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## **EXPLAINING THE IMPACT OF RESTORATIVE JUSTICE**

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### **THE ‘4-WAY INTERACTION’ OF MORALITY, NEUTRALISATION, SHAME AND BONDS**

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#### **Introduction**

While numerous studies have explored restorative justice procedures, the policy-related issues it raises and its influences on communities, there has been little emphasis on the social-psychological mechanisms of restorative practices, i.e. on the issues of *why* this way of responding to crime might be more effective in reintegrating offenders and *how* it can achieve this goal more successfully than other sanctioning approaches. Furthermore, while there is a significant amount of research on the role of morality, neutralisation, shame and social bonds in committing wrongdoings, there is a lack of integrated theory on their interrelations and joint effects. Consequently, neither the effect of restorative justice has been thoroughly explored by these criminological concepts which are otherwise considered as fundamental.

This study will discuss whether these concepts and their possible interconnections can help us to understand the impact of restorative justice,

and if so, how. Although any analysis of restorative justice should be at least as much about the victim as about the offender, the current article intends to focus mostly its impact on wrongdoers. Hence, it necessarily reflects only on some issues within restorative justice.

The main argument of the paper is based on two postulates: firstly, mapping the possible interrelations among offenders' 1) moral development; 2) their use of neutralisation techniques; 3) their shame feelings and shaming mechanisms coming from their social environments; and finally, 4) their social bonds<sup>1</sup> can be highly beneficial in developing effective responses to wrong-doing on both individual and systemic levels. Secondly, restorative justice with its personalised way of dealing with conflicts has the potential to beneficially influence offenders' as well as their communities' attitudes towards the effective reintegration of rule-breakers.

As illustrations, the paper includes parts of some interviews that the author conducted with inmates in English prisons about their attitudes towards the crimes committed and thoughts about desistance. However, the current study does not provide significant statistical data to prove these hypothesises. It merely intends to deepen our understanding about the possible psychological dynamics of restorative justice. For this 'theoretical journey' some widely known criminological and psychological concepts/typologies will be used as reference points that might help in translating the rather abstract dimensions into more concrete terms.

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<sup>1</sup> The terms 'bonds', 'links' and 'ties' will be used interchangeably in the study.

## **1. The four ways and their interactions**

### **1. 1. Morality**

What are levels of morality in offenders? How do restorative responses influence them? To transform the issue of morality into more tangible terms, the theory of Kohlberg (1971) is used for some help. In Kohlberg's approach moral growth is expressed in the development of moral judgment, internalising external cultural norms (Kohlberg, 1984, 90). He distinguishes three levels of reasoning in the moral development continuum (preconventional, conventional and postconventional), representing the 'cognitive-structural transformations in the conception of self and society' (Kohlberg, 1971, 42). Each level is made up of two sub-stages.

On the preconventional ('rule obeying') level the labels of good and bad, right or wrong are interpreted in terms of either the physical or hedonistic consequences of action (punishment, reward, exchange of favours) or the physical power of those who express the rules and labels. At stage 1.1 the obedience to authority is in order to avoid punishment. At stage 1.2 the right action is that which instrumentally satisfies the self's needs. At this stage there is an orientation towards exchange and reciprocity.

At the second or conventional ('rule maintaining') level, 'moral values reside in performing good or right roles, in maintaining the conventional order and the expectancies of other' (Kohlberg, 1984, 44). At stage 2.1 reasoning is internally motivated by loyalty to other persons (significant others). At stage 2.2 the respect is shown for authority and the decisions respond to a desire to maintain the given social order with regard to earned expectations of others.

On the third or postconventional ('rule-making') level the individual makes a clear effort to define moral values and principles that have validity and application apart from the authority of the groups of persons holding them and apart from the individual's own identification with the group. At stage 3.1 there is a social-contract legalistic orientation, where right action tends to be defined in terms of general individual rights. There is a clear awareness of the relativism of personal values and opinions. At stage 3.2, through the universal ethical-principle orientation, right is defined by the decision of conscience in accord with self-chosen ethical principles that appeal to logical comprehensiveness, universality and consistency. Principles of justice, equality, respect and dignity generate moral decisions, and conscience directs agents to mutual respect and trust.

If we consider the preconventional level as the stage where values are the least internalised, based on some studies (Hahn, 1989; Kohlberg and Candee, 1984), we can presume that preconventional motivations are more frequent behind criminal offences. Furthermore, moving towards the conventional and postconventional value systems, in other words, a shift from the egoistic-instrumental stage to 'reciprocity for maintaining relationships' (Kohlberg, 1984, 628) might help offenders in the desistance process (Maruna, 2001).

However, at this point one cannot neglect the issue of what the link between moral *thinking* and moral *acting* is. Although a linear correlation between these two variables might be expected, surprisingly, several research studies showed that their correlation is far from evident. As an example, Brown and Herrnstein pointed out (1975, 14) that these two concepts tend to have low or even negative correlation (i.e. 'someone talking on the high road and acting on the law road'). For opportunistic reasons, individuals can pretend to have a certain ('quasi-internalised') value-system without truly believing in its underlying principles. In short,

stepping forward on the moral scale does not provide a guarantee for becoming a 'better person'.<sup>2</sup>

Nevertheless, the recognition and consideration of the underlying principles behind 'higher' moral stages do inevitably add to the reintegration process of wrongdoers. To illustrate the possible connection between cognitive moral development and the willingness to desist, the quotes below are from an offender<sup>3</sup> expressing the reasons why he does not want to go back to drugs, crime and jail.

*"When I was on drugs, I wasn't thinking about them, I was thinking about myself. I wasn't thinking about the people I robbed, I was thinking about the shops. (...) I just didn't care. It just happened. Now again, I was making money. I had money to get out. I didn't think about people outside. They were never in my mind. "*

[Preconventional level]

*"But now (...) my wife and daughter need me. But they need me with nothing rather than need me part time and then have everything. You know what I'm sayin'? And it took me such a long time to realise it. "*

[Conventional level]

*"Before, I didn't care whether I was coming back or not, it was just part of my job. It was an occupational hazard. It happened sometimes. If I wanted to earn the same, I had to come back to jail again."*

[Preconventional level]

*"Now money doesn't interest me. I just want enough to support my family. "*

[Conventional level]

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<sup>2</sup> Not to mention the fact that methodologically it is highly difficult to measure, to what extent individuals have truly internalised any norm driving their thoughts and acts.

