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Strength based approaches and protective factors from a criminological perspective

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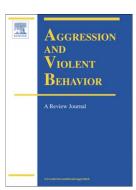
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Abstract

This paper provides a review of the current criminological landscape in relation to positive criminology and strengths based responses to crime. It does this by drawing on *four forms of 'offender' rehabilitation* as detailed in Fergus McNeill's (2012) seminal work. By using the four domains of psychological, social, moral and legal; this paper outlines current criminological literature, policy, and practice, highlighting some of its limitations. In all, the paper supports the call made by McNeill that in order to work with those mandated by the criminal justice system, a strengths based and integrated approach to rehabilitation is needed.

Keywords: Strengths based approaches; positive criminology; and rehabilitation

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1. Introduction

In his opening chapter to *Discipline and Punish*, Foucault (1977) provides a disturbing and graphic account of the harsh punishment and torture inflicted on those convicted of a crime during the eighteenth and nineteenth centuries. The belief that criminals or wrong doers were savage, evil or possessed by the devil, justified the need for them to be tortured and executed. While this practice, in contemporary Western society at least, is long past, agreement as to how best punish those convicted of crime has yet to be reached in the field of criminology. This is perhaps because the nature of crime is socially constructed and entrenched in beliefs and attitudes about human existence (Burke, 2013). Debate tends to either focus its attention on exploring the nature of the criminal (Cohen, 1988), usually from the perspective of their deficits; or the nature of society and its response to deviance (Lancaster, 2011) often framed through the philosophical debate of free will and determinism (Nelson and Richardson, 1971). This paper provides a brief account of the more orthodox criminological perspectives, followed with a review of the current criminological landscape in relation to strengths based responses to crime. To do this, Fergus McNeill's (2012) *four forms of 'offender' rehabilitation* are drawn upon, while examining the current criminological literature, policy, and practice in relation to strengths based approaches and protective factors.

Early criminologists from the Classical School of criminological thought argued that human beings as hedonistic creatures operate completely with free will. Social contract theorists such as Thomas Hobbes (1588-1678) and John Locke (1632-1704) assert that humans are free to make rational choices and decisions based on the pleasure pain principle. When thinking of crime, they argue that individuals make a series of decisions calculated by the degree of pleasure to be gained from illegal activity, versus, the punishment likely to be received should the crime be detected. Indeed, the Rational Actor Model of Crime asserts that human beings are therefore deterred from committing crime if the punishment outweighs the benefit. Developed by early criminologists, such as Cesare Beccaria (1738-94) and Jeremy Bentham (1748-1832) this model of crime informed early criminal justice policy. They argued those who commit crime do so freely and with full consciousness

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and autonomy, and therefore ought to be held accountable and justly punished. Principles from the Classical School resonate in modern day criminal justice systems (Burke, 2013); Beccaria proposed that punishment ought to be proportionate to the nature of the crime; capital punishment was unnecessary as imprisonment was a better punishment, and that punishment should be a last resort as prevention was more superior to punishment.

Contrary to the idea of free will, is that of determinism. In a challenge to the Classical School of criminological thought, the Positivist School takes a deterministic approach. They argue that not all human beings are equal, indeed, the ability to make free and rational choices are not available to all. Instead, they argue that as a result of genetic, psychological, environmental or social factors; agents face different challenges and barriers in life that might orient or even pre-dispose certain individuals to a life of crime. Early criminologists such as Cesare Lombroso (1836-1909) and Enrico Ferri (1856-1929) argued that genetic and physical characteristics, as well as other factors, such as geographical, social and cultural influences play a role in determining the likelihood of people committing crime. This type of thinking can again be seen in contemporary criminal justice systems, with policies targeting particular groups of people with shared characteristics such as age, race or socio-economic backgrounds. Even though these theories date back hundreds of years, they serve as underpinning philosophical concepts in which many of our modern day responses to crime are ultimately centered.

