

CONVERSATIONS ON RESTORATIVE JUSTICE

A talk with John Braithwaite

Albert Dzur*

John Braithwaite is an Emeritus Professor at the Australian National University. He is the recipient of a number of international awards, including the Stockholm Prize in Criminology, an honorary doctorate at KU Leuven and the Prix Emile Durkheim, International Society of Criminology, for lifetime contributions to criminology. Braithwaite has developed and applied responsive regulation frameworks and restorative justice to many areas of business, health care and aged care. He is the founder of the Regulatory Institutions Network at ANU, working on regulation and governance issues. He has led Peacebuilding Compared, a 25-year comparative project in 70 conflicts around the world. Braithwaite has also been an active participant in the peace movement, the politics of development, the social movement for restorative justice, the labour movement and the consumer movement.

1 Practice ahead of theory: early experience with organisations and deliberative empowerment

Dzur: Thinking back to early days, what got you interested in justice issues?

Braithwaite: Crime was totally an accident. My PhD supervisors had a research grant and I was pleased to have some financial support for the year before my PhD by working on a crime project.

What was not accidental was the particular interest in organisational crime, which has been one of the distinctive things about what I do. That was certainly shaped to a significant degree by my father's experience as a survivor of a war crime. I've written a little bit about that in *Crime, shame and reintegration*. My father was one of six survivors from the Sandakan death march, in which 2,500 prisoners of war perished, but also thousands of other local people were forced as slave labourers to work on building an airfield for the Japanese military in World War II. When he came back, he wrote hundreds of letters to families who had lost their sons in the prison camp or on the death march.

One of the stories I relate in *Crime, shame and reintegration* is about a kind of kangaroo court that was held. When the healthy prisoners worked on the airfield it was dangerous work because Americans were bombing the airstrip on a regular basis. For working on the airstrip and taking that risk they were paid a bit of

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money with which they could buy a bit of extra food. That actually improved their survival chances because they had more food and that enabled them to keep doing the work. They could only keep their money at the head of the bed as there was no storage space for prisoners of war. This money disappeared. A very young soldier was accused of stealing it on certain circumstantial evidence. He was sentenced to Coventry. None of the prisoners of war were allowed to talk to him. His health dropped like a stone after that and he died very quickly as a result. After he died, all of the money was found in a rat's nest in the rafters above their hut.

That reflection on the dangers of communal justice in conditions of tyranny was in the book, but in my work, of course, there is a lot of reflection on war crimes and organisational crimes and how to think in that very difficult context about justice that might be meaningful. My work is about how to prevent war, prevent war crime and prevent injustice in how we respond to them.

Dzur: Along with this personal connection to these issues, were there any academic or non-academic role models early on? Your own academic and practical trajectory is pretty remarkable. Did you notice people who had that broad intellectual scope with a practical bent?

Braithwaite: Brent Fisse was very important. He was at the University of Adelaide in those days, subsequently the director of the institute of criminology at the University of Sydney. He worked, before me, on the impact of publicity on corporate offenders and then we did work together. In 1983, we produced a book on the impact of publicity on corporate offenders. That was very much what led me into the importance of shame as an issue. We interviewed very senior people in companies like Lockheed, after the foreign bribery scandal involving Prime Minister Tanaka of Japan, Ford and General Motors after the Pinto and the Corvair – ‘unsafe at any speed’ – scandals; and companies like BHP and James Hardie in Australia with asbestos.

Also, very important intellectually were regulatory practitioners like Ron Schell, who was the director of enforcement at the US Mine Safety and Health Administration as it was called in those days. He was so reflective on how to bring together the informal and formal in regulation to reduce the incidence of coal mine disasters, injuries, accidents and ill health.

Practice has always been ahead of theory in regulatory scholarship. I started out with these ideas in the domain of regulatory scholarship. I would see exit conferences at the end of a coal mine inspection in Australia or the US or the UK, where the inspector would sit down with representatives of the miners' union, of the safety committee, of management, and there might be some safety consultants who'd be involved in the conversation, in a circle sitting around the table.

