



This is a repository copy of *Desistance from crime and restorative justice*.

White Rose Research Online URL for this paper:
<http://eprints.whiterose.ac.uk/107158/>

Version: Accepted Version

Article:

Claes, B. and Shapland, J.M. (2017) *Desistance from crime and restorative justice*.
Restorative Justice, 4 (3). pp. 302-322. ISSN 2050-473X

<https://doi.org/10.1080/20504721.2016.1245912>

Reuse

Items deposited in White Rose Research Online are protected by copyright, with all rights reserved unless indicated otherwise. They may be downloaded and/or printed for private study, or other acts as permitted by national copyright laws. The publisher or other rights holders may allow further reproduction and re-use of the full text version. This is indicated by the licence information on the White Rose Research Online record for the item.

Takedown

If you consider content in White Rose Research Online to be in breach of UK law, please notify us by emailing eprints@whiterose.ac.uk including the URL of the record and the reason for the withdrawal request.



eprints@whiterose.ac.uk
<https://eprints.whiterose.ac.uk/>

Desistance from crime and restorative justice

Bart Claes and Joanna Shapland (University of Sheffield)

Article for special issue of the International Journal of Restorative Justice

Acknowledgements

We would like to thank our colleagues at the Centre for Criminological Research, University of Sheffield, for the discussions we have been able to have which have contributed towards developing theoretical material related to this article, and in particular, Anthony Bottoms, Stephen Farrall and Gwen Robinson. Bart Claes' work was supported by a EU Marie Curie postdoctoral fellowship (FP7) Ref. 624295 and by the Flemish Fund for Scientific Research. Work on the Sheffield Desistance Study was supported by the ESRC under a programme grant coordinated by P-O. Wikstrom at the University of Cambridge, UK.

Abstract

Over the last twenty years, research on desistance from crime and on restorative justice has grown rapidly and both have emerged as exciting, vibrant, and dynamic areas of contemporary criminological interest. While the implementation of restorative justice practices in Europe has been essentially victim-oriented, there has always also been an emphasis on including the moral and social rehabilitation of the offender. This more offender-centred approach to restorative justice and its practices is not limited to the evaluation of its ability to reduce crime, but is to be seen within the connection between reparation, resettlement (reintegration into the community after sentence), and desistance from crime. This article examines, from a broad perspective, but including some preliminary data from ongoing research on victim-offender mediation in prison, the capacity of restorative justice interventions to impact positively on offenders' likelihood of stopping committing criminal offences.

Introduction

Restorative justice is practised in many ways in different countries, so much so that it

has been called an ‘umbrella concept’ (Shapland, Robinson & Sorsby, 2011). All, however, share a number of common values, which are also emphasised in relevant international instruments, such as the UN Basic principles on the use of restorative justice programmes in criminal matters (E/2002/INF/2/Add.2). They include free consent by the parties invited, such as the offender and victim, preceded by adequate information about the process; inclusivity in inviting those affected by the offence; the use of a trained, impartial facilitator; and facilitating communication between the parties in a safe way. In this article, we shall be concentrating upon victim-offender mediation (with just victim, offender and mediator/facilitator), together with some experiences of conferencing (which has, additionally, victim and offender supporters present). However, the principles of what we are suggesting may well apply more widely to other forms of restorative justice.

In contrast to the inclusive nature of restorative justice, the process of desistance – an offender ceasing to commit criminal offences – has often been portrayed as a matter solely between offender and state. Longitudinal studies have found that the majority of offenders do desist, even persistent offenders (Laub & Sampson, 2003; Blokland, Nagin & Nieuwbeerta, 2005). As we shall see, the offender’s own decision to desist – his or her ‘agency’ – has been found to be key in the process of desistance. The actions of the state, particularly in prosecuting offenders and punishing them, are presumed to deter further offending – and there is no doubt that any temporary absence of a functioning criminal justice system does increase crime (Hurwitz & Christiansen 1983) and that imprisonment promotes offenders thinking seriously about their lifestyles and the future (Bottoms & Shapland, 2016). Yet more recent research on desistance, as we discuss below, has shown that the actions and influence of those around the offender – partners, family members, friends, key workers – can also be vital in both initial decisions to desist and in maintaining that desistance. Achieving desistance is often a struggle, in which the support, encouragement and practical actions of those around the desister are very important.

The key questions for this article, and indeed this special issue, are then whether restorative justice might have the capacity to promote desistance and if so, in what ways. There is the danger that focusing upon desistance might produce an overly offender-centric consideration of restorative justice – a danger into which some policy

work and practices have in the past fallen. We shall necessarily be considering primarily the offender's journey to desistance in this article, but it is important to stress first that, according to its own values, restorative justice needs to employ a balanced approach, considering both victim and offender views and needs, and secondly, that victims' wishes in agreeing to participate in restorative justice often include the offender's desistance and the offender dealing with elements linked to his or her offending (Shapland et al., 2011; Van Camp, 2014). Given space constraints, we shall not consider all the differing previous theoretical views of restorative justice, but instead concentrate upon those which have addressed the potential for reducing reoffending.

We shall first explore how restorative justice has been linked to offender rehabilitation and reductions in offending, before turning to theories of desistance and how this is thought to occur. We shall then consider some of the empirical evidence which seems to indicate a link between restorative justice and desistance in practice, before, finally, pulling out those elements of restorative justice which may have the potential to contribute towards desistance. For this, we also draw upon some of our current research that concerns the relation between restorative justice practices and desistance from crime in a prison in Belgium and one in England and Wales.

Linking restorative justice, preventing recidivism and rehabilitation

Some theoretical approaches to restorative justice are relatively silent in relation to its potential to affect reoffending. They either do not see that as its chief purpose or would see it as a by-product of what is, for them, the main purposes of restorative justice (Robinson & Shapland, 2008). So, for example, key elements for Zehr (1990) are healing and strengthening of bonds between offender, victims and the local community, particularly when the offender and victim know each other. Christie (1977, 2015) sees restorative justice as a means to increase communities' abilities to solve their own problems, through communication and proposals for action. Both would not envisage the relationship between restorative justice and criminal justice as central – indeed both would prefer the criminal justice system not to be involved – and, like Shearing (2001) would see any reduced reoffending as a benefit in terms of not exacerbating local problems but not a prime purpose for restorative justice.