<sup>3</sup> convicted for robbery, approx. two years before release

Hence, the question is, whether restorative justice might help processes that improve moral awareness and sensitivity.

## **1. 2. Neutralisation**

Excuses, justifications, neutralisation techniques are ‘universal modes of response’ to inconsistency between one’s actions and beliefs (Hazani, 1991, 146). Sykes and Matza, who first explored the relevance of neutralisation in delinquent behaviour, claimed that ‘it is by learning these techniques that the juvenile becomes delinquent’ (1957, 667).

For understanding the phenomena of neutralisation in the everyday practice, the five basic techniques, identified by Sykes and Matza (1957) and four other methods, which have been defined later (summarised by Maruna and Copes, 2003), can greatly help us. According to them, typical ways of explaining the involvement in wrongdoing are 1.) the denial of responsibility; 2.) the denial of injury; 3.) the denial of victims; 4.) the condemnation of the condemners and 5.) the need to appeal to higher loyalties. Later studies have explored further techniques of neutralisations, such as 6.) the metaphor of the ledger (Klockers, 1974), indicating how previous good behaviour might give a ‘right’ to be involved into wrongdoings; 7.) the defence of necessity (Minor, 1981), which refers to one’s belief that a ‘significant other’ has been helped by breaking the rules; 8.) the claim of normality, arguing that ‘everybody else is doing it’ (Coleman, 2001), and finally 9.), the claim of entitlement (Coleman, 2001; Conklin, 2004), which is a way of reasoning why offenders deserve those goods they committed the offences for.

The conflicts of beliefs and the different ways of reasoning behind them are also shown by the following examples:

*“You know, because the crime I’ve committed wasn’t premeditated. For me going around in the evening, and give a brand new TV and pay one of their bills doesn’t seem as if it was premeditated, I mean murdering someone. It was something that has just evolved and gone. At the end of the day, I slept downstairs, she came downstairs [his partner, who generated the violence]. (...) So luckily, I have all that stuff in my favour, and I have an autistic child as well. ”*

[26 years old male, charged for murdering his partner but might be sentenced for manslaughter]

*“But whenever I robbed someone I never hurt really anyone. I just robbed them and took the money. I’ve never done anything of them. I’ve never raped anyone. I’ve never abused anyone. ”*

[27 years old male, sentenced for robbery]

*“I felt I was the victim. And there wasn’t really a victim. If anyone was a victim, I was the victim.*

*It was an undercover operation. An undercover police officer came to me in the street. I’ve been heroin addicted at that time. I’m not a drug dealer. I burglar hotels to get money to go and buy my drugs. I was just a user in the street, you know. (...) And I got eighteen months for it. I got him some heroin and I didn’t even supply. I didn’t supply more packets. I didn’t make more money.”*

[22 years old male, sentenced for heroin supply]

The use of neutralisation techniques might indicate a level of commitment to internalised norms. In fact, according to some findings, the more they are internalised, the more guilt and shame feelings they can generate, hence, in these cases the role of neutralisation is even more significant. On the other hand, if delinquents have entirely different value systems, they would not need such neutralisation techniques. Furthermore, it can be presumed that due to the recognition of the more underlying reasons of abeyance, a shift from the external, instrumental obligations to a more internalised commitment to universal values might largely decrease the use of neutralisation techniques.

### 1. 3. Shame

Restorative justice is based on the ‘communication of the harm done to others and disapproval of the actions by relevant others’ (Harris, 2001: 74), hence while examining its impact on offenders, we cannot avoid considering the concept of shame, which is probably the most controversial among the four dimensions discussed here.

The ‘Janus-face’ characteristics of shame in social mechanisms have been explored by several studies (e.g. the Reintegrative Shaming Theory by Braithwaite<sup>4</sup>, 1989; Harris<sup>5</sup>, 2001; Scheff and Retzinger<sup>6</sup>, 1991). While examining the role of shame- or guilt-feelings in relation to criminal behaviour, several theories base their concepts on a continuum: shame might be productive (more successful in resulting in moral development and in decreasing the use of neutralisation techniques in offenders), when it is acknowledged and expressed towards people with a reintegrative attitude. On the other hand, shame might be counterproductive and can ultimately get out of hand, unraveling in violence, when it is unacknowledged or communicated disrespectfully.

Thus, a beneficial shift can be resulted, if there is direct communication between the people affected, if they clearly express their emotions, and if they explore the reasons behind the specific rules and principles. This can largely help in improving the ability of offenders to take responsibility for their behaviour and in recognising the effects on significant others, social institutions (conventional level) or even the universal principles (postconventional level) behind the values.

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<sup>4</sup> he distinguishes between *stigmatising* vs. *reintegrative* shaming

<sup>5</sup> shame-guilt feelings predict higher empathy and lower hostility than unresolved shame and embarrassment or exposure in offenders

<sup>6</sup> they claim that ‘shame leads to violence under only one condition – that is hidden to the point that it is not acknowledged or resolved’ (1991, 3).



## 1. 4. Bonds

Social bonds can be regarded as bridges, representing communication between the individual and his environment. They have therefore significant role in any process based on interpersonal communication (such as moral discussion, responsibility-taking, shaming). Bonds also mean the ‘linkedness’<sup>7</sup> of people who are respected by each other, who share common values, and who are connected to each other by feelings of mutual trust. The lack of bonds might increase the risk of crime, whereas healthy links between the individual and the environment have a preventive function at the level of family<sup>8</sup>, the broader community<sup>9</sup> and the society<sup>10</sup>. Some interviews conducted with offenders about the reasons they think they would go straight later on also illustrate the significance of family bonds.

