

Five Ways to Kill Innovation for Restorative Justice

By Theo Gavrielides

In 2012, I had the honour of spending Restorative Justice Week in the presence of some of the most inspiring “restorativists”, and give a series of lectures in British Columbia. This is an unusual treat for someone based in the UK where Restorative Justice Week is almost unheard of. Following my trip, I wrote an emotional article titled *The McDonaldisation of a community-born and community-led ethos*¹ expressing my frustration about the top-down control structures that are being imposed on restorative justice in the UK and some other jurisdictions. I have often criticised power structures that attempt to rob what I consider to be the heart of restorative justice i.e. its localized, innovative and malleable nature (Gavrielides 2007; 2008; 2012; 2013). So, it is with great joy that I heard that the theme for Restorative Justice Week 2013 is “Inspiring Innovation”.

When I hear about innovation in justice practices, I think of communities, especially those who tend to be excluded from justice processes such as victims, minority groups and young people. This is because communities have the innate ability to find solutions to what affects them, especially when the “system” fails them. As a community-born ethos, restorative justice has been envisioned and practised to bridge the gaps of a failing and expensive criminal justice system. I claim that we only need to let restorative justice do its job through communities, and innovation will organically occur. Thus, I see “Inspiring Innovation” being synonymous with “Believing in Communities” or “Respecting Restorative Justice”. Restorative justice is innovative by nature. Conversely, here are five ways to kill innovation in restorative justice:

Way #1: Mainstream it on the cheap

For some reason, restorative justice advocates have managed to convince that restorative practices offer a cheaper option and thus governments, such as the one in the UK, are



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keen to see it at every stage of the criminal justice system. While this might sound like good news, mainstreaming it in a difficult financial climate likely means that police officers, probation and prison staff get a 1-3 day training on conferencing to deliver restorative justice on top of their already heavy workloads. This does not encourage innovation and as resources are redirected to this type of training and program delivery, community-led versions of restorative justice are relegated to some dark small corner.

Way #2: Ignore victims

The European Commission (EC) has just passed the Victims’ Directive asking member states to adjust their criminal justice practices so that safeguards are increased and victims’ voices and concerns are considered. To support this change, the EC funded two programs, one of which is the Restorative Justice in Europe which I lead on². And yet, the UK government proceeded with drafting of qualifying standards, a quality mark and the implementation of its Restorative Justice Action Plan without including victims. You only need to participate in one mediation or circle to understand that good and innovative restorative practice is most often initiated by victims or practised by someone who has been touched by crime.

Way #3: Standardise it

Although the debate on standards for restorative justice is indeed needed, imposing top-down standards will kill innovation. Indeed, we need standards to protect human rights, prevent poor or masquerading practice and regulate the “tyrannies of informal justice” (Braithwaite, 2002). But Braithwaite warns us that standardisation is against the restorative justice ethos and nature. Johnstone agrees: “If the state sets standards for restorative justice, it seems to be again assuming responsibility” (Johnstone, 2012).

Way #4: Professionalise it

One of the core principles of restorative justice is de-professionalization. As Braithwaite argues, it transfers responsibility from state officials to non-state actors through innovative and local interventions that are in the context of local people’s realities. Systems of accreditation mean that the community must be trained and comply with the standards leading to accreditation. The outcome of this is the emergence of a cadre of professional restorative justice facilitators which diminishes the probability of innovation.

Way #5: Register it

In the UK, our government is championing the need for registration of restorative practices/practitioners onto a list to be held by a presumed ‘independent body’. Registration fees are between £1,500 and £3,000. Ignoring the Register or the “Quality Mark” that comes with it significantly decreases your chances of being funded or have a case referred, once again, limiting the innovative and needs-based nature of restorative justice. I wonder how an Aboriginal Elder would feel had this been enforced in Australia or Canada.

In summary, as we are still learning how to do restorative justice well, its future development requires that practitioners be allowed to experiment and innovate. Stopping this process through over-prescriptive standards, top-down registers and accreditation, while ignoring the voices of communities, will leave restorative justice stuck in its current imperfect state of development.

¹ <http://rj4all.info/content/mcdonaldisationRJ>

² See <http://rj4all.info/content/RJE>