That was my first experience in what I would call ‘restorative conferences,’ along with the other early work in the 1980s on nursing home regulation. This again was about deliberative empowerment. Who are the most difficult people to empower conversationally? The answer to this was nursing home residents, who have neither muscle nor voice. Even prisoners can riot. Actually, I later discovered

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an example of a riot by nursing home residents in Tasmania, where beds were burnt.

I learned how a person who can't speak can still be empowered in a justice process. I saw nursing home inspectors who would sit down with a resident and a relative, say a daughter, and begin a discussion: 'Your mother has suffered a catastrophic weight loss and her life is at risk because she's not eating enough.' And the daughter says, 'There are a lot of specific things about her diet. For example, they are always having peas here and mother hates peas. So, she doesn't eat any greens. So many nights people keep shovelling peas on her plate and she just leaves them.' And the daughter says to her mother, 'You hate peas, don't you mum?' And mum just nods in response. She doesn't utter any words, but there is effective communication in the empowering conversation together of mother and daughter. So, the least powerful actors can be empowered through conversational regulation.

I learned that from practitioners rather than from scholars.

2 Shuttling between the micro and the macro

Dzur: In your work throughout you take a horizontal stance with people you're writing about. You don't take the classic academic position of being 20,000 feet above a situation. I wonder if that is a conscious choice on your part, namely that you think of your audience as made up of academics, but also practitioners and regular people.

Braithwaite: Well, I also do the 20,000 feet up stuff. I do the global business regulation work, for example, which is very 20,000 feet up, or current work on the risk of ecological crises, financial crises and cyber-security crises cascading into each other.

Dzur: But it is directed towards people who could do something about the problem.

Braithwaite: Yes, I like to shuttle back and forward between being 20,000 feet up and being at the very micro level. That's the accurate way of describing what I do. I think the critics might say that I don't give enough attention to the intermediate level, and I think that is a fair criticism. But shuttling between the very local, the very nodal as Clifford Shearing might say, the little groups of people meeting together, and the abstract, higher up thing like security in cyberspace, adds something that is in short supply in the academy. There are a lot of people doing much better work than I in meso levels, not so many people doing radical jumps between the micro and the very macro.

In my comment on Philip Pettit's contribution to this special issue I affirm the validity of the contestatory perspective, which is about how national democratic institutions work. We are all too tired to be going to participatory meetings every night of the week. But I think it is also very important to focus on what Clif-

ford Shearing calls nodal governance questions: how are cabinet meetings run? How are consultations run?

Early in my life I was fortunate to have some instructive experiences. I was a consumer movement activist when we had the Hawke Labour government and then the Keating Labour governments elected from 1983 to 1996. I became a representative of consumer and community groups on what was called the Economic Planning and Advisory Council (EPAC). It had sixteen members; I was the most junior and insignificant member. The leadership of business, of trade unions and the state premiers rotated on and off. There was a representative of small business and a representative of farmers – the president of the national farmers federation – who was also one of the more minor players. In the EPAC we had a debate about a wealth tax and a capital gains tax being introduced as a reform of the new Labour government. And Michael Davidson, the farmers' representative, said this would be devastating for Australian farms. Because of our dry land, Australian agriculture, unlike agriculture in other countries, can only be internationally competitive if it is done on very large farms. Therefore, if you have a tax that taxes wealth at death, farmers will not be able to hand on economically efficient large farms to their children. They'll have to break them up in order to be able to sell part of it off to pay their tax and then we'll have more inefficient agriculture.

I learned some real lessons about deliberative democracy on that council. Hawke had his weaknesses, and in a lot of ways Keating had greater strengths as a visionary in how to reshape the democracy following a new republican vision. But in terms of running the micro meetings, Hawke was a prime minister who was a genuine democrat. He did not dominate the meetings. He said to Michael Davidson, 'What if you were to assume this government was elected to do some redistributive tax policies of this general kind – more taxes on capital and possibly wealth as well – well, how would you design it to minimise that damage to farmers? All the rest of us, we hear your argument; it's a very good argument, but if these new policies were inevitable, what would you do?' And then there was a conversation around that.

