Conclusions

The goal of this thesis has been to identify better ways of addressing the difficulties faced by victimized children. To achieve this goal, a first task was to explore and better understand the worlds of child victims of various crimes, and the appropriateness (and potential) of two justice paradigms, namely, the criminal and the restorative, as responses to their victimization. Throughout the thesis, two complementary epistemologies were used — children’s human rights and their psycho-social needs. An integrated needs-rights framework was developed, based on relevant human rights principles set out in the Convention on the Rights of the Child on the one hand, and on empirical research drawn from psycho-social literature about child-victims’ needs, on the other. This needs-rights model was then deployed to evaluate existing criminal justice processes in adversarial legal systems, and to propose practical principles for action in restorative justice settings. Through the use of the needs-rights model it became clear that the adversarial criminal justice process can, at best, meet some of the needs of child victims, but is limited in its ability to address the full scope of their needs-rights. Restorative justice, in contrast, was found potentially appropriate. However, since what is known about child victims and restorative justice is limited because so much is as yet untested, the needs-rights model was used again to suggest principles for action that might reduce the risk of harm and maximize the potential of restorative justice to meet the needs and rights of child victims. To translate the, by then, cluttered model of Figure 6.5 into simple instructions, a set of heuristics was proposed, which, if followed by practitioners, should mostly achieve satisfying results in meeting the needs-rights of child victims.

7.1 A human rights discourse in the case of child victims

A human rights discourse has been used in this thesis not only because it reflects respect for children as human beings, as equal members of society. Rights can also be a vehicle to structurally empower children, according to Federle’s ‘empowering rights perspective’ (1995). At the same time, the needs-rights framework of this thesis does not propose an adversarial, individualistic strategy to strengthen children’s status. Rather, it follows Minow’s (1990) relational approach in which rights may be seen as arising from and defining relationships between people.
The social justice viewpoint on which this thesis is based, then, necessitates a human rights framework to discuss children’s issues. To deploy a human rights epistemology, Chapter 2 adopted a legal theory that includes children in the rights discourse: the Interest Theory of rights (MacCormick 1982). The Interest Theory treats children — as well as people with mental illnesses and those with intellectual disabilities — as human rights holders, similar to other population groups. The alternative Will Theory (Hart 1982) has its claims, but it excludes those weakened populations and treats them as objects of protection only. Only the Interest Theory represents an inclusive, egalitarian viewpoint which fits well with the underlying values this thesis defends.

Within the human rights epistemology, the UN Convention on the Rights of the Child offers one existing authoritative and compelling Bill of Rights for children, and was thus used as the normative template of children’s rights for this thesis. Not only has the Convention been ratified by the greatest number of states ever to ratify a treaty, its substance represents a holistic approach which combines welfare and self determination: freedom of expression and autonomy are intertwined with best interests and developmental considerations. The family is presented as the most important unit for children while at the same time children’s rights within their families are acknowledged. Children’s special vulnerabilities are considered and addressed as well as their cultural, religious and economic rights. This holistic approach is compatible with the Interest Theory of rights because it puts children’s dignity as human beings and respect for their needs at the center. It is also compatible with Federle’s empowering perspective, because it grants children the full range of human rights, including the right to have their opinions heard and considered. Moreover, the Convention’s emphasis on the importance of the family, community and national identity accommodates Minow’s social–relations approach of rights. At the end of the journey of the thesis, the needs, rights and practice analysis did not reveal a need to revise the assessment of the Convention, to see it as a document that lays a flawed foundation with large gaps.

Six provisions from the Convention provided an integrated foundation of ‘human rights principles’: the four ‘guiding principles’ of Best Interests, Participation, Development and Equality, as well as two victim–related articles, namely the right to protection and the right to rehabilitation. The structure of the human rights model, presented in Chapter 2 (see Figure 7.1), shows that the four guiding principles have an equal, independent status while influencing each other as well as the two victimization–specific principles. Rehabilitation and protection, on the other hand, have perhaps a lower status in the hierarchy of child victims’ human rights. They might be seen as specific requirements deriving from the four general guiding principles, in particular the best interests principle.

Other related (yet non-binding) human rights documents, particularly the Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) and the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (2002) (RJ Principles), have not been explicitly included in the model, but their provisions, and especially those relevant to child victims, are incorporated, either directly or indirectly, in the human rights principles presented in the model. For
Figure 7.1: Child victims’ rights: a visual account
example, awareness of power imbalances, the centrality of safety, support persons for children, the provision of full information and non-domination — are part of the RJ Principles, and are all addressed through the Convention’s provisions as interpreted in chapters 2 and 6. Similarly, the Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), are based on the Convention’s provisions and include similar principles, albeit in the criminal justice context.