*“My two daughters [...] they lost their mother’s life because what I’ve done. But I don’t think it’s right that they lose their father, you know, to lose their father. It makes me stronger. ”*

[26 years old male, charged for murdering his partner]

*“I found out my dad wasn’t my real dad. And that’s when I started drugs. From then I was a real shit. D’you know what I mean? I caused my mum and dad nothing but worry; they just didn’t want to speak me again. I don’t wanna lose them forever. I’m back in touch with my family. ”*

[23 years old male, sentenced for drug selling]

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<sup>7</sup> term used by Deklerck and Depuydt, 1998, 137. [===dear editor, if this term is mentioned in this book by Johann in his chapter, can you please include it in this footnote? ===]

<sup>8</sup> e.g. Sampson and Laub, 1993.

<sup>9</sup> e.g. Kornhasuer, 1978; Sampson at al., 1997.

<sup>10</sup> e.g. Elias, 1987; Braithwaite, 1989.

*“I just don’t wanna come back [= to the prison]. My wife, my daughter are there, it’s not fair with them, it’s not fair with my family besides me. I’m clean of the drugs now. I won’t do the drugs now. So I just wanna get out. And stay. ”*

[28 years old male, sentenced for robbery]

*“My daughters, my wife – they’re not happy. Seeing me here. And they’re right. I need to come out and tell them: ‘look, I’m not going back’. I need to show them what I’ve been doing here. That’s why I’m doing all the courses [cognitive-behavioural programmes of the prison]. I wanna show them that the course works.*

*Q: What does motivate you not to go back to drugs?*

*My little boy I think. He’s not my biological son. (...) His dad obviously hasn’t seen my girlfriend as soon as he found out she was pregnant. He has gone, he didn’t want to know. So he lost one dad already, he’s four now, he’ll be five in October before I get out. I do care about him. I wanna be there for him. ”*

[24 years old male, several times sentenced for drug selling, robberies, thefts]

However, communities of offenders and their bonds can be significantly different according to their strength (strong – weak), their quality (what type of interactions do they influence), their constructive aspects (supportive – destructive), their explicitness (hidden – expressed), the value system connecting them (conventional – unconventional), and their connections to the society on broader level (is it an *integrated* or an *excluded* social group?).

Following these distinctions, the interactions of morality, neutralisation, shame and bonds can be summarised in a model which has two ‘scripts’ (for summary, see Figure 1 and 2). In script ‘A’ (*Integrative*), bonds are already strong, functional (serving those functions that mainstream society expects from them), supportive and linked to a community that shares the conventional values of the society and integral part of it. In script ‘B’ (*Excluding*), bonds are weak, dysfunctional,

destructive, and/or link to groups that do not share the conventional values of the society or are excluded from it.

In the *Integrative* type, bonds might increase the communication of moral principles and their effects on moral development. Secondly, they can help the expression and acknowledgment of shame, also by face-to-face interactions; with a reintegrative attitude from the shamers, the offender may be less likely to feel stigmatised or to blame others. The direct confrontation and the feeling of fair procedure (Sherman, 1993; Tyler, 1990) can reduce the offender's use of neutralisation techniques so that he takes responsibility instead of using justifications and excuses. These attitudinal changes, in turn, might strengthen the bonds. The common hoped result of these processes is finally the effective reintegration of offenders.

## THE '4-WAY INTERACTION' MODEL

Relationships among bonds, morality, shame and neutralisation  
A) Integrative type