There has been a strand of restorative justice theorising which has sought to address criminal justice goals and particularly offender rehabilitation, but it too has been wary of restorative justice becoming submerged or absorbed within traditional criminal justice, so that the processes and principles of restorative justice become compromised. So, Bazemore and O'Brian (2002) would aim at offender rehabilitation, but also warn against restorative justice becoming too offender-centric. Johnstone (2002) sees rehabilitation as a legitimate goal, but not at the expense of victim-oriented goals. Robinson and Shapland (2008) suggest that this concern about the potential dominating influence of criminal justice, should restorative justice schemes admit rehabilitation or preventing recidivism as valid purposes, has led to a lack of discussion and some vagueness about offender-oriented purposes for restorative justice: benefits for offenders have been equated with deficits for victims. They argue that restorative justice does not have to be such a zero sum equation: that in fact reducing reoffending is what victims desire, as indeed do offenders seeking to desist.

Preventing reoffending as such is of course not a very measurable outcome, because offending can only be measured using official figures for arrests or convictions, or through self-reported offending, which is known to have some biases. Preventing recidivism, meaning preventing further convictions (or further arrests for US research), is more easily measurable and most studies of recidivism and rehabilitation have tended to use these measures.

The link between restorative justice and rehabilitation has been seen by Bazemore and O'Brian (2002) to be promoted in juvenile offenders through doing reparative work either directly to victims or for the wider local community. Reparation allows offenders to take up roles where they are actively engaged with the community and in which they are valued. It serves a reintegrative function. They would also see conferencing, in particular, as providing opportunities to acquire social capital (a network of resources) and sometimes human capital (training and skills), though mediation may also aim at these elements. However, as we shall see, there is a potentially crucial difference between ideas of rehabilitation and those of desistance. Rehabilitation has been used to refer to efforts by the state or others external to the

offender to reduce recidivism. Often, rehabilitative programmes are prescribed as part of sentencing or during penal sanctions – and normally they are imposed upon offenders. They are what might be called ‘top-down’ prescriptions.¹ Desistance, however, as set out below, values the work of the offender himself or herself, both in taking decisions to desist and in taking action to carry them out – a much more ‘bottom-up’ perspective.

Braithwaite’s (1989, 1993) theory of reintegrative shaming also directly links restorative justice mechanisms with preventing recidivism, but in a different way. Braithwaite sees the intrinsic processes of communication within restorative justice as affecting the offender’s own views of the victim and the offence, inducing guilt and remorse. Reintegration, later on in the process, then involves the offender being brought back in as a full member of both the offender’s ‘near community’ (family, friends, those close to the offender – the ‘community of care’) and the wider local community. Though this involves elements which are ‘done to’ the offender, it also intrinsically involves the offender himself or herself changing and reaching back out to those communities. It is not purely ‘top-down’, but also ‘bottom-up’. We turn now to how these ideas may link to the rapidly growing theoretical base on desistance.

Theoretical and conceptual models of desistance from crime

Within the restorative justice movement offender-related topics have been put forward as a breeding ground of restorative justice initiatives, with, for example, Varona (1996) making an association between improving prisoner rights and the rise of restorative justice initiatives. According to Daly and Immarigeon (1998: 27), similar to the women's movements in highlighting victims' issues and women’s empowerment, the restorative justice movement has found fertile ground in the criticisms of the civil rights movement concerning (racial) discrimination in policing, courts and prisons as well as in abolitionist-oriented social movements. In the same period in the nineties, even the same year as Braithwaite (1993) was writing ‘Shaming and modernity’ about his theory of reintegrative shaming, desistance from crime research was gaining increasing interest with the publication of *Crime in the making*

¹ Thereby lies the potential danger if restorative justice is ‘sucked into’ criminal justice too far, such that ‘top-down’ considerations of what should be in any outcome agreement predominate.

by Sampson and Laub (1993).

Research on desistance from crime is concerned with identifying the social and psychological factors associated with the slowing and ending of criminal careers and the adoption of a pro-social lifestyle. Rather than starting from the question of how the practice of resettlement (post-sentence reintegration into the community) should be constructed, this new paradigm begins by asking how change can take place.

Desistance research has identified a range of elements which affect desistance and which interact in that desistance journey, such as employment, social support, intimate relationships, education, narrative shifts in identity transformation, positive social attitudes towards offenders by others, being able to break with the past, spirituality, agency, motivational elements, cognitive elements, and self-perceptions of the possibility of leading a non-offending life (Bottoms & Shapland, 2011; Giordano, Cernkovich & Rudolph 2002; Laub & Sampson, 2001; Maruna, 2001). Structural obstacles, such as difficulties in obtaining work, dealing with debt, difficulties in obtaining accommodation, and the need to show one has formal job and educational qualifications, often reinforced by political trends in Western countries, have made it more difficult for offenders to desist (Farrall, Bottoms & Shapland, 2010). Through the rising attention of developmental criminology and criminal career research, as well as an emerging number of qualitative studies, longitudinal research is available on cohorts of offenders looking at the desistance process and associated changing attitudes and identity. This qualitative research reveals a specific, in-depth insight into the lives of people, since the research does not focus on one point in time, but pays attention to different life phases of the (ex-)offenders.

From the eighties on, different theories have been developed to account for why some people but not others cease offending. We shall first describe some of these theories which are potentially relevant to restorative justice interventions, and then we may be able to see how restorative justice might be useful. One of the early approaches to desistance from crime focused on the idea that ex-offenders make a rational decision to stop offending. Authors such as Clarke and Cornish (1985) and Pezzin (1995) show in their work that many offences were the result of rational decision making and choices and that, because those offending had become, for example, tired of prison, or

were receiving higher earnings from work, they ceased offending.

The potential decision of (ex-)offenders to desist from crime is an important one. However, Farrall, Hunter, Sharpe, & Calverley (2014) stress that desistance is not just a matter of choice alone, but depends as well on the context of the social situation of offenders and its structural elements, such as employment, accommodation etc.. Another theory about desistance is Sampson and Laub's (1993) theory of age-graded informal social control highlighting the importance of the bond between the individual and society. They argue that an individual's engagement in crime is more likely when their bonds with various formal and informal social institutions such as the workplace, the family, etc. are weakened or broken. Importantly, Sampson and Laub posit that key events and turning points can trigger changes in an individual's bond to society, or in losing that bond, or in regaining it. As such, these key events can influence patterns of offending and those of desisting from crime.

