

JusQUID
SCIENTIFIC SECTION

Restorative Approach and Social Innovation:

From Theoretical Grounds to Sustainable Practices

Edited by
Giovanni Grandi and Simone Grigoletto



PADOVA
UP

P A D O V A U N I V E R S I T Y P R E S S

JusQuid sezione scientifica

The scientific section of *JusQuid* contains works undergone an evaluative revision (double blind peer review process) that keeps anonymous both the authors and the reviewers. Reviewers are professors of proved scientific expertise or researchers in reliable research institutes. Reviewers, who accept this assignment, express their judgment by applying a score from 1 to 10 (6 being the first positive mark) in regard to the following aspects: structure (coherence, clarity and methodology); normative and jurisprudential references; exposition accuracy; critical arguments; bibliography; scientific relevance at the national and international level. Reviewers also provide a comment that specifies if the work can be published without revision or with some minor revision or needs to be rejected. In case of discordant judgments by the two reviewers, the Editor in Chief and the Editorial Board will make the final decision, with the exception of cases where the Editor in Chief decides to assign a third reviewer who will evaluate the work. If necessary, reviews are shared, keeping the reviewer and the author of the work anonymous. The list of reviewers and the evaluation forms are stored at the *JusQuid* offices by the director. The deadline for the execution of the review assignment is twenty days (save for extension), after which, without any negative response in the following ten days, the Editor in Chief and the Scientific Board, in case they consider the work worthy, accept the submission. Works by members of the Scientific Board and the Editors in Chief are excluded from evaluation. At the discretion of the Editor in Chief and the Scientific Board are also excluded from evaluation works of undeniable value or already sufficiently evaluated at the academic level with a positive response; for example works by invited or prestigious authors, conference proceedings, and collective works of academic source.

JusQuid

Editors in Chief

Silvio Riondato and Riccardo Borsari

Editorial Board

Riccardo Borsari, Elena Cadamuro, Chiara Candiotta, Paolo Capoti, Elisabetta Palermo Fabris, Lorenzo Pasculli, Debora Provolo, Marco Rebecca, Silvio Riondato

JusQuid *scientific section*

Scientific Board

Paolo Benciolini, Riccardo Borsari, Lorenza Carlassare, Marcello M. Fracanzani, Manuela Mantovani, Francesco Moschetti, Elisabetta Palermo Fabris, Paolo Patrono, Silvio Riondato, Rino Rumiati, Daniele Rodriguez, John A. E. Vervaele, Paolo Zatti

- E. Pavanello, *La responsabilità penale delle persone giuridiche di diritto pubblico*, 2012.
- S. Riondato (a cura di), *Dallo Stato Costituzionale Democratico di Diritto allo Stato di Polizia? Attualità del "Problema penale". Nel trentesimo dall'Ultima Lezione di Giuseppe Bettiol*, 2012.
- L. Pasculli, *Le misure di prevenzione del terrorismo e dei traffici criminali internazionali*, 2012.
- S. Riondato, R. Alagna (a cura di), *Diritto penale della Repubblica di Turchia*. Criminal Law of the Republic of Turkey, 2012.
- R. Borsari, *Reati contro la Pubblica Amministrazione e discrezionalità amministrativa. Dai casi in materia di pubblici appalti*, 2012.
- C. Sarra, D. Velo Dalbrenta (a cura di), *Res iudicata. Figure della positività giuridica nell'esperienza contemporanea*, 2013.
- R. Alagna, S. Riondato (a cura di), *Studi sulla riforma penale post-socialista*. Studies on the Criminal Law Reform in the Post-Soviet Countries, 2013.
- R. Borsari (a cura di), *Profili critici del diritto penale tributario*, 2013.
- R. Borsari, *Diritto penale, creatività e co-disciplinarietà. Banche di prova dell'esperienza giudiziale*, 2013.
- S. Riondato, *Cornici di «famiglia» nel diritto penale italiano*, 2014.
- I.G. Antonini, *La duplice natura della società pubblica: tra garanzia della concorrenza e alternativa all'appalto*, 2014.
- D. Provolo, S. Riondato, F. Yenisey (eds.), *Genetics, Robotics, Law, Punishment*, 2014.
- A. Aprile, A. Fabris, D. Rodriguez, *Danno da perdita di chance nella responsabilità medica*, 2014.
- R. Borsari (a cura di), *Crisi dell'impresa, procedure concorsuali e diritto penale dell'insolvenza. Aspetti problematici*, 2015.
- R. Borsari, L. Sammicheli, C. Sarra (a cura di), *Homo oeconomicus. Neuroscienze, razionalità decisionale ed elemento soggettivo nei reati economici*, 2015.