7.2 An integrated needs–rights model

It needs to be said, however, that a legal document such as the Convention, which is based on a negotiated consensus regarding the rights of children, does not give a detailed account of the practical implementations of these rights. Indeed, if legal theory and practices are to promote the wellbeing of members of society, then they need to look at the daily realities of people in constructing laws, regulations and policies. To understand such realities and what is required in order to improve them there is a need to rely on social science research. This is the underlying assumption of psychological jurisprudence (Melton 1992, Melton and Wilcox 2001), which calls for the cooperation of law and psychology to allow evidence–based judicial and policy decisions. This use of empirical evidence about people’s lives might not only make law more effective in promoting people’s welfare — it has the potential to also increase its perceived legitimacy among the public (Melton 1992). Relying on empirical research is particularly important in regard to children’s law, because many decisions regarding their daily lives are made by others (Melton and Wilcox 2001).

Accordingly, a second set of literature, regarding the psycho–social needs of child victims, was reviewed in Chapter 3 and integrated into a combined needs–rights model. As Figure 7.2 demonstrates, there is a mutual relationship between the human rights principles and the psycho–social needs. The human rights principles set the normative framework of discussion and direct us to the fields of research that are relevant. The needs layer provides the substance, as well as justifications, for the implementation of the human rights principles. It also provides warnings against possibly damaging use of rights such as encouraging children to exert control in uncontrollable situations (Langer et al. 2005). Once in the model, these psycho–social needs benefit from the normative strength of internationally recognized human rights principles.

7.3 An inchoate model

However, as the model demonstrates, there are no clear–cut matches between individual human right principles and specific findings, and pairing each psycho–social need with a human rights principle would occasionally required some arbitrary categorizations. Instead, four sets of empirical findings and theories from the psycho–social literature were each linked to a different human rights ‘cluster’, as follows:
Figure 7.2: Integrating psycho-social and legal discourses: a needs–rights model for child victims
• The Best Interests cluster links the best interests, rehabilitation and development human rights principles with relevant empirical findings on the importance of support networks, acknowledgment of harm and validation of behavior, mourning and reparation.

• The Control cluster places findings regarding the importance of control, direct interaction with the perpetrator, group discussion, apology and forgiveness between the three human rights principles of participation, rehabilitation and best interests.

• The Procedural Justice cluster enjoins participation, rehabilitation and equality, and the concept of procedural justice as understood in the psycho-social literature.

• Finally, the Protection cluster connects the human rights principles of equality, development and protection with findings (and perhaps more so, with a need for further exploration) regarding the effects of age and special needs on the impact of victimization, coping strategies and special vulnerabilities.

Clearly, even with the grouping into clusters, there are links that go beyond this ostensibly neat division. For example, psycho-social data associated with the Protection cluster can also be relevant to children’s rehabilitation, as they might indicate the existence of special rehabilitative needs of children with disabilities. Perhaps a stronger example is that of the mutual connection between development and participation in the current context. It became clear, during the research, that participation is directly related to the developmental level of the child. Therefore, particularly in restorative justice, where there is room for flexibility in methods of participation, developmental considerations should be integrated into the crafting of participative alternatives available for children of various ages. Indeed, Chapter 6 used a revised Control cluster which included development (see Page 158). The location of the psycho-social boxes, then, should be regarded as the ‘best available placement’ rather than a perfect fit.

Bridging between the legal and psycho-social literatures required further adjustments: since each field uses a different vocabulary, different concepts may actually be closely related. For instance, studies on control in the psycho-social literature are related to (but do not always match perfectly) the participation principle and its normative explanations; children’s wellbeing could be regarded as the psycho-social twin of the legal best interests concept, and so on. These connections were made through the model, but there are no explicit links in the literature acknowledging them.

It is also important to note that psycho-social needs are a dynamic layer in the model. Empirical evidence develops with time and new studies can potentially affect not only our understanding of the meaning of the rights, but also their status in the model. For example, studies on young children’s participation in FGCs could conceivably lead to the conclusion that children under a certain age should not be present in such proceedings because the risk of further harm is higher than the
expected benefits (such a conclusion would need to be carefully scrutinized, however, because of the human rights violation it creates). Moreover, studies on long-term outcomes of justice processes might suggest that addressing the short-term needs of children (or their best interests) is in fact an instrument for ensuring their emotional rehabilitation. A conclusion could be drawn from such findings that the right to rehabilitation is secondary to the best interests principle, at least in the context of childhood victimization. In any case, the rights and the needs layers affect each other and are also interrelated within themselves, as the model demonstrates.