Now that kind of stuff can only be done through those deliberative conversations that happen at a very micro level on the most macro questions of economic policy. I did learn a lot from watching what a fantastic chair of meetings could do in eliciting really meaningful participatory input from more minor people around the table, like Michael Davidson in this case, and myself in other cases as the least important person in the room.

Dzur: When you are dealing with the more abstract macro questions, it seems you have real human beings in mind: people in real meetings, working on concrete problems. I've often wondered why it is that of so many academic discourses, it is restorative justice that has proven so practically applicable. It is taken up by people and put into action in a way that so many other concept-rich paradigms are not. It strikes me that this has to do with the fact that it stems from and is driven by real problems and it has real people in mind.

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Braithwaite: I think the Shearing nodal governance insight is important there. One of the stories I often tell in Australia is about our failure to prevent the Deep Water Horizon oil spill in the Gulf of Mexico. We had an almost-identical oil spill one year earlier in the Timor Sea. It was uncapped for 86 days and for a long time seemed uncappable for exactly the same reason as the Deep Water Horizon disaster. And it was caused by exactly the same reckless corporate actor, Halliburton Corporation, who had cut corners on concreting the base of the drilling platform.

I hear a lot of nihilism about globalisation and how these global problems are impossible to get a grip on. This was a case, I say to my Australian regulatory colleagues, where little Australia could have done a lot for our big powerful friend. Not through formal criminal law, because we have no jurisdiction to make BP, a British company, or Halliburton, an American company, do something in the Gulf of Mexico. No, but through the regulatory conversation sitting around the table about the magnitude of the impact in the Timor Sea not only for the people of Australia but for the people of Timor-Leste. That is so huge that no criminal penalty can be adequate, but we can see an imperative for a reform programme that would be a much more valuable requital: if you can work with your other deep sea oil drillers around the world to make sure you help them prevent a similar disaster occurring in other countries, then that would be the most meaningful, restorative, reparative remedy you could put in place.

If our regulators had done that in Australia, we could have prevented that for you in the United States. And this is something that happens at a very micro level and it is in the face of nihilism about preventability of problems of global scale. The problems of global scale in the end can only be tackled through nodal regulatory governance.

3 The status of restorative justice in Australia

Dzur: Let's turn to restorative justice: how do you think things are going, on the ground in Australia, in the last decade?

Braithwaite: In the last decade, not too impressive, like in many countries. In the 1990s we were surprised in Australia, as in many countries, by the spread of restorative justice to all jurisdictions and the spread of restorative justice as a response to many kinds of problems. In that sense, Australia is a typical example. In the two decades since, we've not had enough scaling up, we've not had a deepening of the roots. Restorative justice is much more accepted as a standard part of the repertoire of responses to crime problems, to school bullying problems, and so on. But there has been a proliferation of poor quality programmes that are poorly resourced, involve poor preparation and in which restorative justice is seen as a technique to the neglect of restorative justice values.

Dzur: What do you think might be preventing or hindering that scaling up and deepening?

Braithwaite: We've been thin on the social movement part.

Dzur: So, no pressure coming from the outside.

Braithwaite: Yes. There are worse examples. In China in 2012, there were fantastic top-down reforms with a genuine commitment of the communist party to move away from strike hard policies. Maybe this move was done for the wrong reasons – strike hard policies were delegitimizing the regime. China is still the country that does the most executions, but there has been a very considerable reduction. And there is increased emphasis on criminal mediation in criminal matters. There you've got an increase in scale: millions of extra criminal mediations occurring. But the quality is thin, and it is still a very small percentage of cases. It's a decision of the party and it's not driven by a restorative justice social movement politics. My PhD student Yan Zhang is working on that very issue in his PhD.