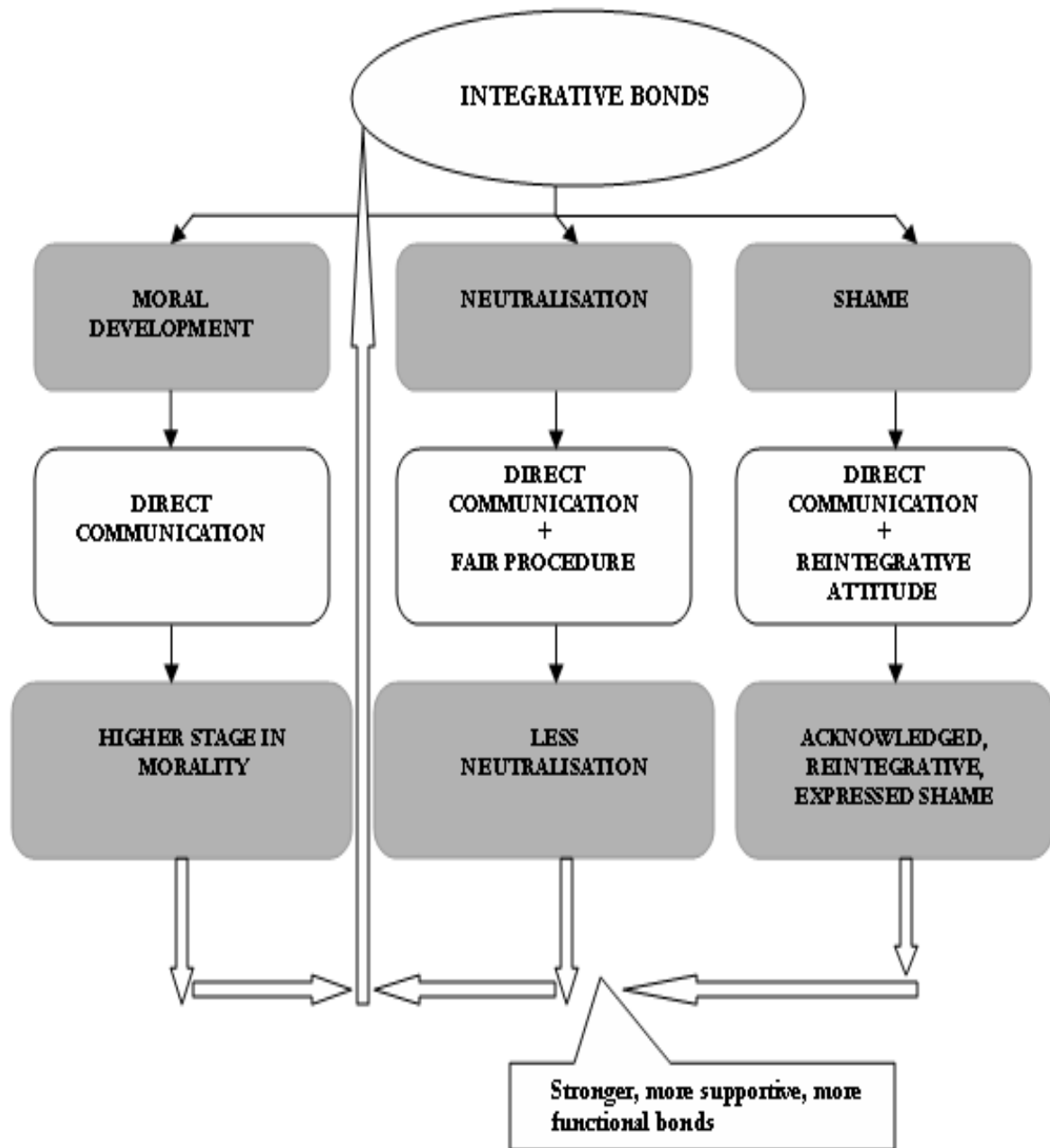


Figure 1.

However, it is possible that offenders do have bonds to an *excluding* rather than an *including* community ('script B'). It might mean that there is hardly any 'significant other', or they are not willing and motivated to take any step towards restoring their relationships. Community members may not be able to communicate disapproval in a respectful way. Furthermore, it is essential to consider whether those whose bonds have been threatened are themselves embedded in a supportive community in which they can maintain their restored relationship in the future. If so, can the value system of this broader environment be harmonised with the conventional norm-system (i.e. ensuring that the given community is not part of a subculture that identifies itself along different principles from those of the mainstream society). If bonds are weak, dysfunctional, or link to an 'excluding' community, they might be obstacles, if we want to increase the moral level and the effect of shaming in offenders or decrease their neutralisation techniques. In fact, it also might be possible that this type of bonds negates the hoped-for processes resulting in an even more unfavourable situation, in which the offender shows more defiance, uses more neutralisation, feels less shame and takes less responsibility.

In the case of the 'excluding' type, the possibility of reintegration might be increased, if – as an initial step – bonds are transformed from their excluding status, so that they have a more integrative character. This shift can be helped by strengthening these ties, making them supportive and functional, and as for the community these bonds link to, efforts might be made to increase its social integrity within the society. However, the detailed discussion of the initiatives that could serve these purposes leads to broader social policy and welfare issues and should be the topic of another study.

If the bonds link to an 'excluding' community ('Script B') an additional step is needed at the beginning to increase the individual's

conformity and build integrative factors in the community, for example by education, therapy or welfare services (Figure 2).

### THE '4-WAY INTERACTION' MODEL

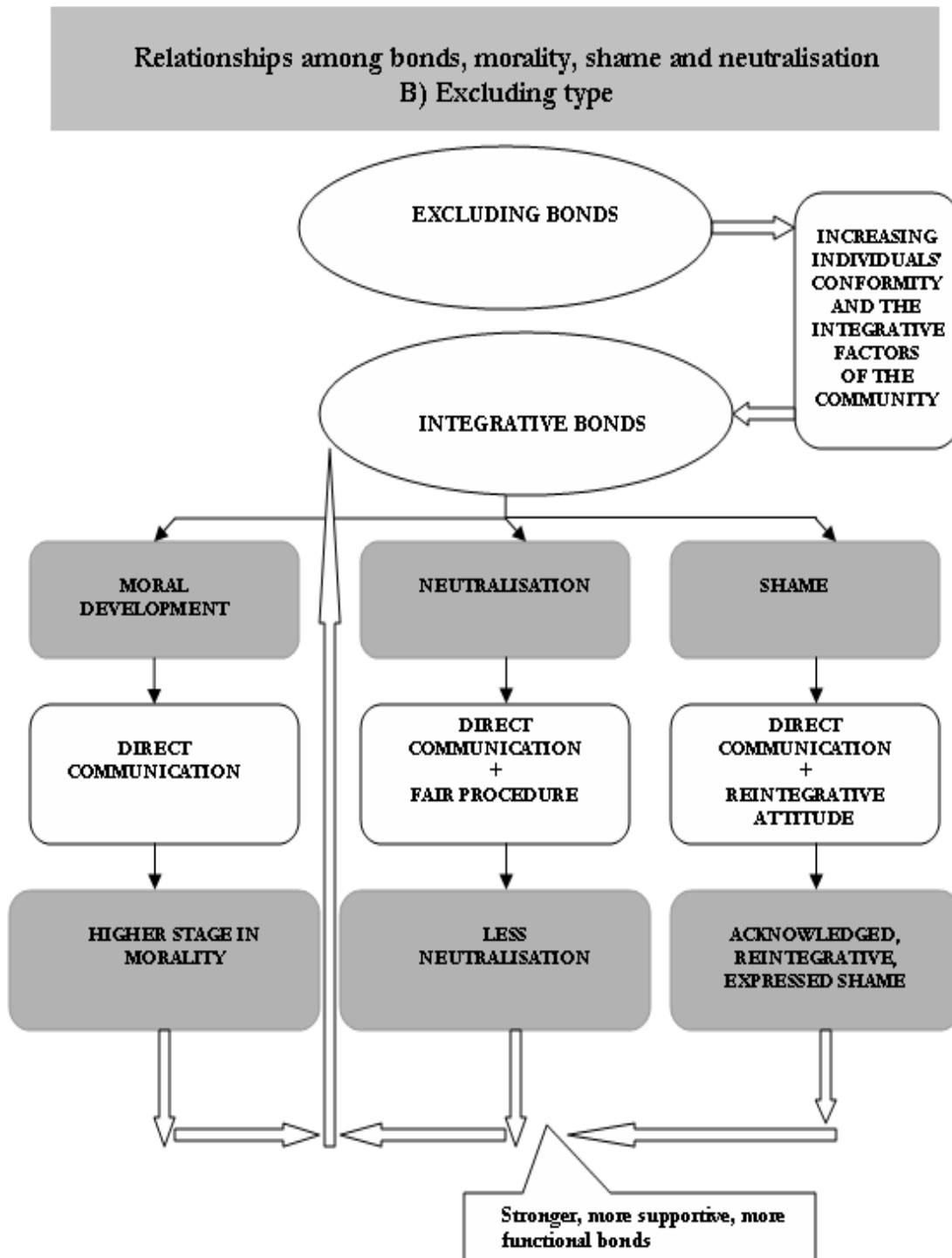


Figure 2.