A final methodological qualification: the model was not based on (nor considered) the views of children themselves regarding their wishes and needs as victims. Although Chapter 3 included some studies on children’s views (for example, regarding procedural justice — see Melton and Limber 1992, Hicks and Lawrence 1993, Lawrence 2003), I am unaware of any study in which children were asked specifically about their perceptions of their needs and rights as victims, within the criminal justice system or in restorative settings. Indeed, perhaps the next step in developing child-inclusive restorative justice, is to conduct such studies.

7.4 A needs–rights evaluation: the criminal justice process

The combination of these two layers — rights and needs — was used in Chapter 4 to evaluate the criminal justice process in adversarial legal systems. An analysis through the four needs–rights clusters revealed that the criminal justice process addresses the needs–rights of child victims in only limited ways, as Figure 7.3 demonstrates.

The Protection cluster: The right to protection is implemented in perhaps the most satisfying way in the criminal process. The criminal justice system is still the best known large-scale mechanism of reporting, responding to and preventing, crimes against children. Therefore, despite the significant difficulties in all stages of the process, it is still the best alternative at present. Protection against re-victimization of children by the process itself has also been improved (in some jurisdictions more than in others) through victims’ reforms. The current system, however, still largely fails to protect children from non-criminal violence such as sibling assaults, parental corporal punishment and school bullying (Finkelhor et al. 2005). If the criminal justice process is intrinsically unsuitable for treating such forms of violence, then other mechanisms, such as restorative justice, should perhaps be considered to address them.

While children’s right to be protected is addressed to some extent (and the system can improve in this matter, at least in regard to preventing re-victimization by the process), other elements of the Protection cluster receive less satisfactory attention in the criminal process. As argued in Chapter 4, children with special

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1In contrast with the Protection cluster.
Figure 7.3: A needs–rights evaluation: shortcomings of the criminal justice process
needs have particular reporting barriers and they pose considerable challenges to the system in investigating, prosecuting and proving their cases. Young children (as well as teenagers, for different reasons) present other distinctive obstacles related to their cognitive and emotional development, and their cases are also less likely to be proved in court. Despite the relatively high score that the protection right receives, then, the Protection cluster as a whole receives an unsatisfactory mark (see page 107). However, there is perhaps room for improvement, as writers such as Temkin (1994) demonstrate: with better understanding of various disabilities, the criminal justice process might become more accessible for child victims with special needs, and more able to effectively prosecute crimes against them. Similarly, the development of Children Advocacy Centers and other child-friendly initiatives have shown potential to enhance the ability of the court to be a place of justice even for very young victims.

The Best Interests cluster: In comparison with the Protection cluster, the Best Interests cluster points to even more disturbing shortcomings of the criminal justice process, with limited potential for improvement. The best interests of child victims are by definition not a primary consideration in a process that focuses on defendants. Although efforts are taken to meet some specific needs of child victims through testimony reforms, compensation schemes and victim support programs, when direct conflict arises between the interests of the victim and the offender or the prosecution, the victim’s interests are not paramount. The court process is not designed to be a vehicle to meet the interests of the child, although there are efforts to make it the least negative experience possible. Proving guilt or innocence is the goal of the process and the victim is an evidentiary instrument (albeit a special one) in achieving this goal. Accordingly, the decision for the child to testify depends on the child’s ability to promote the prosecution’s case, not on the child’s interests. Although children sometimes do not testify because of fears for their wellbeing (though often they still testify despite these fears, if the prosecution believes they can strengthen the case), the opposite does not occur: children do not testify ‘merely’ because this is in their best interests. It seems, then, that the criminal system can at best reduce harms to children, and perhaps even provide closure and empowerment coincidentally. It does not, however, seek to promote the best interests of children proactively and separately from the prosecution’s interests.