- R. Borsari (a cura di), *La corruzione a due anni dalla Riforma Severino*, 2015.
- F. Mazza, *La premeditazione del delitto tra dogmatica giuridica e neuroscienze*, 2016.
- R. Borsari (a cura di), *Processo alla scienza*, 2016.
- R. Borsari (a cura di), *Responsabilità da reato degli enti. Un consuntivo critico*, 2016.
- D. Provolo, *L'identità genetica nella tutela penale della privacy e contro la discriminazione*, 2018.
- R. Borsari (a cura di), *Itinerari di diritto penale dell'economia*, 2018.
- C. Sarra, M.^a Isabel Garrido Gómez (a cura di), *Positività giuridica. Studi ed attualizzazioni di un concetto complesso*, 2018.
- G. Fornasari, L. Picotti, S. Vinciguerra (a cura di), *Autodeterminazione e aiuto al suicidio*, 2019.
- G. Grandi, S. Grigoletto (a cura di), *Restorative Approach and Social Innovation: From Theoretical Grounds to Sustainable Practices*, 2019.

JusQuid Theoretical-Practical Section

- S. Cardin, *L'illecito punitivo-amministrativo: principi sostanziali, procedurali e processuali*, 2012.
- A. Giuliani, *I reati in materia di "caporalato", intermediazione illecita e sfruttamento del lavoro*, 2015.

**Restorative Approach and Social Innovation:
From Theoretical Grounds
to Sustainable Practices**

Edited by

Giovanni Grandi, Simone Grigoletto

**PADOVA
UP**

FISPPA - DIPARTIMENTO
DI FILOSOFIA, SOCIOLOGIA,
PEDAGOGIA E PSICOLOGIA
APPLICATA



UNIVERSITÀ
DEGLI STUDI
DI PADOVA



This publication has been funded by Department of Philosophy, Sociology, Pedagogy and Applied Psychology (FISPPA) of the University of Padua and Area Science Park.

First Edition 2019, Padova University Press

Original Title *Restorative Approach and Social Innovation: From Theoretical Grounds to Sustainable Practices*

© 2019 Padova University Press
Università degli Studi di Padova
via 8 Febbraio 2, Padova
www.padovauniversitypress.it

Graphic Design
Padova University Press

Cover Image

“College of the Doctoral Jurists from Padua who gives an opinion to the Doge”. From the fresco by Gino Severini in the Room of Jurisprudence Faculty - Bo Palace, Padova

ISBN 978-88-6938-161-4



This work is licensed under a Creative Commons Attribution International License
(CC BY-NC-ND) (<https://creativecommons.org/licenses/>)

Table of Contents

Restorative Justice as Social Innovation GIOVANNI GRANDI, SIMONE GRIGOLETTO	11
Restorative justice beyond crime: A vision to guide and sustain our lives HOWARD ZEHR	21
Restorative Justice: a Strategy for Disrupting the School-to-Prison Pipeline LUCILLE RIVIN	29
Restoring relationships, community building: from social inclusion to wellbeing PATRIZIA PATRIZI, GIAN LUIGI LEPRI, ERNESTO LODI	45
Imagining a Restorative Approach to Individual Reintegration in the Context of (de)Radicalization ANA PEREIRA	61
Restorative Justice and social conflicts: a focus on the issue of hate incidents ELENA MILITELLO	83
Restorative Justice within Italian Criminal Law: Another Step Beyond Retributive Justice (with Some Contradictions) CHIARA PERINI	105
Restorative Justice and Probation: Limits and Unexplored Opportunities – Considerations Based on the Experience of the RJ Center, Autonomous Region Trentino-Alto Adige / Südtirol ELENA MATTEVI, DANIELA ARIETI, KATJA HOLZNER	117
Neurosciences and Restorative Justice MARIA BEATRICE MAGRO	131
Using Restorative Justice in Post-Conflict Societies: The Case of Bosnia-Herzegovina ADRIANA MICHILLI	149
Restorative Justice Within Legal System of Bosnia and Herzegovina ENA KAZIĆ, RIALDA ĆOROVIĆ	167
Authors' Bio	187