In 'Making good' Maruna (2001:7-8) argues that in order to desist from crime, ex-offenders need to develop a coherent, pro-social identity for themselves which they can use to explain to both themselves and other people how their past lives have contributed to their 'new' identities. This narrative study, which involved 20 persisters and 30 desisters, who shared similar criminogenic traits, backgrounds and environments, looking back at their passage to desistance, shows the potential significance of the individuals' *'story'* or *'script'* to justify and explain their criminal careers, discussing their subjective perspectives on their past, present and future, and the role they played in their life story. Maruna noted that while each story was unique to the individual, two common themes of 'condemnation' and 'redemption' were repeated, and that these differed between the persisters and desisters. Maruna (2001) found that those he classified as desisters amongst this sample displayed a belief that they could control their own futures in some way. Desistance, then, was bound up in a process by which an ex-offender came to see himself as essentially a new 'good' person.

In contrast to Sampson and Laub's (1993) perspective that desistance from crime is related to 'objective' changes like employment, Giordano et al. (2002) argue that cognitive shifts in the thinking of the ex-offender are the main driver of desistance.

Like Farrall and Bowling (1999), they state that a period of reflection and reassessment of what is important to the ex-offender appears to be a common feature of the initial process of desistance. For Giordano et al. (2002: 1001) a second phase is also needed where the ex-offender has an opportunity to change, that he or she must realize that this offers a potential 'way out', and, finally the ex-offender must act upon this opportunity. This leads on to the third phase where the ex-offender must have the ability to imagine a new role leading a new pro-social life.

In the model of Bottoms and Shapland (2011, 2016), similar mechanisms through which the ex-offender experiences elements in his or her life that motivate and promote change are described. The authors suggest that various 'triggers' could produce the desire to change which brings ex-offenders to think about themselves, their surroundings and their potential future life differently. They suggest that this brings the would-be desister into thinking about and beginning to take action towards desistance which can either lead to attempts at maintenance (if successful) or to relapses (if unsuccessful). Many of the relapses are due to structural obstacles to desistance (such as failure to find a legitimate job), but even relapse does not necessarily bring the would-be desister back to square one, but to a point where he or she may, if still having the desire to desist, start off again along this journey. Along the route to a crime free identity and a pro-social life, these ex-offenders will find reinforcers to desistance, such as partners or new friends or work, which encourage the maintenance of desistance (Bottoms and Shapland, 2011). This Sheffield Desistance Study focused on male young relatively persistent offenders, aged 19 to 22. It might be seen as connecting the work of Sampson and Laub (1993) who emphasized the structural aspects of desistance from crime with the above-described insights of Giordano et al. (2002) (in terms of individual agency).

Vaughan (2007) argues that desistance is best understood by focusing on the ex-offender's internal conversation during which they weigh up the pros and cons of desisting, and how this fits into their values. This internal conversation is more than the deliberations of rational decision making, as described in the work of Clarke and Cornish (1985) and Pezzin (1995), but includes an emotional appraisal of how the ex-offender feels about his or her own past criminal activities and future pro-social plans and actions. Paternoster and Bushway (2009) still see desistance from crime as a

consciously taken decision that over time will be accompanied with more positive reasons for desiring and maintaining change, but significantly introduce the idea of a ‘feared self’, which ex-offenders fear they will become should they not desist. They see the processes of working on the self as an ever ongoing project of the ex-offender. In the same way as in the desistance models of Maruna (2001), Giordano et al. (2002) and Bottoms and Shapland (2011, 2016), a lot of emphasis in the models of Vaughan (2007) and Paternoster and Bushway (2009) is placed on how the ex-offender starts to see himself and is seen by others.

Although agency in desistance research has a growing literature, it still remains difficult to fully understand how ex-offenders marshal their personal resources to help them embark on meaningful and productive lives. Healy (2013) groups the existing theories on agency into three categories: cognitive models that describe the mental architecture of agency (like Vaughan, 2007); narrative models that explore agency in the context of identity development (like Maruna, 2001); and multi-dimensional models that envisage agency as a psychosocial construct (like Giordano et al., 2002).

Cognitive theories of agency are supported by research evidence showing that certain attitudes and thinking styles facilitate criminal behaviour. However, rational decision making is invariably restricted by the boundaries of human knowledge and by social constraints (Farrall & Bowling, 1999), whilst the recent study of Shapland and Bottoms (2011) suggests that the decision to desist may be influenced by moral considerations, such as a concern that continued offending could cause distress to family and friends, rather than just by cognitive processes.

Motivational and cognitive elements are in the narrative models located within the narratives that ex-offenders construct to make sense of their lives. The ex-offenders who participated in Maruna’s study (2001) desired to repair the harm caused by their past actions and resolved to achieve this by engaging in generative pursuits, such as counselling or caring for others – though they were largely ex-drug users and this opportunity may be open to only a few ex-offenders. It suggests, though, that ex-offenders’ choices to desist are not just guided by changing cognitions but also by their latent understanding of themselves, their past and their environment (Farrall et al., 2014). This information is used by ex-offenders to shape their (new) identity,

guide their behavior and add order and coherence to their social world. For Healy (2013) this represents a significant advance on the more passive, individualistic and deterministic vision on agency offered by the cognitive perspective.

In the multi-dimensional models that envisage agency as a psychosocial construct, like the theory of cognitive transformation by Giordano et al. (2002), desistance begins with a shift in 'readiness to change' that increases receptivity to environmental 'hooks' for change. These cognitive shifts expand the ex-offender's capacity to imagine an alternative non-criminal self and are accompanied by an emotional maturation process (Healy, 2013). Giordano et al. (2007) elaborate on this link between young adolescents committing crime and their negative emotions (for example, relating to a difficult childhood) and positive emotions (such as excitement). In this sense, emotional maturation may be linked to the capacity to reflect on choices, engage in intentional action, maintain emotional stability and build social and human capital.

Hence, we have seen that theories as to why some people but not others cease offending, used to be characterized by a certain degree of difference between those theories which see offenders as rational agents who freely choose their actions and others that portray offenders as individuals whose behaviour is determined by external forces. Research into desistance from crime has produced a more complex and nuanced account of crime causation which acknowledges the interplay between agency and structure. Reflecting upon their own sample and theory of desistance, Farrall et al (2014: 292) conclude that different theoretical insights can be meaningful for different people and that different theoretical insights as to the pathway to desistance are possible for different people in different circumstances: 'There are no clear theories of change. Change is messy, it is complicated, it goes round in circles, it feeds off itself in reinforcing, iterative loops, it is interruptible and open to influences at any stage'.