Dzur: So, you saw a moving upward in the 1990s, but restorative justice is currently at a plateau in Australia.

Braithwaite: Yes, that's right. But the positive that should qualify that is we've had a diversification of arenas where restorative experimentation is occurring. This seems to be happening in all countries, including in the United States. A recent report showed a lot of restorative justice going on with intimate partner violence in the USA, which you would have not found twenty years ago (Burford et al., 2019). There is some evidence arriving that restorative justice may be a better way in many cases than criminal processing and certainly a better way than doing nothing.

4 Keys to sustainability: social movements, restorative cities and youth involvement

Dzur: There is a lot of experimentation but oftentimes these innovative programmes flare out after a charismatic innovator retires or goes on to something else. I wonder if you've thought about that sustainability issue: how to get the programmes that are not superficial to stick around.

Braithwaite: I think we have an important role in the academy. When you've got a good programme from which there are important learnings that don't stick because there's a change in government or a leader in the public service moves on, we should create a record of what was excellent about that programme and get it out there and encourage other innovators. That's why a global social movement is so important. Something great starts in some obscure part of the world and is shut down for various reasons. If we in the academy just keep talking about it, some other innovator in some other country will rekindle that spark of an idea.

Social movement politics is important, but we also need a reset in how we think about scaling up. In Canberra, you see the problem at its worst in schools. Where I sit this morning, I can almost look across to a school where we had a wonderful restorative justice programme. Not so much today. What happens in schools is you have wonderful, inspiring leaders start a programme. Because they

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are inspiring people, they get promoted to become a principal at some other school. And when they move on, it's not so much that others in the school think, 'Oh, that was her wacky idea and we won't do it now that she's gone.' No, it is more like, 'Oh, she was such an amazing leader. She led all this restorative justice innovation while still being a great teacher. I don't have the energy or resources that she has. I'm doing the best I can to just keep taking care of my own class and doing my own teaching well and going home each night and taking care of my own kids. That's the best I can do in life. Someone else is going to have to do that.' A new champion often doesn't step up. Sometimes they do, but often they don't because the promotion to another school comes suddenly for that champion. This happens in other areas as well, but we see it more sharply in restorative justice in schools.

Dzur: One response to the problem is to try to put together a kind of formula, but this is not satisfactory. More than a set of protocols, a culture is needed.

Braithwaite: It has to be a culture. We need the social movement thing. I think the restorative city idea helps with that. If you have a restorative city programme working and you see the restorative schools champion move on to somewhere else, the restorative city activists get engaged, saying, 'Are you preparing a successor before you leave? Can we help with training and support for your successor?'

This can be a two-way relationship with schools. The problem with the restorative cities' movement, as I see them in different places, is they are not energised enough by young people in civil society, and this is where schools can help. When we started out in this social movement in the 1980s and 1990s, we were all young men and women. And now we're not so much so, and our strategy for re-energising with the young is in the restorative cities movement. You go to the restorative city movement, though, including the one here in Canberra, and so many of us are baby boomers.

I was at a meeting in Bendigo of the Central Victorian Restorative Justice Network. They had the same problem. But they'd just appointed a high school principal as the new convenor of the restorative justice network in Bendigo. In that meeting with them late last year we raised the issue. 'Well, you're a high school principal. What if you got a student and a young teacher from all the schools who do at the moment have excellent restorative justice programmes and bring them along? We will cultivate them through the school network as the leaders of the whole network. They can also become the leaders of the restorative bushfire response. Not through the bushfires but through the schools' work dealing with bullying and other issues.' In central Victoria many were killed in the 2009 bushfires. They had restorative conferences on issues like traumatised citizens wanting, contrary to environmental regulations, to cut down burnt trees visible from their lounge room. This outlook was re-traumatising them.