The long-term and developmental interests of children (reflected in the rehabilitation and development human rights principles) are even more rarely considered in typical criminal processes. Indeed, material reparation is still not an integral part of the process, although there are now compensation schemes outside the criminal process. Furthermore, the nature of the process is adversarial and often hostile — and does not provide opportunities to mourn, receive validation and experience acknowledgement and support. It is possible to say, therefore, that the criminal justice process often fails to meet the ingredients of the Best Interests cluster, and that major changes cannot be expected without a shift in the very nature of the adversarial system (see page 98).
The Control and Procedural Justice clusters: Similar examinations were conducted with regard to the other two needs–rights clusters of Control (see page 101) and Procedural Justice (see page 104). The point is that the model illuminates the limitations of the criminal justice process in meeting each of the needs–rights clusters, as well as the potential for improvement in some areas. This needs–rights analysis provides a more comprehensive assessment framework and way of seeing the criminal justice process than previous evaluations which focused on specific aspects of children’s involvement in court proceedings.

7.5 Restorative justice and child victims: the potential

There is currently little data on restorative justice that focuses on the inclusion of child victims. Chapter 5 introduced major evaluation studies from various programs across the world and discussed the participation of children and the effectiveness of these experiences in enhancing children’s wellbeing, wishes and interests. Clearly, restorative justice as well as its evaluation are still in their infancy in the arena of childhood victimization. Therefore a full evaluation, similar to that conducted with regard to the criminal justice process, would be ineffective. Nevertheless, Chapter 5 demonstrated the substantial potential restorative justice carries for child victims, as well as the concerns it raises.

It is not surprising that the needs–rights of child victims can be potentially addressed very effectively in restorative justice settings, at least in theory. Restorative justice seeks to achieve healing for the stakeholders, promotion of their wellbeing, and respect for their wishes and narratives while ensuring their safety. At the same time, restorative justice aims to promote rights in their broader meaning, corresponding to Minow’s relational approach (1986). This broad meaning of rights includes both rights that strengthen the interrelations between the child and the state (protective rights), others that promote relationships within the family (certain freedoms and rights against abuse and neglect in the family), as well as autonomous rights that promote the independence of the child. It also includes duties — of others (parents and state) and the child. In a restorative setting, indeed, people’s relationships can be strengthened and each participant is encouraged to take responsibility while concurrently their rights are protected and promoted.

7.6 Fulfilling the potential: using a needs–rights model as a guide

However, even in theory, a child–inclusive restorative program needs to take account of other participants whose interests and rights are no less valid. Furthermore, in practice it is natural to expect processes that are less than perfect and facilitators who are not completely aware of the special vulnerabilities of children. Further tension exists between the need for flexibility and the expectation from all restorative
practices to maintain high standards and address the human rights of all participants.

Therefore, a needs–rights framework might enhance the ability of restorative justice to meet the human rights of child victims in their broad meaning. Such a framework may perhaps also provide safeguards against malpractice, at least with regard to child victims, since programs are expected to meet the full range of the interrelated needs–rights of child victims. Accordingly, Chapter 6 deployed the model presented in Chapter 3. It discussed each of the four needs–rights clusters of the model and suggested subsidiary principles for action in restorative settings (Figure 7.4).

Applying the needs–rights model to restorative justice has helped to better understand the relationships between the human rights principles and the hierarchy within them. For example, the discussion regarding the Best Interests cluster demonstrated that the best interests principle is perhaps a general value that includes both rehabilitation and protection. While developmental considerations are also included in the best interests principle, the development principle has other, independent meanings. It emphasizes the importance of increasing children’s autonomies and freedoms as they grow. At the same time, development is connected with, and influences, the understanding of the other Convention’s guiding principles. It adds a gradual, developmental element to the participation principle, and fine–tunes the equality principle to allow children with disabilities to fulfill their potential to the maximum level.

7.7 Working heuristically: from theory to a simple blueprint

Since the needs–rights model and the subsidiary principles for action deriving from it create a somewhat cluttered picture, there is a need to suggest a simple–to–follow method for practitioners in order to make this model useful. Accordingly, Chapter 6 concluded with a set of eight heuristic principles for child–inclusive restorative justice, which are the following:

1. The principle of holism suggests that it is important to consider the child’s life as a whole and address the full scope of the child’s needs–rights while balancing them with each other, instead of a fragmented perspective aimed at the immediate issues emerging directly from the victimization.

2. The tailor–made process principle completes the previous one by suggesting that each process should be fitted to the specific needs–rights of the child victim, instead of using a one–size–fits–all approach.

3. The principle of children as partners points to the importance of crafting these processes with the child, instead of for the child, and of valuing children’s contributions to our understandings of their needs and wishes, even at a young age.
Figure 7.4: A Needs–Rights framework for a child–inclusive restorative justice: principles for action
4. The participation as a continuum principle makes children’s right to participation possible even when they are very young, vulnerable or with special needs. It opens the door for the full range of participation options, starting from making the choice not to participate at all, up to being an active party in the restorative process.