*Restorative Justice as Social Innovation*¹

GIOVANNI GRANDI AND SIMONE GRIGOLETTO

University of Padova – Area Science Park

1. Introduction

Restorative approach and social innovation: how can we connect these two topics? In what sense Restorative Justice is not simply an innovative practice for the public administration of justice, but also a paradigm for social innovation? Questions like these have guided and characterized the 2018 Restorative Justice International Conference at the University of Padova². The present volume collects some of the best contributions of that event and some other works that try to focus on a possible expansion of the reach of the Restorative approach. In these regards, the notion of Social Innovation is crucial. We live in an era characterized by a fast and revolutionary innovation. Although this innovation is mostly considered to be technological, we should not ignore the social changings that come with it. Our contemporary society casts upon us new challenges and goals even (and mostly some would say) from a social point of view. The case of *cyberbullying* represents just one of the many examples that

¹ Giovanni Grandi is the author of the section entitled “*The Social Dimension of Restorative Justice*”. Simone Grigoletto is the author of the sections entitled “*The Reach of a Conflict: Restorative Justice as Social Innovation*”, “*Presentation of the Volume*”. Both authors have conjointly worked to the “*Introduction*”.

² The conference has been possible thanks to the support and vision of Antonio Da Re, Stephen Taylor, Giovanni Osti and Francesca Samogizio. The editors of this volume want to express their deepest gratitude to all of them.

show how the dimension of conflicts has expanded beyond what we were used to think. Acknowledging this, also means to acknowledge the fact that we need to expand our conflict-management tools. The paradigm of Restorative Justice appears to be a good candidate for this sort of development (both on a theoretical and practical way) that our society very much needs. Although many theoretical efforts have been carried out in order to implement such approach to Justice, they have mostly focused on its application to penal justice. This collection of papers wants to introduce a new possibility: Restorative Justice is a valuable tool to manage and handle conflicts in our everyday environment. This will ultimately mean to improve our lives and this sort of goals is what we take to be a social innovation.

2. *The Social Dimension of Restorative Justice*

Restorative Justice is a fruitful and rich approach to Justice. While its roots go back many centuries in the history of human kind, its formal and well-structured application is relatively recent. However, this paradigm of Justice still presents some unexplored potential. It is interesting to focus on possible implementation of the Restorative Approach outside the penal system. This expansion of the paradigm would certainly be innovative and looks like a promising and much needed upgrade for its social benefits.

If we aim to connect “innovation” and “restoration”, we probably have to discuss the pertinence of the restorative paradigm in justice to a wider range of human experiences, connected to conflictual relationships. Probably, the first step in that direction should be the development of the philosophical reflection on this topic, particularly looking at the anthropological thought.

It must be noticed that the expression “the philosophy of restorative justice” is quite often used meaning the general “thought perspective” of restoration in criminal matters, or intending the theoretical reflection on practices³, but it still lacks a solid connection between Restorative Justice and Philosophy itself, particularly between RJ and classic philosophical anthropology and moral thought.

This lack is probably due to the history of the “restorative movement” – if we can use this expression –, that started in the late Fifties of the Twentieth Century from urgent and practical questions about the managing of wrongdoings: the failure of punishment in reeducation of the offenders was the problem of Albert Eglash⁴ for example. Similarly, later in the Eighties, caring about vic-

³ See for example the collective work Gavrielides T. and Vasso Artinopoulou V. (ed. by), *Reconstructing Restorative Justice Philosophy*, Surrey, 2013.

⁴ See Eglash A., *Creative Restitution. A Broader Meaning for an Old Term* in “Journal of Criminal Law and Criminology”, Vol. 48, No., 1958, pp. 619-622.

tims' needs was one of the main issues in the first theoretical works of Howard Zehr. The "clinical" approach connected to a general, and very sharp, reflection on the differences between retribution and restoration guided to the definition of a "paradigm" of justice, which still works clearly, as very understandable mainframe for an increasing number of conflict management proposal.

Simplicity is perhaps the principal theoretical strength of the restorative paradigm: the definitions of "Restorative Justice" used in the international institutional documents are now – after only more or less fifty years – convergent and officially recognized from public institutions⁵.

However, theoretical simplicity of definitions risks to become a limit for the development of the debate: it could seem that we need no more work, no more exploration of the foundations. What basically remains to do – this could be the general perception – is to deepen the dialog between a stabilized theory and practices or new fields of application, in order to expand the undoubtable good effects of restorative perspective in wrongdoing and injustice problems. Briefly: "philosophy" is clear, what principally remains is to care about applications.

Nevertheless, what could happen if we consider "philosophy" not in its general sense of "way of thinking" but in the sense of the philosophical thought, developed from the ancient Greek to our days? The whole history of Philosophy – we can use the capital to distinguish from the term used as generic expression – deals with the problem of injustice, particularly from the perspective of the arising of "evil". The relation between "good" and "evil" is central in justice issues, but how deep is it explored?