There is a two-way relationship between restorative justice and schools and the wider social movement for restorative justice. One thing the restorative justice movement must then prioritise politically, as a social movement, is funding – going back to your point about infrastructure that doesn't depend on the amazing

individual champion. It is important to be able to say, 'If you take on the job of being the restorative justice convener in the school, taxpayers will fund teaching relief for half of your teaching time, so you will only get half of the normal teaching load because you opted in to this energising responsibility.' Then, when the champion leaves, that person who at the moment is saying, 'Look I love this work, but I'm just at my wits end trying to keep up with my basic responsibilities,' well then, that person can step in to continue the work.

Dzur: A restorative city can nurture and support the next generation. This connects, too, to nodal governance. If the kids who are active in restorative justice work in schools serve as youth advisors in a restorative city network, that gives them an added stake in the future of their city and in the restorative justice movement.

At the level of the criminal justice system, what do you think about making restorative justice mandatory, in countries where it is already part of the picture?

Braithwaite: 'Mandatory' is a strong word. But I think New Zealand, in the youth space, is in a better place than almost everywhere else because they have – to move away from the 'mandatory' word here – the *presumption* that restorative justice will be the normal path.

This gets back to the Chinese lack of a social movement. Consider the incentives that bureaucrats have in China, which are common everywhere else in the world, but are more extreme in China. The communist party is telling Chinese police officers and prosecutors to do more criminal mediation. But when the individual case comes on the table the police officer says, 'Look, if I send this to a community mediation and it becomes a disaster, it's my political problem. But if I could send it up to the prosecutor in the normal way, it's his problem. So why would I be so dumb? I can create a narrative about why this is a case that he should take on.' And the prosecutor thinks the same way. So unless you have the vibrant social movement, you're never going to overcome bureaucratic inertia.

Though I'm not sure of this, I think it might be necessary to have both social movement bolstering and also a kind of mandating: 'Well, you've got to give reasons if you don't send it to the restorative conference.' And that's what the New Zealanders have done with the youth part but not with adults. And they have dramatically reduced the numbers of youth who are incarcerated, but they haven't had that accomplishment with adults, where it is not mandated. They're beginning now to work on adult restorative justice much more effectively, including with domestic violence and sexual assaults in New Zealand, step by step.

5 Restorative justice as a global movement: precedents in non-violent peace and democratisation activism

Dzur: The idea of a social movement putting pressure from the outside on institutional actors on the inside, that makes sense at the national level. But you also think in terms of the international level, of a social movement across borders.

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And I wonder if you have other examples in mind of successful cross-border social movements that might serve as an instructive model for restorative justice activists.

Braithwaite: The peace movement, the social movement for non-violence is an obvious one. People spoke of the Arab Spring as indicating the failure of non-violent strategies of resistance as pathways to democracy and overcoming tyranny. There's a sense in which that's true. But at the moment, nine years on from the Arab Spring now, we have amazing new manifestations of this phenomenon in places like Sudan, Algeria, Lebanon. And there are also revisionist ways of thinking about Arab Spring cases that no one talks about, like Jordan, where you did have people out on the street, and you did have a kind of response. Not a regime change response, but some further steps towards democratisation of Jordan that occurred in that monarchical society at that point in history and has continued to sustain a democratic politics with momentum across the decade since.

It is all about the long durée. We're not big enough on the long durée in the restorative justice movement. We can learn from figures like Gandhi, Martin Luther King and people who preceded them. There's a strategy that works. I often cite Erica Chenoweth and Maria Stephan's book, *Why civil resistance works* (2012), that shows that non-violent national struggles for maximalist social change – like a transition to democracy or a regime change – in the long run have about twice the success rate of armed struggles to achieve those same ends. You've got an evidence base that it works. But you've got the reality that 50 per cent of the time it doesn't work, you have long-run failure. And that number got a bit worse with the Arab Spring.