It is certainly the case that we do not yet know whether particular models of desistance are applicable for people in different circumstances, trying to desist at different ages, or from different cultures – the empirical research on desistance is still too scanty, and has tended to concentrate upon men, in their 20s-40s, and from

Western countries (Shapland et al., 2016). However, it does seem first that even persistent offenders tend to desist and secondly that in that process, which is often messy, both agentic and structural features are important. After an initial decision, all kinds of attitudinal, identity and behavioural aspects come into play, including breaking the old habits of being with people or getting into situations which tend to lead to crime, and learning new ways to lead a non-offending life in the community.

The restorative-desistance study in prisons in Belgium and England and Wales

The implementation of restorative justice practices such as victim-offender mediation (VOM) in Europe and the UK now has an increasing focus on the moral and social rehabilitation of the offender. The possibility of this intervention reducing the likelihood of offenders' reoffending opens new perspectives for VOM in prisons. As we have seen, within the process of desisting from crime, motivational and cognitive elements are critical and they could have clear links with the processes involved in restorative justice practices, which themselves have the potential to foster social and human capital (Bazemore & O'Brian, 2002) and so impinge upon and potentially provide means to buffer the structural difficulties which are obstacles to desistance. Restorative justice processes can occur with the offender in the community or in prison, but particularly for more serious crime and for adult offenders, and where restorative justice is offered post-sentence, they may well occur in prison. However, prisons differ significantly from other social institutions, induce deprivations and have specific cultures and structures that influence practices and the behaviour of all those present. The particular empirical research from which we shall draw some insights about the potential for restorative justice in relation to desistance focused on the way in which these restorative justice practices (VOM) can promote desistance from crime, but at the same time, interact with the structural and cultural elements that are part of daily life in prison.

If indeed, restorative justice practices like VOM are introduced and fostered in prison, they must be understood in relation to the institution's structural and cultural elements. These practices have a place in the prison's essential dynamic between the institution and its inhabitants. Our main empirical research objective is to explore the cultural and structural elements in prison that interact with or influence these elements

in victim offender mediation, aiming at enhancing the desistance process of the prisoner. The research was conducted at HMP Leeds (England and Wales – UK) and the Belgian prison of Oudenaarde. Both prisons differed significantly from each other, not just because of their location in two different countries with different cultures, languages and legal system, but in their prisoner population. However, the restorative justice (VOM) practice in itself was similar in both countries and both prisons. Also, the focus of our research is on this practice in relation to the prison's culture and structure where these elements like language and legal system are incorporated within the relationship.

The operational capacity of the English publicly run prison in Leeds was around 1,200, with a high turnover of prisoners with a sentence under five years while the Belgian one accommodated just 180 prisoners primarily with a sentence of more than five years. Both establishments were built around 1840, and have similar architectural characteristics on the outside and inside. It was primarily the numbers of prisoners living and working together on the prison landings which made a huge difference between the prisons. The Belgian prison wing consisted of just 20 to 30 prisoners, each having his own cell while HMP Leeds had prison landings of 3 floors with 200 prisoners living together and sharing cells. Both research sites were selected partly for their differences, and especially because restorative justice practices were taking place in both prisons, and in part for pragmatic reasons, based on an established relationship between the one of the authors and the prison's governor, who was willing to facilitate the research.

The prisoners selected for interview (N = 30) included prisoners who had participated in victim-offender mediation in one of these prisons. The mean age of the sample was 29 and all interviews were conducted by the first author. He also mingled with the men, observed their interactions and daily life on the wing and spoke informally about the nature of the study. At this stage, some prisoners were forthcoming and enthusiastic about the opportunity to be interviewed. Given the small and non-random design of the research, the conclusions that can be drawn are tentative and preliminary. The interviews were guided by a schedule which was structured around important themes flagged in the literature on restorative justice, desistance from crime and daily life in prison. However, this was a non-linear process where the order of

questions and amount of time spent on each topic varied according to prisoners' responses. Overall, the interviews had an informal and free-flowing feel. Only a small amount of the interviews were recorded using a digital Dictaphone. Prisoners' names have been anonymized.

The focus on motivational and cognitive elements in desistance from crime and restorative justice

As we saw above, within the process of desisting from crime, motivational and cognitive elements such as decisions to desist, self-perceptions of the possibility of leading a non-offending life, and considering a possible new personal and social identity are, as described in the models above, critical elements in the process of desistance (Farrall, 2002; Farrall & Maruna, 2004; Bottoms & Shapland, 2016).

These motivational and cognitive elements have obvious links with the processes thought to be involved in restorative justice practices. Desisting ex-offenders have been shown to differ from active offenders in thinking patterns related to hope and self-efficacy, shame and remorse, internalizing stigma and identities (Lebel et al., 2008). Restorative justice can be explicitly oriented towards the prevention of reoffending, and this is particularly so in conferences influenced by Braithwaite's (1989) 'reintegrative shaming' theory. These are effective instruments for inducing guilt and eliciting remorse on the part of the offender, as well as a potential precursor to forgiveness, acceptance and reintegration within the law-abiding community (Tangney, Steuwig, Mashek & Hastings, 2011). Note that those offenders participating in restorative justice have already voluntarily agreed that they committed the offence, accepted responsibility for it, and will communicate with the victim (face-to-face in the case of a direct meeting in mediation or conferencing). This is a selected population of offenders, who are likely to be different in their cognitive and emotional state from a standard correctional or rehabilitational group (Robinson & Shapland, 2008). The restorative justice encounter itself can be seen as an environment or 'stage' for ex-offenders to indicate how they wish to change their lives and to obtain practical help on exactly how to achieve this (Shapland, 2007). Moreover, offenders will be making these statements to victims, not just to state personnel (as in court or in correctional programmes).

In our current research in prison, ex-offenders explained their readiness to acknowledge the crime they have committed, the wrongness they have done and to take up responsibility towards the victim and themselves. One of the respondents in HMP Leeds explained: ‘that is one of the things that makes me different in here, I do want to change, that is my decision to make and that is why I asked to do restorative justice’. Ex-offenders saw these practices as something one only initiates when one has traveled a certain way in one’s views about and ability to handle the consequences of the crime committed.