If we simply consider the basis of the restorative approach, we can easily understand how a dialogue with the moral and anthropological tradition in Philosophy could be important exactly to deepen the paradigm and to broaden its strength.

Every kind of wrongdoing evocates a context in which all the actors are involved in an experience of evil, and a restorative approach ultimately suggests that taking care of the situation should mean to increase the good where it lacks and shows, at the same time, that inflicting new forms of evil to people who acted evilly is not an effective strategy to manage wrongdoing.

In this perspective, it immediately appears that the context where the restorative approach applies, the context of relationships marked by evil, is not simply the one of public administration of justice, but it appears to be the hu-

⁵ See for example the definition included in the United Nations document ECOSOC 2002/12, *Basic Principles on the Use of Restorative Justice Programs in Criminal Matters*: « "Restorative process" means any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles».

man condition in itself.

Moreover, the great anthropological and moral issue of the ancients was not the question “why do we act evil?”, but the ordinary fact that in most occasions we act evil exactly when we are trying to answer to the evil that affects us, when we are trying to “put things right” as Howard Zehr says.

Augustin of Hippo elaborated for example the well-known concept of “original sin” meditating on human condition and on the third chapter of the book of Genesis.

This concept tries to take in account exactly the fact that when we act responding to evil, we are always already affected by experiences of evil, and this sort of moral burden that everyone carries within him or herself inclines us towards retribution. According to Thomas Aquinas, “pena” means “*every kind of deprivation that not allow to act something good*”⁶ and in that sense is clear that the passive experience of evil – the experience of being a victim – affects exactly the capability of responding to evil in a non-destructive way.

Being passively involved in wrongdoings, we are inclined to answer to evil that affects us by introducing new evil, becoming active in this transmission, if we do not pay the necessary attention. We are inside a sort of chain, and the problem is exactly how can we break this chain, and which is the point we have to force to interrupt the transmission of evil.

Moreover, we have to notice that this chain is not so linear in its development. As René Girard demonstrated⁷, evil and violence are not predictable in their lines of transmission. We are acting in a retributive way not only when we ask, as victims, to inflict, first of all, severe punishment to perpetrators, or when in ordinary life we adopt the perspective “eye for an eye”. According to the lesson of René Girard, we act in a retributive way even when we dump the evil we suffered on other people, who have nothing to do with facts that made us suffer.

For example, when I come back to home very tired and, let us say, I have strongly argued with my colleagues, and I find chaos at home and the first thing I do is to scold my daughters and my son, I then act exactly in a retributive way: I transmit to my family an amount of the evil that was charged to me in a totally different context.

Retributive approach and restorative approach are not two equally balanced possibilities in answering to evil. Retributive approach remains stronger insofar as we do not find how to break the chain that connects suffering and perpetrating evil. This is, for example, an anthropological and moral issue that should be very relevant for the “theory” of Restorative Justice. We can also notice that this problem affects potentially all our relationships. Every time and everywhere

⁶ Thomas Aquinas, *De Malo*, q. 1, a. 4, res.

⁷ See principally R. Girard, *La violence et le sacré*, Éditions Bernard Grasset, Paris 1972.

evil touches our life, we are immediately ready to expand the chain effect, if we do not find a way to be aware of this dynamic and to contrast it. If retribution and restoration are two different ways in answering to evil that affects our lives, we also have to observe that we have the most concrete possibility to break the chain exactly when we feel as victims. In every situation in which we have to decide how to react to an action that we feel offensive, we are concretely challenged, inside ourselves, to react to the inclination of retribution. And those are the situations that reveal us how strong or weak is our moral power to adopt a restorative approach.

From a moral point of view is quite easy to recognize that Restorative Justice concerns our ordinary life, the management of ordinary conflicts, and in that sense is a paradigm of living and not only an alternative way of managing crime within judicial systems. Some experiences of humanistic mediation confirm this view. What does happen when restoration in a deep sense succeeds? People involved in criminal facts recognize humanity in each other. The labels of “enemies” and “monsters” leave place to real suffering faces. Anonymous social functions, impersonal presences, or social rules leave place to real injured people. In some way, what happens through mediation is the discovering of common humanity suffering from evil and the drama of remaining without power to break the chain. Criminal facts, always considering things from an anthropological point of view, are points in which perpetrators have lost both the awareness of the dramatic chain of retribution and the power, as victims of evil, to react in a different way. This sort of topics could be explored through a deeper dialogue between Restorative Justice and Philosophy and this dialogue could reveal the restorative approach as a social innovation path, as a perspective that – as Howard Zehr says – shows a different way of living and solving ordinary life conflicts, also, beyond criminal justice systems.