But then we've had some subsequent wins. Sudan is an amazing case, very much like Indonesia. Indonesia, a country of 270 million people, is a case of a very significant shift towards democracy in a very authoritarian society. The students were out on the streets of Jakarta. The proposal supported by the realist diplomats was that General Wiranto, the former head of the military who was Suharto's minister of defence at that time, will be the successor. And the students said, 'No, he's not acceptable. A military-dominated government is not acceptable. Any kind of leader like Suharto who comes from the military is unacceptable to us because in the long run democracy will be shut down by the military. We're staying on the streets.' And that's what they did in Sudan as well. And that's what they've been trying to do in Lebanon.

6 Public opinion and conventional politics

Dzur: I want to shift gears to ask about the connection between restorative justice practices and public opinion. Country by country, I'm struck that it still seems like a discourse of intellectuals and tight-knit networks of practitioners, despite the fact that there are so many programmes and so many experiments. In the USA maybe one-tenth of the public could give you a definition of restorative justice; in Australia you probably have the same numbers. Are we missing some-

thing? Are we not doing enough outreach or communication of a certain sort to make this a broader kind of project?

Braithwaite: I think we've made progress that's been so slow it's not very visible. In Australia we do, now and then on popular television series, see references to restorative justice. That's an indicator. But what you say is right. I think one of the things is that our restorative justice conferences tend to be too small, not enough participants, not enough preparation to get enough of the relevant participants into the circle.

Dzur: You make a point in your comments on the special issue papers touching on this: namely, that we don't yet know the ideal size for conferences.

Braithwaite: Yes, though I think that that ideal number is going to be generally bigger than what we do now. Especially in Europe, where most of it is one-on-one victim-offender mediation. But also in Australia the average conference size is too small. Now I think there are some reasons for suspecting they will work better when we have a dozen people in a room – if they're the right people – than when we have four or five. But also, when we have a dozen people in the room and we're running a thousand conferences a year in our city, there will be 12,000 people in our city who are exposed to the phenomenon through participation in it. And ten years later there will be 120,000 people in our city who have been exposed to it. That's the micro story that's been neglected.

Dzur: The more work that gets done on the ground, the more inclusive those practices are, the greater public awareness over time.

Braithwaite: We know that even in badly run programmes 80 per cent plus of people will come out of those conferences saying, 'That was pretty good. It was certainly better than having the case go to court.' If it is a really well-run programme that number will be way over 90 per cent. That's a pathway to democratic momentum.

Dzur: It's interesting that we haven't talked about political parties yet as a force of leverage.

Braithwaite: It's not really a left or Green issue in the way that people may have thought. Restorative justice can resonate just as well with conservative parties. For example, in New Zealand, the far-right Christian party at the time of the 1989 act, and in the years following, was very supportive. That was because victims of crime were empowered and because the New Zealanders used the phrase 'family group conferences' and they were a pro-family party. So they liked it.

Dzur: It's easy to assume that parties on the right are always going to be more punitive, and oftentimes that's the case. But they can be invited into the process and make it less divisive.

Braithwaite: If it accomplishes a genuine reduction in the imprisonment rate then that's easier for a conservative party to pull off than for a left-of-centre party.

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Dzur: And they can connect to the issue of fiscal savings.

Braithwaite: Absolutely. Even Trump is not too bad on seeing that payoff. It seems he's pretty open to the idea of having less people in US prisons in a way that so many Democratic presidents have not been. Bill Clinton was pretty firm on the line of being tough on crime all through his eight years.

Dzur: I think you are confusing being erratic with being open-minded! He has been stirring up all the old stereotypes about inner city crime, needing strong police forces, and so on.

Braithwaite: That is true too. But if he decides to do some reform to reduce the imprisonment rate, he can pull it off politically. Nixon in China.

7 Global scope and the role of the outside as catalyst

Dzur: Let's move on to a question about the global scope of your work. I'm curious about how your research in the Global South in particular, but also around the world, has impacted your thinking about restorative justice.

Braithwaite: It very much has. Bougainville has been very influential. I went to Bougainville first in 1969 before their civil war started. I spent six weeks living in a village and I learned a lot from that experience. They've had a restorative peace in Bougainville. Societies that are very good at starting wars with each other – as in tribal warfare in much of Melanesia and Polynesia – tend to also be very experienced and have very useful traditions about making peace. We can learn a lot from them about how to be emotionally intelligent with enemies. Some of the peacemaking institutions I experienced in Bougainville in 1969 were also clever in the way they created space for humour to ease tensions, for example.