In the interviews, almost all ex-offenders stated that they thought differently about certain attitudes and thinking styles that before had facilitated their criminal behaviour. For them, this shift in thinking was prior to participation in restorative justice but was reinforced by the interactions, the topics discussed and especially by the information received from their victim during the restorative justice process. As one respondent in HMP Leeds clarified: ‘To hear that from my victim was a shock to me, I had no idea at all that she would feel like this (...) it made me more certain that I will not do that again’. Apologising to the victim was for ex-offenders the reason to agree to participate in restorative justice. It meant admitting wrongdoing, wishing to make things right (Shapland et al., 2011) but also for a lot of ex-offenders it meant, ‘closing a bad chapter of my life’; ‘done what I needed to do so I can move on’; ‘focusing on the future’. In this sense, apologising to the victim was much more future-orientated than focused on repairing the harm caused in the past. For them it was an important element, though there were of course many others (such as, for example, stopping using drugs), in breaking with the past and creating for themselves thinking space about a non-criminal life.

However, this pathway to desistance is almost never straightforward and there may be an inconsistency between the stated motivation of ex-offenders to desist (as possibly mentioned in a restorative justice encounter), and his or her actual behaviour.

Shapland and Bottoms (2011) elaborate further on this phenomenon by drawing on the philosophical concept of ‘akrasia’, or weakness of will, which occurs when an ex-offender engages in behaviour that is inconsistent with his or her morality. In the Sheffield Desistance Study, the majority of their respondents, young adult men, were

reconvicted although they expressed pro-social aspirations throughout the follow-up period of the research. Shapland and Bottoms (2011, 2016) conclude that an ex-offender's ultimate ambitions may sometimes be sidelined by short-term situational needs (and thus crime). As they explain 'wishing to desist is one thing, actually getting there [...] is another' (Shapland and Bottoms 2011:271). Still, desistance requires strong motivation to change coupled with firm self-belief and a repertoire of effective coping strategies, a combination of 'the will and the ways', something that can be enhanced in restorative justice interventions (LeBel et al., 2008; Healy 2013; Farrall et al. 2014).

Healy (2012, 2013) also explains that desisters are highly optimistic in their outlook while continuing offenders tend to have, in their narrative, a sense of fatalism and hopelessness about future prospects. Research by LeBel et al. (2008) shows that these negative emotional states increase recidivism. For them desistance appears to be accompanied by a diminution in negative feelings and an augmentation of positive emotions, in which feelings of regret, shame and guilt are replaced by feelings of hope, pride and a sense of achievement (see also Farrall & Calverley, 2006; Farrall et al., 2014; Healy, 2012, 2013).

Research by Maruna and Copes (2005) suggests that ex-offenders may employ neutralization techniques to reconstruct the negative facts of their criminal pasts in ways that are consistent with a non-criminal self. These techniques include denying responsibility, minimizing the injury caused to victims and citing higher moral grounds for their actions (see Sykes & Matza, 1957). Such excuse making can serve the 'highly adaptive' dual purpose of enabling ex-offenders to preserve a positive and coherent sense of self and also shield them from external blame and stigma (Maruna & Copes, 2005: 251). However, restorative justice practices through their forward planning and reintegrative aspects can avoid these destructive, disintegrating effects of unchannelled emotions of guilt, shame and remorse on prisoners, leading to self-destructive stigma and identities as well as to feelings of depression and powerlessness. In an interview with one of the ex-offenders in the Belgian prison of Oudenaarde who participated in a victim offender mediation, all these elements seemed to come together:

I told you Bart how I want to change, what I feel when thinking about my mistakes. I cannot sleep at night just thinking about what I have caused, not just for me and my family, also for the victims. I did apologize, afterwards, in an encounter in prison. Not easy at all, I was as nervous as for my first fight. Incredible how strong they were, and how small I was. That week was one of the hardest one's. The encounter took me back to things I have done, it is like a new image of those people burned in my brain. My wife was there as well, that was the hardest thing, seeing her reacting with kindness to the victims, and being there for me as well (silence, he looks down, seems emotionally touched, looks up again). Fuck, it was hard, still is. It changed me Bart.
(interview, prisoner, home-jacking)

Restorative justice interventions aim at separating the person of the offender from the offence that individual has committed, in that sense shaming the offence, but not the offender, as Braithwaite (1989) puts it in his theory of reintegrative shaming. For Shapland and Bottoms (2016), dealing with these unchannelled emotions and separating the intrinsic person from the offence, pouring shame on the offence, but affirming that the offender could change, is likely to underline any pro-desisting ideas the ex-offender may have. As one of the ex-offenders in the Belgian prison of Oudenaarde explains:

The system focuses on all your negative characteristics, or defaults. They look at you as a doctor, trying to figure out what is wrong with you. I also have some good things to say about me. I am a whole person, with bad but also good parts, I don't like it being reduced to just the crimes I have committed.
(stops speaking) You know who the first person was who addressed me as Akran [his name], my mediator. (fieldnotes, prisoner, murder)

In victim offender mediation in prison and other restorative justice practices, ex-offenders have the opportunity to tell their own story about life and their crime in a safe and trusting environment. They can bring in the nuances of their story which means they can regret, they can resist and they can talk about their own victimization and personal situation. As an ex-offender in the prison of Oudenaarde said, 'It is all about trust, having the possibility to show the mediator who you are, how you think,

without being judged again. If not, it is not possible to show emotions, or talk about regret’.

Structural elements in desistance and restorative justice

These motivational and cognitive elements do not stand alone but operate through a dynamic, interactive process with social and external influences (LeBel et al., 2008). Work by Farrall (2002, 2005), Maruna and LeBel (2012), Porporino (2010) and Bottoms and Shapland (2011) all stress the importance in desistance of both offenders’ agency and that of structural features of modern society and contextual changes in offenders’ lives. Structural and practical obstacles, such as difficulties in obtaining work, dealing with debt, the need to show formal qualifications and having suitable housing make it more difficult for offenders to desist.

Restorative justice practices can have the potential to foster social and human capital, relevant to these desistance processes, as is shown in the research by Farrall (2005), Robinson and Shapland (2008) and Bottoms and Shapland (2011). Particularly where supporters are present (though this is not often the case with VOM in prison), those supporters can add their own social capital to extend that of the offender, with the opportunities known about by mediators and any other professionals involved being drawn in as well. Through these practices, new connections can be created that build human capital in the ex-offender and social capital in the communities where they will be reintegrated (Farrall et al., 2014). Some supporters may be able to provide support to ex-offenders to accomplish elements of the outcome agreement (Shapland et al., 2011). Others may have information about relevant opportunities or programmes to deal with offending-related problems, such as drug dependence.

