)	23,040
	Contingency administrative/ miscellaneous expenditure	N/A	N/A	500
			<b>TOTAL (HK\$):</b>	<b>42,630</b>

## INNOVATIVENESS AND SUSTAINABILITY

### Innovativeness

There is now a growing literature on the efficacy of restorative justice in child abuse cases (e.g. Jülich, 2006). Restorative justice is being seen as *'the answer to the failings of conventional criminal justice'*, since it is believed to offer *'real justice'* to not only victims of crime, but to offenders and the community generally (Stubbs, 2004). Instead of viewing the state as the primary victim of an offence, restorative justice views crime as being directed against individuals. As an innovative justice practice, restorative justice emphasises repairing harm caused by criminal acts through cooperative processes that allow all concerned stakeholders to meet, discuss the harm and find ways for resolving the aftermath of the offence (Van Ness & Strong, 2006).

Under the retributive justice approach, only the government and the accused, along with their lawyers and any witnesses that testify, have the right to participate in trials. Instead of considering reparations and healing for those harmed, the government sentences the perpetrators without empowering the victims and the community. On the contrary, restorative justice considers crime more holistically than retributive justice and advocates for justice to be restored in the community through the perpetrators being held accountable for their actions.

Prior to 1997, Hong Kong was a British colony and so had a juvenile justice system that closely resembled the system in the UK. Whilst such framework has made some contribution to the continuous decline of delinquency rates, the shortfall of restorative measures for treating offenders reflects the predominant current focus on achieving justice through punishment and neglects the abilities of restorative interventions to deliver justice. We believe that justice can also be achieved by making efforts to repair the negative consequences of offences, amend broken relationships and achieve healing.

### Sustainability/Multiplier

To ensure the sustainability of the project, RJFC is designed to provide ongoing trainings to social workers in conducting restorative justice conference and to advocate the significance of restorative justice. The increasing importance of such may attract more social workers to work in corrections and renew social work's presence in that field, in particular, restorative justice has the potentials to be developed under its compatibility with Chinese family cultural values that are vested in the community.

By extending restorative justice to the well-established social work approaches for child abuse cases based on a restorative philosophy, it may as well save resources in running the existing correctional institutions in the long run.

## MONITORING AND EVALUATION

### Output Monitoring and Evaluation

Inputs	Outputs	Outcomes	Objectives
Local and overseas Restorative Justice practitioners	Restorative Justice practitioners train 40 social workers	Social workers were introduced to restorative justice practices	Advocate restorative justice as an alternative to retributive and punitive measures
Advice from legal practitioners	Legal issues in relation to domestic violence cases highlighted by legal practitioners	Increased legal awareness among social workers in dealing with domestic violence	Social workers are more equipped in dealing with sensitive family cases
Money	Training materials produced with assistance from law and social work students	Mentorship for law and social work students	Reconcile relationship between parents and children
Partnership with NGOs	Conduct 2 training series	Increased appreciation of reconciliation between offenders and victims	Increase awareness among practitioners in taking care of victims' need
Partnership with Universities	Course materials and design structure shared to local social work education providers		
Volunteering of law and social work students			

RJFC program organisers and Restorative Justice practitioners will review together whether targets of output, shown in logic model above, were met after first year of implementation. Outcomes monitoring and evaluation:

1. **Audience feedback:** the audience would be invited to fill in feedback forms after every session to reflect on quality of the workshop, and if speakers' sharing is useful.
2. **Student feedback:** student helpers would be asked to reflect on their involvement in the training and what they have learnt after each training series.

3. **Restorative Justice Practitioners feedback:** Restorative Justice practitioners will be asked for feedback on the training in general, participants' performance and whether they are willing to participate new year.
4. **NGO and Universities feedback:** collaborating NGOs and universities will be asked to give feedback on how helpful they found the training, whether it they are willing to implement Restorative Justice. ■

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# APPENDIX

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## Executive Profiles for Restorative Justice Practitioners and Researcher

### Mr Jae Young Lee

**Executive Director, Korea Peacebuilding Institute,  
Northeast Asia Regional Peacebuilding Institute**

Lee Jae Young graduated from Eastern Mennonite University with an MA in Conflict Transformation, with a focus on Restorative Justice. He has founded several organizations in the fields of Restorative Justice, Peacebuilding, and Conflict Transformation. He has conducted various workshops on peace education, restorative justice, and mediation training for schools, government, NGOs, and organizations in Korea. He is one of the first facilitators for the victim offender reconciliation program in Korea, including at Seoul Family Court. He has facilitated a mediation course at Mindanao Peacebuilding Institute (MPI) in the Philippines. He is also a co-author of the conflict resolution manuals *Public Dispute Management* (2005) and *Peace and Conflict Resolution Education* (2002). He translated Dr. Hizkias Assefa's book, *Peace and Reconciliation as a Paradigm* (2005), and co-translated the mediation training manual *Mediation Skills Training Manual* (Nancy Good Sider, 2007) and *Little Book of Restorative Discipline for Schools* (Lorraine Stutzman Amstutz and Judy Mullet, 2011). Currently he lives with family and staff in Peace Building Community.

For more details: [http://narpi.net/?page\\_id=2#about-02](http://narpi.net/?page_id=2#about-02)

### Mr Atsuhiko Katano

**Research Fellow at Peace Research Institute of Meiji  
Gakuin University, Tokyo**

Atsuhiko (Hiro) Katano graduated from Chuo University (Tokyo) with an MA in international politics and from Associated Mennonite Biblical Seminary (US) with an MA in peace studies. He also completed Mediation Skills Training Institute at Lombard Mennonite Peace Center (US). He teaches philosophy and social sciences at several universities in Hokkaido. He is a member of Sapporo Bethel Mennonite Church and actively involved in writing and teaching ministry on Christian faith and peace issues. He is a board member of Peace Missions Center, which is in charge of promotion of NARPI among Mennonite churches in Japan. He has contributed chapters to *Peace Movements and Pacifism after September 11* (Edward Elgar, 2008), *Routledge Handbook of Religion and Politics* (Routledge, 2009) and *Overcoming Violence in Asia* (Cascadia, 2011). He holds the third-dan black belt of Daitoryu Mudenjuku, a school of Japanese classical martial arts.

For more details: [http://narpi.net/?page\\_id=2#about-02](http://narpi.net/?page_id=2#about-02)