5. Liberating children’s voices suggests that each child has a valid story to tell and that it is adults’ obligation to find ways to allow these stories to be told and understood even when they are different from adults’ forms of expression.

6. The let go principle calls on practitioners to reflect whether they are being overprotective of children for reasons that are not about the rights–needs of the child. It suggests that, like parents, practitioners need to realize that in order to develop, children need — and often want — to take risks and that they should allow them to act accordingly, while providing maximum preparation, support and followup.

7. The principle of the restorative process as a goal suggests that notwithstanding their outcomes, restorative processes, when conducted well, might have an important educative and healing role in children’s development and therefore should be seen as a goal in itself.

8. Finally, the empowering advocacy principle points at the importance of finding ways to strengthen children’s position in the restorative process through special advocates, while refraining from silencing or disempowering them through the very provision of such advocates.

None of the eight heuristics can be associated with any specific human rights principle or a psycho–social need. Rather, each heuristic principle relates to multiple needs–rights. For example the restorative process as a goal principle is based on the healing effect of taking part in such processes as well as its educative value, and therefore is possibly linked to rehabilitation, best interests and development. The liberating children’s voices directive refers to the challenge of overcoming children’s various social and developmental barriers to speak up, and again is justified by the rehabilitative value of being heard. It therefore corresponds with the equality, development and rehabilitation principles. The let go approach helps balance participation and protection through a developmental perspective that fosters the evolving capacities of children. Accordingly it is linked to the participation, protection and development principles. A final example, the children as partners heuristic deepens the meaning of participation as starting from the early preparation stage, indicates that professionals carry the obligation to actively seek children’s involvement while treating them with respect as equal partners, and warns against forced participation. Therefore, it can be associated with the participation, best interests and equality principles.

The heuristic principle of holism is somewhat different, because it provides methodological guidance for addressing the full range of rights and needs of children and for understanding each right as interrelated with the others while transforming
them into action. The idea of holism might, then, be taken not as a directive but an overarching methodological tool. Accordingly, not only the rights and needs of child victims should be addressed as a whole in each case; the heuristic principles themselves should be understood as intertwined and indivisible. Moreover, holism also indicates that child victims should not be treated as two-dimensional, stereotypical images of victims. Instead, each child should be treated as a whole human being with strengths and weaknesses, wishes and interests, history and aspirations for the future.

7.8 A methodological contribution

The steps taken in this thesis to explore the experiences of child victims and search for ways of addressing their interests can be seen as a proposed original methodology, one that can be applied to other contexts as well. This methodology includes the following steps.

First, a search for a consensual set of human rights norms was conducted in Chapter 2. In the case of children, the CRC was a natural candidate. From this document, six human rights principles were identified as most relevant to the context of child victims. Each of these principles has been explained and justified, and the interrelationships between them were demonstrated graphically.

Second, empirical evidence on the meanings of these rights for child victims was sought from the psycho-social literature. The exploration of various theories and findings regarding elements such as control, apology and forgiveness, social support and children's development, resulted in a heavily–laden Chapter 3.

A third step was to marry the human rights with the psycho-social discourses. Indeed, each of these frameworks suffers from significant weaknesses. Human rights are criticized for being indeterminate, adversarial and culturally blind. Human needs are considered ineffective in generating change and are difficult to map. The integration of both discourses in the end of Chapter 3 into a unified needs-rights model makes a robust framework that is more resistant to criticism from both directions. The human rights of child victims, when linked with psycho-social findings, are more concrete, are based on empirical evidence and are clearly family– and community–oriented. Psycho-social elements related to childhood victimization, once linked with human rights, are identified more easily, mapped, armed with normative bite, and used as guides for social action. The division into four needs–rights clusters makes the description of this cluttered model somewhat easier, and at the same time captures the indivisibility of many of its components.

Once a needs–rights model has been established, a shift was made from theory to practice. Practices regarding child victims in the criminal justice process were evaluated critically in chapter 4. Perhaps more importantly, recommended practices for child victims in restorative justice were proposed in Chapter 6. In both exercises, the analysis was conducted through the four need–rights clusters.