Ex-offenders in our study explained that the victim offender mediation in itself did not trigger them to start for example correctional programs, or signing up for a drug treatment program in prison. As a respondent in HMP Leeds stated: ‘It was not because of mediation, nor for the victim, that I stopped using spice. I did that because you see people getting burned (means getting an overdose and in need for medical treatment) on the wing everyday’. This is not different from the reflections made by Robinson and Shapland (2008) and Bottoms and Shapland (2016) stating that at least

a proportion of the (ex-)offenders taking part in a mediation or conference already had their mind set on change, and the idea of desistance. This respondent at HMP Leeds continues:

It was a strange feeling. The responses of the victim motivated me not to re-use again. She wanted me to stay clean, to have a good life, not to fall back and rob again. (Bart) And why was that strange for you? (Respondent) Because you don't expect such a response from your victim. She was almost more concerned about me than for the money she lost. You don't expect something like that in mediation, I thought she would be very angry, maybe shouting at me, I don't know, and me just apologising, if she would let me of course. But she was very compassionate, very interested in me as a person, and she wanted good things for me.

The mediation offered an extra motivation to continue with the programmes they started and to enforce the momentum on the path towards desistance: to maintain desistance. Another respondent at HMP Leeds added: 'the victim wants me to inform the mediator every six months about the progress I am making, the programmes I am doing, and if I am still clean'. For these (ex-)offenders their involvement in the restorative justice practice built new human capital in them because of the positive involvement by the victim. Also, through these mediations, new social connections were established that had the potential to build social capital. One of the respondents in the Belgian prison of Oudenaarde explained: 'because of the talks with the mediator, I learned that I am in need of someone to talk to on a regular base, and since then, I do counselling every week'.

Other respondents referred to being able to reconnect with family members or friends who were present as support during the encounter with the victim. Some respondents even talked about the indirect effect this participation in a restorative justice practice had on them in relation to others. Some (ex-)offenders talked about their changing relationship with their wife or children because of their opening up in visits in prison or on the phone about their emotions, their own victimization and their empathy towards the victim. 'It is not just about doing the right thing for her (victim), but also for my wife and daughter, I have talked a lot about that with my wife, it made us

closer. And she sees now that I really want to change', explained one of the respondents in HMP Leeds. Rossner (2011) argues that the 'emotional energy' invested in its interaction rituals in a restorative justice practice is responsible for desistance, by creating empathy for victims, and a mood of solidarity and symbolic reparation that provides former offenders with a narrative of change to act upon. However, that 'emotional energy' is not just present in the interconnection between victim and (ex-)offender but can have more than just side-effects on social connections with the broader 'community of care' (Braithwaite, 2003) around the (ex-)offender.

Restorative justice interventions like victim offender mediation also provide an opportunity for direct, two-way, question-and-answer communication with the practitioner, or victims or support group on these matters. These processes promote for the ex-offender a future-oriented approach and communication about the future. Ex-offenders are invited to discuss and reflect upon themselves and on what might mitigate the effects of the offence and to focus on constructive, pro-social problem solving. As such, they are invited to try to address the problems lying behind their offending, focus on the future, to indicate how they wish to change their lives and to obtain practical help on exactly how to achieve this, and thus, so reduce reoffending.

Restorative justice practitioners, and also supporters of victims or ex-offenders (if present), can provide feedback concerning the structural barriers offenders will possibly face. This allows ex-offenders to lower their aspirations and to enable them to strive towards goals, and therefore identities, that are within their reach. Shapland and Bottoms (2011: 277) explain that 'active maturation', the willingness and ability to tolerate the shortcomings of a conventional life, such as poverty or boredom, is an important element in not losing that motivation to desist, and at the same time, seeing the benefits of a pro-social life, such as peace and companionship. The research of Cid and Marti (2015) reveals the importance of social support, particularly from families, as it produces a feeling of reciprocity and a desire for compensation from ex-offenders that explains their motivation to initiate and maintain change and that stimulates them to seek hooks for change.

Discussion

The relation between restorative justice and rehabilitation/reintegration has always been a controversial one, with some restorative justice advocates arguing that these practices are likely to facilitate offender reintegration and others almost stating the opposite. Ward, Fox and Garber (2014) explored in this journal the relation between restorative justice and offender rehabilitation/reintegration with a particular eye toward the relationship of desistance theories to these debates. They suggest that restorative justice, rehabilitation and desistance ideas and practices can be conceptually linked, with restorative justice providing an overarching normative framework, and correctional programmes and desistance processes supplying the resources required by offenders to live a more pro-social life. We would wish to draw some distinction between rehabilitative programmes and the processes of desistance. Just having the rehabilitative programme available or present does not mean that it will be seen as appropriate by the (ex-)offender or taken on board to maintain desistance. However, not having the rehabilitative programme present means that the would-be desister is left to deal with the problem by himself or herself, without effective support.

We would argue that some restorative justice practice, and its accompanying theoretical bases do have the potential to promote desistance, though other forms of restorative justice practice may not intend to affect recidivism at all. In this article, we have primarily been referring to victim-offender mediation (and to some extent conferencing), and specifically to direct face-to-face meetings. As demonstrated above, restorative justice practices can have the possibility to foster agency, change the narrative, alter cognitive mindsets and create a shift in the identity of the (ex-)offender. We should note though that restorative justice practices may play a larger role in maintaining desistance in those who have already taken an initial decision to try to desist, rather than initiating that decision to desist (though there are some famous examples of a restorative justice conference providing the initial impulse to desist – as in the case of Peter Woolf (2009)). As part of the voluntary participation of (ex-)offenders in restorative justice, they are invited to take up responsibility towards the harm caused, and especially towards their victim and their own family or ‘community of care’. In these practices, with all these relevant persons present, communication is focused around norms and values in life, and thus, these practices can reinforce these shared norms and values, which can lead to strengthening their

belief, hope and motivation to desist from crime. Some restorative justice practices therefore have the potential, as an intervention, to facilitate a desire, or consolidate a decision to desist, and thus, may be less a trigger but rather a potential stepping stone for desistance (Shapland & Robinson, 2008: 352).