Dzur: Your experience with restorative justice in another war-torn country, Northern Ireland, was also significant.

Braithwaite: I think we have a lot of better quality restorative justice in Northern Ireland because of their restorative values debate. The social movement for restorative justice was connected to the real politics of the place. It was all fraught. 'What are we doing with these former IRA and Loyalist paramilitary groups becoming key players in these restorative justice programmes, taking over justice from the police?' That was very fraught. We all have mixed feelings about accreditation, whether it is going to standardise too much, but they've done that pretty well in Northern Ireland.

Dzur: We talked early on about the macro level, and how your research at that level also has a practical, micro focus. I am wondering if these practical experiences with massive society-wide tensions, as in Northern Ireland, has kept the flame of that research project going.

Braithwaite: Yes. An inspiring case at the moment is Colombia, which is a more difficult case than Northern Ireland because it is at a much bigger scale. They're trying to do something on what they call restorative sanctions. It seems likely that all but two of the entire FARC leadership will make very serious criminal admissions. If it works out, they'll be doing restorative projects on a scale that we've not seen before. Five to eight years of working on a mine clearance project, for example, to make the society safer, particularly in remote indigenous areas of that very large country so children aren't having their legs blown up in future generations. There's an ambition about the restorative part of that peace process that we haven't seen before. It's going to be extremely difficult. I don't know what we'll be saying about it when we look back on it ten years from now. Like the Bougainville peace process, it might disintegrate totally in the next few years and they might be back at war if we do things badly. But whichever way they go, there will be a lot to learn from the bold innovation in their journey.

Dzur: In your response to McEvoy and Albert in this issue, you downplay your own impact in Northern Ireland. But it is pretty clear that you were very useful to many of the actors involved. You've served as an advisor in difficult circumstances. What do you think of the role of the outsider as a kind of catalyst to help move things along? You are in a situation where everybody around you knows more about the local institutions and the local actors, but maybe you have something to offer.

Braithwaite: I don't think my contribution in Northern Ireland is particularly important. So many local unacknowledged important contributions, just so many. It was a radically diffused accomplishment.

As to whether the outsider has something to offer, yes, but it is a role that is greatly exaggerated in my case. In the case of Bougainville, sure I wrote some letters for them, I introduced them to New Zealand conferencing training people, and in turn that led to some funding for the restorative peace work there from the Princess Diana Foundation and from Caritas that produced a wonderful result. We also got involved in running a particular peace process there and at this point it looks like a positive outcome, but it might not turn out positive in the long run. If it does turn out positive, the catalytic contribution of the outsider is trivial compared to the local contribution which is 99 per cent of what matters. But, yes, a little outside catalytic spark here and there helps.

And sometimes it's counterproductive. I've been on the streets of Beirut last month talking to the people in the bottom-up revolutionary movement there. They like to use the word 'revolution'. They say, 'This is not just an Intifada this time; this is a revolution and the people are staying on the streets.' I moved around the tents in the square which is the centre of the uprising in Lebanon. You could see that some of the groups were very wary of who I was. People don't want to be seen as tools of some foreigner. You have to pull back sometimes and say, 'I'm actually not being of any help there. These people's local knowledge is so far ahead of my understanding and just by my being here I can do some harm.'

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Let me push that even a bit further about how cynical I am about the outsider roles. One of the things I've become really cynical about is peace prizes. Outsiders who have an international profile often position themselves to take credit for accomplishments. And that is very demoralising to people on the ground. I've had many conversations with local people about this on my fieldwork. 'Oh some famous international figure got a Nobel Peace Prize in relation to our peace process.' Some local person does get a more local, lower level peace prize than a Nobel Peace Prize, but he was the one who was always positioning himself to take the credit and it actually demoralises the civil society movement. I always like it when the Nobel Peace Prize goes to a social movement, like the group that mobilised against chemical weapons.