## 2. The impact of restorative justice on the four dimensions

How does restorative justice influence these dimensions? To answer this, let us go through the different stages of a restorative intervention. By this we can map the ways in which the certain attitudinal factors might change via the dynamic emotional and interpersonal mechanisms of a more or less ‘typical’ restorative programme.<sup>11</sup>

*Preparation* of any restorative intervention is one of the most important stages. In several models and cases this is usually the only phase when the future mediator/facilitator can individually meet the offender and the other participants. Their face-to-face discussions are suitable to explore the participants’ main motivations and/or concerns towards the meeting.

This phase is primarily about providing practical information for the parties about the process, the possible outcomes and about the voluntary participation. However, the ‘outsider’ and impartial characteristics of the mediator/facilitator might help the offender to honestly share his feelings and emotions related to the offence. Moral *thinking* about the offence might be starting at this stage, even if the wrongdoer is not yet ready for *moral discussion*. The offender has the chance to hear how others have been affected by the act and the fact that his/her actions have caused harm to other people might already be an issue during these personal conversations. Consequently, by stressing that the offence has personally harmed people, restorative justice might raise the level of sanctioning from the preconventional level to the conventional, or even to the postconventional level. In other words, instead of arguments between the parties about who has had a ‘right’ to act in a specific way, and stick to the abstract concept of justice – which might also lead to neutralisations,

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<sup>11</sup> to describe the different stages the conferencing method is used as a model

rationalisations, excuses (e.g. self-defence or necessity) – the focus is on the fact that people *have been suffering* because of a specific behaviour, and on the discussion about the future solutions. By emphasising the underlying values behind rules, a restorative approach gives a chance to *use* the actual conflict to discuss these issues and does not only demand that the norms be mechanically followed in order to avoid punishment or gain benefits.

Another implication of the preparation phase on *morality and neutralisation* is that this meeting with mediators can be beneficial in making the offender and the other participants less likely to use shallow excuses later in the process. Within the preparatory stage what matters is not only the practical preparation of the future meeting but also the preparation of understanding the principles of obeying rules at a deeper and more conscious level.

The other task of the preparation phase is to explore the participants' expectations from the meeting. The motivations of the offender in attending a conference might indicate the offender's status on the moral development scale according to the aspects he/she emphasises as main reasons to meet his/her victims. These reasons can be the avoidance of punishment, receiving any incentives (preconventional level), the commitment to people's expectations in his/her closer environment, an institutional constraint (conventional level), the consideration of the harmed people's needs or a personal need to face the consequences of the wrongdoing and make up for it in some way (postconventional level). Based on the author's interviews with offenders, the most typical motivations for participating in a meeting with their victims were: the need to explain their circumstances at the time of the offence; to assure their victims that it was not personally against them; and to apologise.



The following words of an interviewee can illustrate several of these motivations:

*“I’ve done what I’ve done. I can’t change that. It’s done. (...) I was on drugs, I was on crack. I’d like the chance to sit down with the victim and explain that that is why I’ve done it. Not because it was something I had to do. Something, it wasn’t personal. (...) That’s what I all want to explain. It wasn’t a personal target.*

*Q: What do you think about meeting your victim?*

*I was sitting and think, you know, what would I say, if I met him. Anything I could say, like sorry for what happened [burglary]. I know, it wouldn’t help him, but it might give him understanding how I was feeling at that time, and why it could happen. He might understand, you know, and then move on in his life. (...) He might not understand me, but at least I would know him, myself. And I’ve tried to make him understand why I did it, you know. And that it wasn’t against him personally, but he just happened to be there. You know. It wasn’t something like I specifically targeted him. It was just a random thing. He might think it was against him, but it wasn’t at all.*

*Q: Would you do anything if it didn’t influence your sentence?*

*It’s not the case of sentence, my children. It’s something I would do for me. (...) It’s not to impress the police officers or probation, it doesn’t affect that, you know. It’s something I have to live everyday what I’ve done, not anybody else, and the victim. And if they can understand we can move on with our lives. (...) Maybe just a little bit more understanding. Then we gained something.*

The preparatory stage may be important in helping reducing the fears of the offender about being *shamed* in the presence of significant others. At the same time, the possible efficacy of restorative intervention in restoring social *bonds* can be estimated already in the preparatory phase. The interviews with the offender and later with his/her supporters, the

members of his/her primary community can show whether the wrongdoer has well-functioning, strong, supportive ties and whether the other community members are able to represent the values needed for any successful meeting (i.e. willingness to listen to, understand and accept the viewpoints of the other side, to be open to making an agreement based on consensus, etc.). In a case in which there are 'integrative' bonds, the next step is empowering the offender and the other participants so that they feel able to have personal involvement in the discussion of the wrongdoing, its effects, and the possible solutions in order to restore the destroyed relationships. However, if offenders have bonds of a more 'excluding' kind, restorative interventions alone might not be sufficient for long-term restoration. Providing other types of interventions (e.g. family therapy, services of the social welfare system) might also be necessary in order to achieve success. Personal meeting with the possible participants also symbolises that the wrongdoing and the other issues raised by it do belong to a wider community; they are not individual problems solely related to the offender and/or to the victim. Finally, the preparatory stage might increase the feeling of *fairness* in the participants, which has a significant role in decreasing their defiant attitude and rejection, by providing detailed information and explaining other choices besides choosing to participate in a restorative programme.