While offenders' agency in desistance has an obvious link with restorative justice practices, structural and practical obstacles are much more difficult to address in some current restorative justice practice. This may be due to the conceptual and practical organisation of these restorative justice practices. For example, in both prisons, Leeds (England & Wales) and Oudenaarde (Belgium), the restorative justice practice was victim-offender mediation with a strong focus on facilitating communication between victim and (ex-)offender. The approach in both prisons was focused far more on the needs of both parties for healing and much less on arriving at an agreed outcome, or specifying how practical obstacles to desistance might be overcome. This meant that less than one fifth of the mediations resulted in an outcome agreement, and any such document was especially focused on (financial) reparation towards the victim. Rehabilitative or reintegrative initiatives or opportunities for the (ex-)offender were only in exceptional cases part of this process-driven practice. This tended to occur when the victim, as a means of promoting the (ex-)offender taking responsibility or as reparation for the harm caused, explicitly asked the (ex-)offender to add these components (drug counselling, psychological treatment, etc.) to the outcome agreement.

The restorative justice practices in HMP Leeds (England & Wales) and Oudenaarde (Belgium) had no definite, future-oriented, offender-focused phase in the normal process. This was different to the conferencing processes studied in England & Wales by Shapland et al. (2011), where there was that definite future-oriented phase and victims were keen to find out what was behind the (ex-)offender's offending. Outcome agreements were almost always present (and agreed by all parties). Both victim and offender supporters shared these wishes, and the role of the facilitator and any professionals present was very much to provide information on what programmes or opportunities were available. Similar findings occurred in the evaluation of youth conferencing in Northern Ireland, which also has a future-oriented phase and which saw offender-based elements normally present in the outcome agreements (Campbell,

Devlin, O'Mahony, Doak, Jackson, Corrigan & McEvoy, 2005). Because of the non-explicit nature of this future-oriented offender-focused phase in restorative justice practices in HMP Leeds (England & Wales) and Oudenaarde (Belgium), those themes and elements that would help the (ex-)offender to desist, were not explicitly put down in an outcome agreement. Hence, just as some theories behind restorative justice practices see restorative justice as potentially promoting desistance, whilst others do not, so some restorative justice practices (particularly those with a future-oriented offender-based phase to the communication between victim and (ex-)offender) seem to have the potential to address practical obstacles to desistance and so to promote this aspect of maintaining wishes to desist, whilst others have less of a focus on these elements.

The timing and place of restorative justice are also likely to impact upon its ability to address structural obstacles, though not necessarily to affect decisions to desist. Even though the restorative justice in our study was being done in prison, the impact of being able to communicate with the victim seemed to be powerful in terms of agency and desistance decisions, whether this was a long sentence (Belgium) or a short sentence (England & Wales). However, it is difficult for participants to hold an informed conversation and come to decisions about structural matters unless the (ex-)offender is likely to be released in the reasonably near future and has some idea as to his or her likely social context in the community. Those in the middle of a long sentence will be focused much more on the social circumstances of prison.

A third element that may hinder addressing structural and practical obstacles, and building social and human capital is whether relevant members of the community are involved. The community around the victim and (ex-)offender is not always perceived as a key stakeholder in these restorative justice practices. In the mediation in both England & Wales and in Belgium, the micro-community around the (ex-)offender and where the crime occurred were not included. Ideally, and according to the main definitions of restorative justice, restorative justice practices should include all parties, or stakeholders, who feel connected emotionally, physically or in other ways to the actual victim, the (ex-)offender or the event itself. These communities serve an important normative function by developing, communicating and upholding shared norms and values, not just during restorative justice practices but also afterwards

when the (ex-) offender returns to society. The importance of social support, particularly from families, in the desistance process cannot be stressed enough (Cid & Marti 2015).

In some victim offender mediations, that micro-community around the (ex-) offender was formed by people working in prison like a prison officer, social worker or prison chaplain. For the (ex-) offender, this support was especially focused on their participation in the mediation process and much less on their possible support concerning their return or reintegration in society, and thus their possible desistance from crime. A prison-based micro-community cannot play the same role as the (ex-)offender's community based one. A similar pro-desistance normative influence might also be provided if members of the community into which the (ex-)offender will be reintegrating would be included, though this has rarely been attempted in any restorative justice process in prison.

Our conclusion would be, therefore, that there can be a connection between restorative justice and desistance, both theoretically and practically – though not all theoretical bases for restorative justice aim to do this. In particular, restorative justice practices involving victims and (ex-)offenders can help to maintain and strengthen those ex-offenders' desires to desist. However, charting a clear way forward practically for the ex-offender is more difficult, and here some restorative justice practices (those which specifically aim to address the future in practical terms) may be more helpful than others.

References

- Bazemore, G. & O'Brian, S. (2002). The quest for a restorative model of rehabilitation: theory-for-practice and practice-for-theory. In L. Walgrave (ed.) *Restorative justice and the law*. Cullompton: Willan.
- Blokland, A., Nagin, D. & Nieuwbeerta, P. (2005). Life span offending trajectories of a Dutch conviction cohort. *Criminology*, 45(4), 919-954.
- Bottoms, A. E. & Shapland, J. (2011). Steps towards desistance among male young adult recidivists. In S. Farrall, M. Hough, S. Maruna, & R. Sparks (eds), *Escape Routes* (pp. 43-80). London: Routledge.