8 Unfinished business: looser brands and shared activism

Dzur: Let's conclude with a question on what you see as the big pieces of unfinished business for restorative justice researchers or restorative justice practitioners.

Braithwaite: We do have to be connected up to these wider social movements. This relates to a question you raised, Albert, in writing about whether there is a risk to having too general a definition or vision in restorative justice. I would say don't take the restorative justice brand too seriously. Take the underlying ideas seriously. It doesn't matter that someone we're working with on a practical political project doesn't know what restorative justice is. If they believe in transacting a particular justice problem through a relational form of justice, let them call it what they like.

Don't prioritise the strengthening of the restorative justice brand. Prioritise conversations about ideas like relational justice. Let's put the problem in the centre of the circle. And if we can agree about putting the problem in the centre, then I don't care if you call it restorative justice or not.

It's important to make these connections between the peace movement people who want to call themselves a 'peace movement' person or a 'non-violence' person or a 'civil rights' person or a 'human rights' person. We should aim to get more shared activism in relation to shared common ground. For example, restorative rights agencies are getting more resources to protect human rights through restorative processes, which is happening increasingly around the world. Jen Llewellyn's research on that with the human rights agency in Nova Scotia is a good example (Human Rights Commission, 2012).

Dzur: I think the concern is that when you loosen definitions, you run the risk of quality control. You were talking earlier about superficial programmes. I think people who would push back against your point here are concerned about having a genuine, not superficial, restorative justice process.

Braithwaite: Looseness is also a source of innovation. I think we've just got to be balanced about that debate. We've got to call out poor practices naming them-

selves ‘restorative justice’ and poor practices that are not so named. But we’ve also got to recognise that some of the best restorative justice in the world is not called ‘restorative justice.’

Dzur: Back to unfinished business, are there burning issues for you that you feel are underexamined?

Braithwaite: Bushfires at the moment in Australia are the burning issue! People in this country are hurting a lot. There’s a lot of healing needed. A lot of policy failure that’s involved. When we put the problem in the centre of the circle, of course, we look at the climate change debate and shifting Australia’s leadership from being laggards on global progress, to leaders of responses that work in addressing the climate crisis. Restorative justice has a role in response to our bushfires in moving from the micro to the macro understanding of global crises.

Dzur: When you were talking about international social movements, you mentioned the non-violent peace movement. The environmental movement is another good model. There are ways of intersecting restorative justice and environmentalism that we haven’t yet attempted.

Braithwaite: Yes. An interesting step further, in Australia and New Zealand, is a connection between environmental politics and indigenous politics. We’ve had the Whanganui River court cases in New Zealand, where the courts have accepted that a river is not an object but a system of life, with rights. In Australia we have now a social movement for a treaty with indigenous Australians. It’s not just a national debate. Here in Canberra we will have in our jurisdiction a local treaty regardless of whether there is a national one or not. We hope there will be a national one, but at many levels of governance that can occur. When that happens, the resistance from farmers who say, ‘We need the water for irrigation to build more farms,’ can be met by connecting environmental progress up to the indigenous rights process.

The term ‘Terra Nullius’ was part of the legal doctrine of colonisation. As in your continent, our continent was conceived by the colonial courts as an unoccupied land and was therefore appropriate for a civilisation to occupy legally under international law. Moving from terra nullius to aqua nullius – as my colleague Virginia Marshall (2017) says – grants indigenous people custodian rights over these flows of life called rivers. Then the farmers have got to make the argument to them, not only to the environmental movement, because there are indigenous rights which are environmental rights.

Yes, good question. You connect the restorative justice movement to the environmental movement, but also to the indigenous rights movement. That’s why I would also decentre the restorative justice brand a bit. The brand is useful, but it is more powerful when interconnected in a respectful way with the brands of other social movements.

Albert Dzur

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