The actual *meeting* is the most intensive phase of the restorative procedure both in relation to the individual emotions and to the social-psychological processes. It is probably the first occasion for each participant to listen the ways in which the offence has affected the different agents. It requires skills not only in coping, but also in communication from the actors to handle their complex emotions.

Although there are significant differences among the different restorative practices, they are similar in their basic core sequence: firstly,

all the participants detail what has happened in their point of view, and how it has affected them, including the expression of disapproval. The second stage is what makes restorative justice really different from any other conventional ways of responding to crime: after the expression of the emotional and material losses and the acknowledgment of each participant's personal hurt in it, they discuss what can be restored. This is an emotionally demanding, but effective way of thinking over and expressing the issues related to personal responsibility; the feelings of shame, guilt and remorse; the needs for shaming and disapproval; and all other aspects of the case.

Although there is an ongoing debate about the psychological dynamics of these meetings and about the way of labelling the emotions participants experience, there is consensus in the unquestionable need for *expressing* any feeling of shame, guilt, regret, remorse (e.g. Retzinger and Scheff, 1996). As Marshall and Merry argue, 'one important element in neutralisation is the fact that the offender may never have to deal directly, either during the commission of the offence, or subsequently, with the victim, never having to face up to their individuality of the harm they have suffered' (1990, 1). One of the purposes of restorative meetings is to positively influence the reintegration process, by helping the individual in recognising the fact of the wrongdoing, and by creating personal *responsibility*, remorse and empathy for others affected by the harm.

The direct confrontation and communication might largely help in recognising and understanding the underlying values behind the specific rules, as 'most offenders cannot be affected by distant moralising speeches, but may be sensitive to accounts of the concrete suffering of their victims'<sup>12</sup>. Hence, it can be beneficial in helping the offender to progress from a lower to a higher *moral* stage, where the expectations and aspects

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<sup>12</sup> Walgrave, 2001, 29.

of significant others as well as legal institutions are accepted in a more internalised way, or even the universal message of respect and dignity can gain concrete meaning for him/her.

The *shaming* process can be both constructive and destructive in relation to the future reintegration. If ‘the deviance label is applied to the behaviour rather than the person’<sup>13</sup>, shaming effectively helps in reintegration. On the other hand, if the person rather than the behaviour is rejected and the shaming is not followed by a ritual reacceptance, shame involves assigning a lawbreaking ‘master status’ to a person.

Several procedural elements have been identified in order to prevent restorative interventions causing harm and exclusion. These include: neutral and impartial attitude of the mediator/facilitator; a focus on the continuous power-balance between the parties; ensuring equal chance for all participants to express their own interests; the presence of supporting people from both sides and also the ritual form of ‘circle’ that symbolises connectedness and equality among the people linked by the actual conflict.

‘Remorse is far more convincing when translated into action and the more relevant this action is to the offence the more convincing it is’ – as David Tidmarsh, a consultant forensic psychiatrist has written (1999, 58). A successful meeting is ended by the offender’s offers for *reparation* or agreement which is accepted by all parties. The mediator’s/facilitator’s duty is to empower the offender to become actively involved in the agreement phase as much as possible.

Retzinger and Scheff argue that the offender’s clear expression of genuine shame and remorse and the victim’s first step towards forgiveness constitute the ‘*core sequence*’ of the meeting (1996, 316). In their approach, guilt-feeling is necessary for the offender to take responsibility and offer material reparation. However, material reparation is not

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<sup>13</sup> Braithwaite, 1989, 55

sufficient, since it does not necessarily signal regret or remorse. At the same time, shame does not necessarily lead to willingness to offer reparation, but it is essential in order to achieve symbolic reparation, which can help the parties and their social bonding become fully restored.

There are different views about whether feelings of guilt (e.g. Tangney, 1995; Leith and Baumeister, 1998) or shame (e.g. Moore, 1993; Retzinger and Scheff, 1996) lead to personal responsibility and empathy. However, there are some agreements that these are not directly the shame feelings which are able to contribute to reparation and reacceptance. Other moral emotions, such as remorse, have more reparative potential.<sup>14</sup> Consequently, it can be argued that *shame* and shaming are catalysts at this stage: this way of communicating disapproval might result in *moral development* and decrease the use of *neutralisation* techniques in the offender leading to the willingness to offer symbolic and material reparation for the victim and the community. It also shows that the duty of shaming is merely transferring the negative feelings (such as guilt, remorse, embarrassment) into positive ones (e.g. empathy, a desire to make reparation). Therefore, instead of using the term ‘*reintegrative shaming*’, indicating this process as ‘*reintegration through shaming*’ might be even more precise. The way in which these all can lead to strengthen bonds can be illustrated by Nathanson’s words (2004): ‘the healing takes place because as we express our feelings together, speaker and listeners become part of a community – often for the first time in their lives’.

A restorative meeting might and should be ended in a ‘reintegration ceremony’ (Braithwaite and Mugford, 1994, 142), which means that the “disapproval of a bad act is communicated while sustaining the identity of the actor as good”. It acts not only as an underlying principle during the whole process, but also as a formal celebration of the offender and the

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<sup>14</sup> summarised by van Stokkom (2002, 347 – 353)

other members of the community for handling the case constructively (e.g. in the numerous conferencing or circle programmes, participants finish the meeting with refreshments or applause, or facilitators give them written certificates to acknowledge their successful participation).

However, the real reintegration can only be evaluated in the *follow-up* phase. The primary and pragmatic function of this stage is checking the agreement's realisation. Often the agreement does not only include a specific action taken by the offender for the victim, but also specifies a complex plan that contains several steps to be made by the offender and by the other members of the community. The share of duties represents the integrative aspects of both the conflict and its solutions. This communal approach in participating in the restoration process also provides the possibility to (re)strengthen the social ties within the community, making the reintegration of the offender truly happen.