As far as restorative approach takes fairly into account the human condition, it reaches – particularly thanks to the practices of humanistic mediation – the great result of rebuilding into people the power to break the chain of evil. Moreover, as a way of thinking, it shows to be a perspective that can also enlighten every sort of social initiative that arises as an answer to different kinds of evil.

In that sense a restorative approach to social innovation could also mean a specific moral awareness: every time we introduce something new (a new social solution, new technologies applied to services, a new way to organize people’s work...) to solve problems or to “put things right”, first, we have always to pay attention to the dynamic of the evil chain, and particularly to its less predictable ways of reproducing experiences of deprivation and suffering; every change, despite the best intentions, could produce losses or damages; second, we have

always to consider how an innovation could sustain or rebuild the power of the people to choose a restorative reaction to evil instead of a retributive one.

This point of view represents the research program of the group of scholars of the University of Padua, that organized the international conference *Social Innovation and Restorative Approach* with the aim to introduce anthropological and moral perspective in the fascinating field of Restorative Justice studies.

3. *The Reach of a Conflict. Restorative Justice as Social Innovation*

It seems clear how the future of Restorative Justice let us envisage an expansion of its ordinary subjects. Expanding the area of competence and action of Restorative Practices, however, is both a theoretical and practical move. It is practical insofar as we have to make possible to share and apply Restorative Justice in different ways than usual. It is also theoretical, as we need to focus more on the philosophical principles that ground these mediations tools. The development of Restorative Justice along these lines is guided by well-established belief: practice without a strong theoretical background can be misguided and theory without a reference to practice is empty. As moral philosophers, we think we can contribute to this development in virtue of a millennial tradition of conceptual and theoretical research on concepts that Restorative Justice considers of primary relevance. The philosophy of Restorative Justice, however, has been generally overlooked (at least as an explicit standalone subject). In is important to remind that, as underlined above, the word “philosophy” can have at least two understandings. On the one hand, we could understand “philosophy” as a general term that refers to any attempt to identify the aims and the scope of a practice. In this regard, the debate on Restorative Justice has seen some interesting works⁸. On the other hand, “philosophy” could refer to the specific subject that has characterized the intellectual inquiry of human beings for over two millenniums and half. In the recent years, we have seen an increasing spreading of Restorative Practices (and hopefully this will soon be the case in Italy as well), but how about the theoretical work that grounds and sustains these practices? I recall Jonathan Doak and his reflection on the relationship between RJ theory and practice⁹. One of his claims has particularly struck me as I still remember it very well: “*Restorative Justice Practices have outpaced theory*”. Theories of Restorative Justice, Doak claimed, have not moved fast enough so as to deepen our understanding on why and how Restorative Practices work. The second, more technical, understanding of philosophy can become very handful

⁸ The works of Howard Zehr, for example, are considered the most fruitful example of this sort of grounding investigation on Restorative Justice.

⁹ As all the other active participants of the EFRJ 2018 International Conference in Tirana do.

to guide the sort of practical and theoretical expansion that Restorative Practices are ideally going through. Restorative Justice Practices deal with many theoretical concepts. Restoration, Forgiveness, Responsibility, Punishment, Agency are all concepts that have been addressed by the philosophical tradition. Surprisingly, the Philosophy of Restorative Justice appears to be a quite unexplored area of theoretical knowledge. We suggest that bridging the gap between theory and practice means drawing from the philosophical tradition all the conceptual analysis that can support the existing practices of resolution of the conflict.

A second more general question, then, arises: how can Restorative Justice be linked to Social Innovation? To (briefly) answer to this question I think we need to expand the scope of RJ outside the field of conflict management as intended by judicial systems. This is possible if we highlight how RJ practices are typically focused on the reestablishment of damaged relationships. However, this relational damage is not an exclusive of conflicts that have led to formal judgement and have been assigned a punishment by a code of law. A wide range of conflicts that produce a similar relational stress (even if with different degrees) characterizes our everyday working and domestic lives. Claiming that the dimension of conflict is wider than Penal Justice means to realize how relational conflict characterizes many fields of human life. Accordingly, all these cases would benefit from Restorative Practices and its guiding principles.

Before moving on and analyze how all this is relevant for Social Innovation, I want to focus on conflicts¹⁰. Take a broad definition of conflict such as the following:

A conflict is a relationship that has been damaged by the contrast of two (or more) parties who hold, in the given situation, opposing values.