Finally, to make the recommended practices in restorative justice more accessible for practitioners, a set of eight heuristics was proposed. Their importance is in
translating a complex model, laden with details drawn from various fields, into very simple rules — almost clichés. These seemingly banal rules, however, are grounded in the findings presented in the full model, and therefore have a stronger status than other commonplace beliefs that are not grounded in the model. Practitioners can therefore be confident that if they follow these rules, they are walking on stable ground and are likely to meet the full range of needs-rights of child victims. If, however, uncertainty appears, the full model provides the definitive template for testing whether all our obligations to children have been met. The full model is needed because there are a great variety of special circumstances that can shake the normally robust heuristics.

7.9 Moving beyond child victims

Child victims, however, are not the only stakeholders in the process that follows their victimization. As to the other participants, and in particular perpetrators, it has been suggested that human rights should be used as safeguards against disrespect, domination and other forms of bad practice, in addition to having a role in providing guidance for action (Braithwaite 2002a, p. 13). Indeed, a restorative process designed entirely according to the victim’s wishes and interests can potentially create conditions that are damaging from the offender’s perspective. A balancing measure should be taken then, but a child-prioritizing one. The offender’s basic human rights should not be violated and his or her interests should not be ignored. However, the weaker position of the child and the need to provide him or her with extra support should never be pushed aside. Therefore, every empowering technique that meets the wishes and interests of the child should receive high priority, and can justifiably be denied only when it creates a significant violation of the offender’s interests.

A different situation occurs when both victim and offender are minors. The offender then enjoys the same human rights protections provided in the Convention. Furthermore, the assumption of the inherently weakened position of a victim compared to an adult perpetrator does not apply here (assuming there is no significant age difference between the two parties). In circumstances where both victim and offender are minors, the balancing between the parties’ interests can be based on equality. Still, both victim and offender should enjoy special measures to enhance their position vis-à-vis adult participants, either professionals or communities of care.

Put more generally, if restorative justice is to promote social justice (Braithwaite 2003a) through processes in which weakened populations are empowered, then every disadvantaged participant should enjoy special protections and have high priority.

Hence, children (and the younger the child the more support they need), women in domestic violence situations, people with disabilities, people belonging to minority groups, elderly people, and poor consumers victimized by powerful corporations,  

\[\text{[2]}\text{It is, however, possible that one of the parties is weakened through socio-economic status, language barriers or special needs. These, naturally, should be addressed.}\]
should all have their human rights and psycho-social needs actively promoted. Naturally, restorative processes often occur when two of the parties belong to disadvantaged groups. The weakened position of one participant should not negate the other’s weakness. Each weakened party deserves to have their specific disadvantage addressed through empowerment, protection and individual treatment. In most cases, the evidence from evaluations of restorative justice suggests, this will not be a win-lose situation (Strang 2002, p. 250). Victims and offenders can receive whatever it is they need to participate effectively in restorative settings, and empowering one would not necessarily put the other party at a disadvantage. It is possible, in fact, that knowledge about the other’s disempowered background will increase empathy and reduce fear between the two parties.

If other weakened populations should enjoy special protections and be empowered to express their views, wishes and feelings, then the methodology presented here can be used to provide a holistic framework for promoting their needs-rights. A consensual set of human rights should be identified for such specific populations as a first step. Then there is a need to seek empirical evidence on the meanings of these rights for that specific population. This exercise has the potential to lead to new understandings of human rights, clarify their importance and identify gaps in both the normative framework and the social science research. The third step is to examine separate pairs, or clusters, of needs-rights, and draw a set of subsidiary principles for promoting them in restorative settings. Finally, heuristics can be produced that simplify the model and make its practice possible for practitioners. Naturally, this simple methodology requires theoretical research as well as empirical experimentation before applying its outcomes in large scale projects. The idea, however, of marrying legal templates with psycho-social literature is simple and has, as shown, much merit.

7.10 Beyond restorative justice

This methodology can, in fact, be used outside the restorative justice arena. In other children’s issues, the Convention could be used as the normative framework, with its four guiding principles together with other relevant provisions on the specific matter functioning as the human rights layer, and corresponding social-science findings defining psycho-social needs. For example, in the child protection context, other relevant provisions apart from the four guiding principles can presumably be the right not to be separated from one’s family unless such a decision is justified and rational, the right to maintain contact with family members when removed from home, and the right to reasonable continuity in the child’s upbringing and due consideration of his or her ethnic, religious, cultural and linguistic background when removed to alternative placement. The needs-rights-heuristics method, then, can be replicated and adjusted to be used as an evaluation instrument, as well as a template for creating subsidiary principles and heuristics for practitioners, in various

\footnote{Such human rights documents may be international treaties or, in domestic policies, constitutional and other human rights laws.}
contexts where services are provided and decisions are made with regard to special populations.