<b>STAGE</b>	<b>PROCEDURAL ELEMENTS</b>	<b>POSSIBLE OUTCOMES (in relation to morality, neutralisation, shame and bonds)</b>
<b>Preparation</b>	face-to-face interviews	more understanding of principles behind rules; increase in moral thinking
		no 'need' (i.e. expectations by others) for using neutralisation techniques
		recognising the relativity of harm-causing
		more realistic expectations from the process and its outcomes
	involvement of significant others	more trust in supporters and in their reintegrative attitude mapping the offenders' social network
	detailed information about the process, possible outcomes, voluntary aspects	legitimacy, less defiance
<b>Meeting</b>	discussion about the offence and its consequences	acknowledgment of shame, disapproval, followed by reintegrative intention from the shamers
	involvement of supporters	shaming by respected persons
	balance between the parties	equal chance to express individual emotions, interests
	direct confrontation; moralising, shaming are based on a concrete event	more understanding of the moral impact of the offence, feeling of personal responsibility
<b>Agreement</b>	Active involvement in the reparation process	less opportunity and 'need' for neutralisations feeling of fairness, less defiance, legitimacy of future outcomes
		moral development by active responsibility-taking
	intention for consensus between the parties	opportunity for reintegration into the community
<b>Follow-up</b>	shared duties	support from the community
		strengthening the cohesion within the community
	monitoring the realisation of the plan	possibility for evaluating the overall outcomes of the process

*Table 1: Summary of the impact of restorative procedure on the four dimensions*

## **Conclusion and discussion**

This study has explored the impact of restorative justice on offenders' social reintegration by discussing its possible influences on wrongdoers' morality, attitudes to the use of neutralisation techniques, shame-feelings and social bonds.

According to the theories discussed, some conclusions can be drawn: firstly, moral levels of offenders are different and their development might have a more significant role in reintegration than expecting a universal and absolute moral level from them. Secondly, offenders' use of neutralisation techniques preliminary indicates some commitment to conventional values, even though responsibility-taking and the reduction of justifications are essential in further reintegration. Thirdly, shame and shaming processes might also have a significant role in integration, but only if they are properly acknowledged and counter-balanced by a reintegrative attitude from the shamers and the community. And finally, the characteristics of offenders' social bonds might largely determine the outcome of any influences on morality, responsibility and shame. 'Excluding' bonds have to be recognised before taking any other reintegrative initiatives, and they have to be strengthened to become more 'integrative' prior to using other interventions. Otherwise, even well-functioning programmes might cause failures in reintegration. If integrative bonds are assured, due to their catalyst role, any positive influences on morality, neutralisation and shame might be significantly more effective, and might also result in the further strengthening of social ties.

The common needs of these factors to help the reintegration process are the direct communication and acknowledgement of the interests and emotions, the personal and active involvement in the processes, and the



opportunity to tailor the actual procedure to the specific needs of the affected participants. Restorative justice might fulfil these requirements, and can help the reintegration process by influencing offenders' moral development, neutralisation, shame and social bonds. However, thorough preparation of any intervention is essential in order to ensure the proper initial moral attitudes, namely some responsibility-taking from the offender and reintegrative intentions from the community. The investigation of the characteristics of offenders' existing social bonds might be useful in choosing the most appropriate process (e.g. victim-offender mediation or conferencing, direct or indirect meeting, the question of who should be invited as participant, etc.). In the case of 'excluding' bonds, other initiatives have to be used as complementary services to restorative justice, in order to help the community to gain more 'integrative' ties. This point also shows that restorative justice in certain cases cannot solely account for the successful reintegration; it has to be embedded within a wider social context where this approach is supported by other institutions as well.

Restorative justice can be individually tailored to the specific needs of the cases, and so this way of responding to crime might be very personalised, and effective. However, if the individual factors of each case are not considered before using any specific model, the restorative 'machinery' might result not only in failures, but also in damage to the participants.

Not surprisingly, it all leads us to two basic questions: firstly, how could we ensure the appropriate consideration of the factors mentioned above in providing 'good practice'? Secondly, have we ever been thinking about the ways in which our current mainstream (primarily retributive) criminal justice systems influence offenders' moral thinking, neutralisation techniques, shame-feelings and social bonds towards social reintegration?

Although there is no possibility to explore this latter issue in more depth within the framework of this study, it is worthwhile to sketch some points for further discussion.

Namely, retributive justice tends to:

1. base its attempts to prevent further rule-breaking on deterrence and on citizens' fear of punishment, i.e. by considering offenders being at the pre-conditional moral stage and not at higher moral stages where they could recognise the underlying principles behind the rules;
2. strengthen the use of neutralisation techniques in offenders, since excuses can often be used as mitigating factors in the judicial process, especially when they are well used by highly qualified defence lawyers for legitimising the offence;
3. apply measures, such as conviction and punishment, that can often have a strong stigmatising/labelling effect on the offender, resulting in stigmatising rather than reintegrative shaming from the community;
4. make it highly difficult to maintain and strengthen social bonds due to the social and spatial exclusion of offenders from the society and preventing regular contacts with their 'significant others' (especially when offenders are in prisons).

These issues unquestionably need further and deeper exploration. One thing is sure, though: in striving for 'justice' and good practices to effectively reintegrate offenders into the society, criminal justice policies will need to consider these aspects while responding to wrongdoing.