Now, understanding a conflict through the relational damage that comes with it allows us to see how deep and wide the dimension of conflict is. Again, we could possibly face damaged relationships in most of the areas of our everyday life. Moreover, such a conception of conflict makes us understand how much Restorative Justice can be helpful in these regards. The primary goal of the restorative approach is to take care of the relationship between the stakeholders by reestablishing a *relational equilibrium*. To understand this point an analogy with the concept of *health* can be useful. In the healthcare professions, how can we consider a specific treatment to a patient to be pursuing her health? To answer this question we need to focus on an appropriate conceptual redefinition of *health*. Does the pursuit of *health* entail the going back to the pre-patho-

¹⁰ I consider conflicts to be at least of two kinds: *interpersonal* (conflict between the others and me) and *intrapersonal* (conflicts with myself). I will refer here to conflict in its *interpersonal* understanding.

logical state? What if such a return to the original state is not possible? Some authors suggest that we need to understand health in a different way. Georges Canguilhem has suggested a conception of *health* as the equilibrium of the vital functions of the patient¹¹. Accordingly, if going back to the pre-pathological state is not possible, we need to aim at new equilibrium that allows the patient to live a healthy life. Similarly, Restorative Justice, in dealing with conflicts, is aiming at a *relational equilibrium* between the stakeholders of a given conflict. If necessary, this might lead to a brand new way of relating with the other. In these terms, the focus of Restorative Practices remains the possibility of creating (rather than *re-creating*) a dimension that allows for a safe relationships of the parties involved.

Following this understanding of Restorative Justice allows us to highlight a new possible role of this approach in socially-relevant issues. Social Innovation has been defined as follows:

*“Specifically, we define social innovations as new ideas (products, services and models) that simultaneously meet social needs and create new social relationships or collaborations. In other words, they are innovations that are both good for society and enhance society’s capacity to act”*¹²

The creation of new social relationships is an explicit goal of Social Innovation. Given the ability of Restorative Justice in creating new relationships, we understand how much a valuable tool it can be. Nevertheless, this move requires an innovative use of Restorative Practices. We need to expand the reach of the guiding principles of Restorative Justice even beyond its regular fields of application, in deep connection with our everyday lives. Differently from a common perception of the word “innovation”, such an innovation on the use of Restorative Justice is not a technological one. Social Innovation, broadly conceived as the enhancement of the wellbeing of a community through the improvement of its working and living places, services and educational processes, deserves a similar attention. Restorative Justice, by taking care of the relational equilibrium of related parties, appears to be a valuable tool that aims at the improvement of our living conditions. Again, if we want to consider Restorative Justice guiding principles as socially innovating, we need to expand the reach of Restorative Practices beyond the sphere of penal justice. Conflict management is a much wider field, and we believe that Restorative Justice will provide us the proper tools to dig into this unexplored ground.

¹¹ See Canguilhem G., *The Normal and The Pathological*, Zone Books, 1991 [1966].

¹² Murray R., Caulier-Grice J., Mulgan G., *The Open Book of Social Innovation*, The Young Foundation, 2010, p.3.

4. Presentation of this volume¹³

This volume includes a selection of papers that have been presented at the international conference *Restorative Approach and Social Innovation: From Theoretical Grounds to Sustainable Practices* held at the University of Padova the 7th - 8th November, 2018. This event has involved more than one hundred participants in the discussion of how we can expand the reach of Restorative Practices. The keynote speakers (that featured Howard Zehr, Brunilda Pali and Ivo Aertsen) introduced a series of questions that have been analyzed in different panels. These sessions have dealt with issues that ranged from the theoretical aspects to the more practical challenges of Restorative Justice.

This volume offers a good sample of the variety and the quality of the papers presented at the conference. We are proud to start with an essay that summarizes Howard Zehr's opening speech. Zehr has been invited November, 6th 2018 at the annual Jacques Maritain Lecture in Trieste. The following days he was invited speaker and participant at the International conference held at the University of Padova. The original paper presented here introduces his thoughts on the relationship between the Restorative Approach and Social Innovation.

Lucille Rivin, in her essay *Restorative Justice: a Strategy for Disrupting the School-to-Prison Pipeline* highlights the possibilities that the Restorative Approach has in the school environment. She claims that practitioners should undergo a specific Restorative Justice training in order to reintegrate those students who risk to drop school following serious cases of conflicts in their communities.

Patrizi, Lepri and Lodi also focus on a possible expansion of the Restorative Approach at the community level. RJ, they claim, does not exclusively belong to a specific context. In order to explain this sort of expansion of the paradigm they focus on a study case of Tempio Pausania, the first Italian case of a Restorative City.