- Bottoms, A. & Shapland, J. (2016). Learning to desist in early adulthood: the Sheffield Desistance Study. In J. Shapland, S. Farrall & A. Bottoms (eds.), *Global perspectives on desistance: reviewing what we know, looking to the future* (pp. 99-125). London: Routledge.
- Braithwaite, J. (1989). *Crime, shame and reintegration*. Cambridge: Cambridge University Press.
- Braithwaite, J. (1993). Shame and modernity. *British Journal of Criminology*, 33(1), 1-18.
- Braithwaite, J. (2003). Principles of Restorative Justice. In A. Von Hirsch (Ed.) *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms*. Oxford: Hart Publishing.
- Campbell, C., Devlin, R., O'Mahony, D., Doak, J., Jackson, J., Corrigan, T. & McEvoy, K. (2005). *Evaluation of the Northern Ireland Youth Conference Service*. NIO Research and Statistical Service Report No. 12. Belfast: Northern Ireland Office.
- Christie, N. (1977). Conflicts as property. *British Journal of Criminology*, 17(1), 1-15.
- Christie, N. (2015). Widening the net. *Restorative Justice*, 3(1), 109-113.
- Cid, J. & Marti, J. (2015). Imprisonment, social support, and desistance: A theoretical approach to pathways of desistance and persistence for imprisoned men'. *International Journal of Offender Therapy and Comparative Criminology*, 1-22.
- Clarke, R. & Cornish, D. (1985). Modelling offenders' decisions. In M. Tonry & N. Morris (eds), *Crime and Justice: An Annual Review of Research* (147-186) 6.
- Daly, K. & Immarigeon, R. (1998). The past, present, and future of restorative justice: some critical reflections. *Contemporary Justice Review*, 1, 21-45.
- Ezell, M. E. & Cohen, L. E. (2005). *Desisting from Crime*. Oxford: Oxford University Press.
- Farrall, S. & Bowling, B. (1999). Structuration, human development and desistance from crime. *British Journal of Criminology*, 39(2), 253-268.
- Farrall, S. (2002). *Rethinking what works with offenders: Probation, social context and desistance from crime*. Cullompton: Willan.
- Farrall, S., Bottoms, A.E. and Shapland, J. (2010). Social structures and desistance from crime. *European Journal of Criminology*, 7(6), 546-570.

- Farrall, S., Hunter, B., Sharpe, G. & Calverley, A. (2014). *Criminal careers in transition. The social context of desistance from crime*. Oxford: Oxford University Press.
- Farrall, S. & Maruna, S. (2004). Desistance-focused criminal justice policy research. *The Howard Journal*, 43, 358-67.
- Giordano, P.C., Cernkovich, S.A., & Rudolph, J.L. (2002). Gender, crime and desistance: toward a theory of cognitive transformation. *American Journal of Sociology*, 107(4), 990-1064.
- Giordano, P.C., Schroeder, R. & Cernkovich S.A. (2007). Emotions and crime over the life course: A neo-Meadian perspective on criminal continuity and change. *American Journal of Sociology*, 112(6), 1603–1661.
- Healy, D. (2012). *The dynamics of desistance: Charting pathways through change*. Abingdon: Routledge.
- Healy, D. (2013). Changing fate? Agency and the desistance process. *Theoretical Criminology*, 17(4), 557–574.
- Hurwitz, S. and Christiansen, K.O. (1983) *Criminology*. London: George Allen & Unwin.
- Johnstone, G. (2002). *Restorative justice: ideas, values, debates*. Cullompton: Willan.
- Laub, J. H. & Sampson, R.J. (2001). Understanding desistance from crime. *Crime and Justice*, 28, 1-69.
- Laub, J. & Sampson, R. (2003). *Shared beginnings, divergent lives*. Cambridge, Mass: Harvard University Press.
- LeBel T., Burnett R., Maruna S. & Bushway S. (2008). ‘The ‘chicken and egg’ of subjective and social factors in desistance from crime’. *European Journal of Criminology*, 5(2), 131–159.
- Maruna, S. (2001). *Making good: How ex-convicts reform and rebuild their lives*. Washington: American Psychological Association.
- Maruna, S. (2011). Reentry as a rite of passage. *Punishment & Society*, 13(1), 3–27.
- Maruna S. & Copes H. (2005). What have we learned from five decades of neutralisation research? *Crime and Justice*, 32, 221–320.
- Paternoster, R. & Bushway, S. (2009). Desistance and the ‘feared self’: toward an identity theory of criminal desistance. *Journal of Criminal Law and Criminology*, 99(4), 1103–1156.

- Pezzin, L. E. (1995). Earning prospects, matching effects and the decision to terminate a criminal career. *Journal of Quantitative Criminology*, 11(1), 29–50.
- Robinson, G. & Shapland, J. (2008). Reducing recidivism: a task for restorative justice?. *British Journal of Criminology*, 48(3), 337-358.
- Rossner, M. (2011). 'Reintegrative ritual'. In S. Karstedt, I. Loader & H. Strang (eds), *Emotions, Crime and Justice* (pp. 169-192), Oxford: Hart Publishing.
- Sampson, R. & Laub, J. (1993). *Crime in the making*. Cambridge, MA: Harvard University Press.
- Shapland, J. (2007). Desistance from crime and the potential role of restorative justice. Paper given to the conference on 'What is criminology', in honour of Sir Anthony Bottoms, Cambridge, 30 November 2007.
- Shapland, J. & Bottoms, A. (2011). Reflections on social values, offending and desistance among young adult recidivists. *Punishment & Society*, 3(3), 256-282.
- Shapland, J., Bottoms, A.E. and Farrall, S. (2016). Diversity or congruence – sketching the future: an afterword. In J. Shapland, S. Farrall and A.E. Bottoms (eds) *Global perspectives on desistance: reviewing what we know, looking to the future* (pp. 282-93). London: Routledge.
- Shapland, J., Robinson, G. & Sorsby, A. (2011). *Restorative justice in practice*. London: Routledge.
- Shearing, C. (2001). Transforming security: a South African experiment. In H. Strang and J. Braithwaite (eds.) *Restorative justice and civil society*. Cambridge: Cambridge University Press.
- Sykes G. & Matza D. (1957) Techniques of neutralisation: A theory of delinquency. *American Sociological Review*, 22(6), 664–670.
- Tangney, J.P., Steuwig, J., Mashek, D. & Hastings M. (2011). Assessing jail inmates' proneness to shame and guilt: Feeling bad about the behaviour or the self. *Criminal Justice and Behaviour*, 7, 710-734.
- Van Camp, T. (2014) *Victims of violence and restorative practices: finding a voice*. London: Routledge.
- Varona, G. (1996). *Restorative justice: new social rites within the penal system*. Onati: International Institute for the Sociology of Law.
- Vaughan, B. (2007). The internal narrative of desistance. *British Journal of Criminology*, 47(3), 390–404.

Ward, T., Fox, K.J. & Garber, M. (2014). Restorative Justice, offender rehabilitation and desistance. *Restorative Justice*, 2(1), 24-42.

Woolf, P. (2009). *The damage done*. London: Bantam Press. See also 'The Woolf within', at <https://www.youtube.com/watch?v=A1s6wKeGLQk>

Zehr, H. (1990). *Changing lenses: a new focus for crime and justice*. Scottsdale, PA: Herald Press.