## References

- Braithwaite, J. and Mugford, S., 'Conditions of successful reintegration ceremonies: Dealing with juvenile offenders', *British Journal of Criminology*, 1994, 34, 139 – 171.
- Braithwaite, J., *Crime, Shame and Reintegration*, Cambridge, Cambridge University Press, 1989.
- Brown, R. and Herrnstein, R., 'Moral Reasoning and Conduct', *Psychological Monographs*, 1975, 70.
- Coleman, J. W., *The Criminal Elite: The Sociology of White-Collar Crime*, New York, St. Martin's Press, 2001.
- Conklin, J. E., *Criminology* (8<sup>th</sup> Edition), Boston, Allyn and Bacon, 2004.
- Deklerck, J. and Depuydt, A., 'An ethical and social interpretation of crime through the concepts of 'linkedness' and 'integration – disintegration'. Applications to restorative justice', in Walgrave, L. (ed.), *Restorative Justice for Juveniles*, Leuven, Leuven University Press, 1998, 137-157.
- Elias, N., *Involvement and Detachment*, Oxford, Blackwell, 1987.
- Hahn, N., 'Coping with Moral Conflict as Resiliency', in Dugan, T.F. and Coles, R. (eds.), *The Child in our Times: Studies in the Development of Resiliency*, New York, Bruner/Mazel, 1989.
- Harris, N., Ch. 12., in Ahmed, E. et al., *Shame management through reintegration*, Cambridge, Cambridge University Press, 2001.
- Hazani, M., 'The Universal Applicability of the Theory of Neutralization: German Youth Coming to Terms with the Holocaust', *Crime, Law and Social Change*, 1991, 15, 135-149.
- Klockers, C., *The Professional Fence*, New York, Free Press, 1974.
- Kohlberg, L., 'Stages and moral development as a basis for moral education', in Beck, C.M. et. al. (eds.), *Moral Education –*

- Interdisciplinary Approaches*, Toronto, University of Toronto Press, 1971.
- Kohlberg, L., *The Psychology of moral development: Essays on moral development* (Vol. 2), San Francisco, Harper & Row, 1984.
- Kohlberg, L. and Candee, D., 'The relation of moral judgment to moral action', in Kurtines, W. and Gewirtz, J.L. (eds), *Morality, moral behaviour and moral development: Basic issues in theory and research*, New York, Wiley Interscience, 1984.
- Kornhauser, R.R., *Social Sources of Delinquency: an appraisal of analytic models*, Chicago, University of Chicago Press, 1978.
- Leith, K.P. and Baumeister, R.F., 'Empathy, Shame, Guilt, and Narratives of Interpersonal Conflicts: Guilt-Prone People Are Better at Perspective Taking', *Journal of Personality*, 1998, 66/1, 1-38.
- Marshall, T. and Merry, S., *Crime and Accountability. Victim – Offender Mediation in Practice*, London, HMSO, 1990.
- Maruna, S. and Copes, H., 'Neutralizations', in Michael, T. (ed.), *Crime and Justice: A Review of Research*, Chicago: University of Chicago, 2003, 32.
- Maruna, S., *Making Good: How Ex-Convicts Reform and Rebuild their Lives*, Washington, American Psychological Association, 2001.
- Minor, W. W., 'Techniques of Neutralizations: A Reconceptualization and Empirical Examination', *Journal of Research in Crime and Delinquency*, 1981, 18: 295-318.
- Moore, D., 'Shame, Forgiveness, and Juvenile Justice', *Criminal Justice Ethics*, 1993, 12/1, 3-25.
- Nathanson, D.L., *Shame and Pride: Affect, sex and the birth of the self*, New York, NY: W.W. Norton, 1992.

- Nathanson, D.L., 'Presentation about restorative justice', in *A Healing River - An Invitation to Explore Restorative Justice Values & Principles*, DVD and CD-Rom, Heartspeak Productions, 2004.
- Retzinger, S.M. and Scheff, T.J., 'Strategy for Community Conferences: Emotions and Social Bonds', in B. Galaway and J. Hudson (eds.), *Restorative justice: International Perspectives*, Monsey, NY, Criminal Justice Press, 1996, 315-337.
- Sampson, R. and Laub, J., *Crime in the Making: Pathways and Turning Points Through Life*, Cambridge, MA, Harvard University Press, 1993.
- Sampson, R.J. at al., 'Neighbourhoods and Violent Crime: A Multilevel Study of Collective Efficacy', *Science*, 1997, 277, 918-924.
- Scheff, T. J. and Retzinger, S.M., *Emotions and Violence: Shame and Rage in Destructive Conflicts*, Lexington, MA, Lexington Books, 1991.
- Scheff, T. J. and Retzinger, S.M., 'Shame, Anger and the Social Bond: A theory of Sexual Offenders and Treatment', *Electronic Journal of Sociology*, 1997, sourced 18.07.2007, <http://www.sociology.org/content/vol003.001/sheff.html>.
- Sherman, L., 'Defiance, Deterrence, and Irrelevance: a Theory of the Criminal Sanction', *Journal of Research in Crime and Delinquency*, 1993, 30/4, 445-473.
- Sykes, G.M. and Matza, D., 'Techniques of neutralization: A theory of delinquency', *American Sociological Review*, 1957, 22, 664-670.
- Tangney, J.P., 'Shame and Guilt in Interpersonal Relationships', in Tangney, J.P. et al. (eds.), *Self-Conscious Emotions: Shame, Guilt, Embarrassment, and Pride*, New York, Guilford Press, 1995.
- Tidmarsh, D., 'Necessary but not Sufficient – the Personal View of a Psychiatric Member of the Parole Board', in Cox, M. (ed.), *Remorse and Reparation*, London, Philadelphia: Jessica Kingsley Publishers, 1999, 49-62.

Tyler, T. R., *Why people obey the law: Procedural justice, legitimacy, and compliance*, New Haven, CT, Yale University Press, 1990.

Tyler, T.R., 'Restorative Justice and Procedural Justice: Dealing with Rule Breaking', *Journal of Social Issues*, 2006, 62/2, 307 – 326.

van Stokkom, B., 'Moral emotions in restorative justice conferences: Managing shame, designing empathy', *Theoretical Criminology*, 2002, 6/3, 339-360.

Walgrave, L., 'On Restoration and Punishment: Favourable Similarities and Fortunate Differences', in Morris, A. and Maxwell, G. (eds.), *Restorative Justice for Juveniles*, Oxford: Portland Oregon, 2001, 17-37.