Ana Pereira, analyzes the concept of *de*-radicalization in the prison context. In her essay, *Imagining a Restorative Approach to Individual Reintegration in the Context of (de)Radicalization* she claims that Restorative guiding principles are very much needed if we want to prevent prisoners to undergo a radicalization that would affect their possibility to be reintegrated in the society.

Another attempt to expand the reach of Restorative Justice is suggested by Elena Militello who tries to highlight the possible role of this paradigm in the social dynamics of trust and inclusion with a particular attention to hate crimes. These phenomena, that are increasingly affecting our societies, seems to be han-

¹³ This publication has been funded by Department of Philosophy, Sociology, Pedagogy and Applied Psychology (FISPPA) of the University of Padova and Area Science Park.

dled more effectively according to the Restorative Principles.

Chiara Perini, with her article entitled *Restorative Justice within Italian Criminal Law: Another Step Beyond Retributive Justice*, analyzes the Italian penal system and reminds us that we still need to work on the theoretical background that grounds the relationship between Restorative Justice and Retributive Justice. The two models of Justice should be considered to be compatible, while neither of them should be considered exclusive.

Mattevi, Arieti and Holzner, drawing from the experience of the Restorative Justice center of the Autonomous Region Trentino-Alto Adige / Südtirol, highlight the limits and the possible development of Italian probation. The legal framework is a crucial point when it comes to this alternative approach to Justice. The second part of this essay focuses on the most significant cases of Restorative Practices in light of future development of the legislation.

Maria Beatrice Magro introduces, in an explorative paper, possible insights from the neuroscientific point of view. This kind of research, she suggests, would allow us to dig deeper into the victim and offender psychology in order to understand new aspects of the conflict management process.

A similar path from practical needs to theoretical implementation is the one proposed by Adriana Michilli. In her *Using Restorative Justice in Post-Conflict Societies: The Case of Bosnia-Herzegovina* she takes into consideration the case of post-conflict countries and the different ways of dealing with the polarization of conflict. This interesting area of study, where Transitional Justice combines with Restorative Justice, wants to show how Restorative Practices can work along other forms of International Justice rather representing an alternative that rules out other forms of conflict transformation.

Analyzing the same study case of Bosnia and Herzegovina Kazic and Corovic claim that Restorative Justice has witnessed a few decades of introductory work of the paradigm within the various national Penal Justice Systems. It appears helpful, they claim, to see now, after all these years, how much these practices have been accepted in the community and what their actual usage is.

We believe, as editors of this volume, that these papers well represent a first step towards different possible expansion of the Restorative Approach. It is our hope to see a further development of Restorative Justice that shows how this paradigm can become a useful tool of Social Innovation.

Authors' Bio

Daniela Arieti has a degree in Sociology at University of Trient (2005), a Master's degree in Forensic Sciences at "La Sapienza" University in Rome (2007) and a specific training in penal mediation at faculty of law in Trient (2008). Since 2009 she has been working as Penal Mediator at the Restorative Justice Center of the Region Trentino Alto Adige, in the field of juvenile justice and adults justice (specifically justice of peace and adult probation) and also at a community level.

Rialda Ćorović was born on March 17, 1987, in Sarajevo, Bosnia and Herzegovina. In March 2018 she got her PhD degree at the Faculty of Law of the University of Sarajevo, with the doctoral dissertation entitled "*Restorative Justice in the Criminal Justice System*". She works in the Ministry of Internal Affairs of Canton Sarajevo.

Giovanni Grandi is professor of Moral Philosophy at the University of Padova. He teaches *Theoretical and Historical Grounds of Philosophical Anthropology* and *Conflict Analysis, Forms of Justice and Restorative Practices*. He is the leader of the scientific research team on Restorative Justice at University of Padova and has contributed with several publication to the topic.

Simone Grigoletto is a post-doc researcher in Social Innovation at Area Science Park. He is working on a theoretical expansion of the Restorative Approach beyond the Penal Justice system. His further research interests deal with the major issues in contemporary moral philosophy. Other than Restorative Justice, he is the author of publications on supererogation, moral excellence and moral exemplarism.

Katja Holzner has completed her degree in Politics at the University of Bologna (2005). She, then specialized in Institutions and Politics in Cultures and Human Rights at the University of Padova (2008). Since 2009 she works as a penal mediator at Restorative Justice Center of the Autonomous Region Trentino – Alto Adige /Südtirol. Her primary focus is working with minors and adults, also at a community level.

Ena Kazić is an Assistant Professor at Faculty of Law of International Uni-

versity of Sarajevo, in the scientific area of Criminal Law. Her research addresses topics of sexual violence prevention and restorative justice

Gian Luigi Lepri, psychologist and psychotherapist, methodological coordinator, supervisor of the counseling service for student and coordinator of the Restorative Justice Practices Team (UNISS), member of the Values and Standard working group and Vice-Chair of the Working Group on Restorative Cities of the European Forum of Restorative Justice.

Ernesto Lodi, PhD, psychologist and psychotherapist, researcher on social psychology at University of Sassari, honorary judge at the Juvenile Court of Sassari. He is a member of: Restorative Justice Practices Team (Uniss); EFRJ-European Forum for Restorative Justice; PsicoIus-Roman School of Psychology and Law.

Beatrice Magro is professor of criminal law, as well as the director of the Master in Forensic Sciences at the G. Marconi University of Rome. She is a member of the editorial and scientific committee of specialized magazines. She is the author of numerous publications about the end of life and, recently, the relations between law and neuroscience.

Elena Mattevi Adjunct Professor of Criminal Law at the University of Trento, she is author of numerous publications on restorative justice, probation, immigration and criminal law, prison law and ADR. She is author of the book "Una giustizia più riparativa (ESI, 2017), and co-editor of the book "Giustizia riparativa: responsabilità, partecipazione, riparazione" (Università degli Studi di Trento, 2019).

Adriana Michilli is a second year PhD Fellow at The University of Padua, Human Rights Centre. Her research interests include: securing access to justice in transitional societies, providing redress for victims of gross human rights violations, & institutionalizing democratic reforms in the Western Balkan context.

Elena Militello is a Ph.D. Candidate in Law and Humanities at the University of Insubria in Como, Italy. Her main research interests are comparative criminal procedure, restorative justice, and corporate criminal liability. She has been a Visiting Researcher in Los Angeles, Freiburg and Luxembourg.

Patrizia Patrizi, psychologist and psychotherapist, full professor of Psychology and Law and Restorative Justice Practices (University of Sassari). She is director of the Restorative Justice Practices Team (Uniss), president of PsicoIus, member of the EFRJ board (European Forum for Restorative Justice).

Ana Pereira is a Ph.D researcher in Criminology working in the Research Line on Restorative Justice and Victimology of the Leuven Institute of Criminology (KU Leuven). She holds a Bachelor's and a Master's degree in Criminology from University of Porto (Portugal). Her areas of interest are restorative justice, moral psychology, experimental criminology, desistance of crime and (de)radicalisation.

Chiara Perini, Ph. D., is associate professor in criminal law at the University of Insubria. Within the Law Degree she teaches the courses of Criminal Law, Business and Corporate Criminal Law, Restorative Justice and Victim-offender Mediation. She is member of the Scientific Committee of the Restorative Justice and Mediation Studies Centre (Univ. Insubria).

Lucille Rivin, Senior Director of Curriculum at The Leadership Program, has overseen the development of its Restorative Justice coaching/coordination program in schools. Dedicated to nurturing Restorative Practices in schools and communities, Lucille has presented at RJ conferences internationally.

Howard Zehr is currently the Distinguished Professor of Restorative Justice at Eastern Mennonite University's Center for Justice and Peacebuilding, and co-director of the Zehr Institute for Restorative Justice. Zehr is considered to be a pioneer of the contemporary studies on Restorative Justice and his works have grounded and established a well-know reference for the scientific debate.

With the contribution of: Daniela Arieti, Rialda Ćorović, Giovanni Grandi, Simone Grigoletto, Katja Holzner, Ena Kazić, Gian Luigi Lepri, Ernesto Lodi, Maria Beatrice Magro, Elena Mattevi, Adriana Michilli, Elena Militello, Patrizia Patrizi, Ana Pereira, Chiara Perini, Lucille Rivin, Howard Zehr.

In the last decades, Restorative Justice has represented an emerging new practice to deal with conflict management. This promising approach suggests looking at conflicts from a different perspective, with a specific attention to the needs of the victims. This volume emphasizes possible expansion of the approach to a variety of aspects of the social environment. Specifically, then, the focus will be on the Restorative Approach and Social Innovation. How can we connect these two topics? In what sense Restorative Justice is not simply an innovative practice for the public administration of justice, but also a paradigm for social innovation? How can restorative principles affect our everyday lives and improve the quality of our relationships? Questions like these have guided and characterized the 2018 Restorative Justice International Conference at the University of Padova entitled "Restorative Approach and Social Innovation: From Theoretical Grounds to Sustainable Practices". The present volume collects some of the best contributions from the event and some other works that try to focus on a possible expansion of the reach of the Restorative Approach.

€ 40,00

ISBN 978-88-6938-161-4



9 788869 381614