Criminology as a field of research has historically tended to focus its attention on aspects of crime which are deficit-focused and etiological in nature. This is perhaps not unsurprising given that early nineteenth and twentieth-century criminologists emerged from the field of psychiatry and medicine (Jones, 2009) thus, examining crime and the criminal from a clinical perspective. We can see this in the direction of criminological theory that provides biological explanations between for example, intelligence and crime (Hirschi and Hindelang, 1977); brain injury, psychopathy and violence (Raine, 2008); and genetic characteristics and crime (Dugdale, 1877). Indeed the influence

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of sociologists such as Mays et al. (1954); Becker (1963); Durkheim (1933 originally 1893) and Cohen and Felson (1979) only really emerged during the mid-part of the last century; bringing sociological explanations such as the role of social structures (Merton, 1938), deviant sub-cultures (Thrasher and Kerstetter, 1947), labelling theories (Becker, 1963) and so on. While such theories and models have helped explain and advance our understanding of the nature and causes of crime, crime cannot be explained by one variable or one factor alone. Some argue this is the cost of the real value of criminology (Brisman, 2012, Tifft et al., 2006) as the development and testing of integrated and multi-level theories have been missed. Such theories might help us explain and understand not only what causes crime, why and how some people desist from crime, but perhaps more importantly what might prevent the onset of crime in the first place.

2. Contemporary criminological approaches to crime

Current practice and thinking are divided in terms of how best to respond to crime. We see policy and practice that both supports the idea of tackling the individual through punitive, controlling mechanisms, along with other strategies that aim to incorporate more reintegrative approaches (for an excellent and detailed discussion of two such approaches and vales underpinning them see Kemshall and Wood, 2007). In recent decades criminological policy response to crime and the criminal has tended to result in approaches that are *exclusionary*. This means that governments align themselves with the principle of securing the happiness of the greater good (Beccaria, 1963) often at the cost of others. Exclusionary approaches tend to engage in rhetoric that supports a 'tough on crime, tough on the criminal' approach and strategies tend to target the individual by inflicting the greatest degree of pain and control (Sykes, 1958). This, in turn excludes those to whom the initial wrong doing was done to (i.e. the community, victim or family) and ignores other environmental and social contributory factors that might have influenced deviant behavior in the first place. Policy such as imprisonment, electronic tagging, drug testing, offending behavior programs etc. all arguably serve to target the individual through punishment and control.

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On the other hand, more *inclusive* criminological approaches purport principles of humanity, compassion, and respect. They perceive criminal behavior as a problem that extends beyond the individual committing the crime, recognizing that social and economic injustices are not only root-causes of crime but are potential solutions also. Such approaches view people as having human rights regardless of the crime they commit and require a perspective that considers all stakeholders in the process of responding to crime (Cavadino et al., 2013). Approaches that include those beyond criminal justice agencies, for example, are those that deal with substance users through health care interventions; Restorative Justice Panels; Community Courts and so on. In an attempt to drive forward criminal justice reform the UK Coalition Government in 2010 implemented a *Rehabilitation Revolution* (Ledger, 2010). This led to significant policy change and indeed radical reorganization of the criminal justice system in England and Wales, impacting greatly on prison, probation and third sector services. While this new strategy appears to have emerged as a response to rising levels of incarceration and recidivism rates, rather than the rights of the individual and a desire to ensure social and economic equality; it has in part required criminologists to consider alternative responses to crime. One such response is a strengths based approach.

Strength based approaches are common practice in many fields such as: education (Lopez and Louis, 2009); child and adult welfare (Rapp et al., 2006); performance and organizational behavior (Stavros and Hinrichs, 2011); health and well-being (Padesky and Mooney, 2012) and; social research and policy development (Maton et al., 2004). Given the significant increase in prison populations along with unacceptable recidivism rates, it is perhaps no surprise alternative methods such as strengths based approaches have begun to surface as viable options for dealing with crime. Indeed, over the last few decades, criminology has seen a new movement akin to that of the *Positive Psychology* movement (Seligman and Csikszentmihalyi, 2000), fittingly titled *Positive Criminology* (Ronel and Elisha, 2011). Positive criminology see's the study of crime and the criminal not in terms of the etiology of crime and the treatment of it, but rather looks to explore what helps people move away from crime and deviance. Albeit slowly, the concept and support for positive criminology have

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begun to gather momentum (Ronel and Elisha, 2011). Positive criminology is best described as an

umbrella term used to help bring together criminological theories that explore how and why people

move away from crime. Ronel, (2011) provides a helpful definition:

> Positive criminology can be described as "a focus on the encounter with significant
>
> forces and effects that are experienced positively and that distance the individual from
>
> deviance and crime, whether by means of formal and informal therapy programs and
>
> interventions (such as self-help organizations), through emphasis on positive social
>
> elements (such as reintegrative shaming, human kindness, or social acceptance), or
>
> based on positive personal factors (such as factors of protection and resilience, positive
>
> emotions and subjective attitudes, coherence, faith, and morality)" (Ronel and Elisha,
>
> 2011, p. 307).

3.   Four forms of rehabilitation

One of the key features for positive criminology is that it not only offers strengths based solutions

that are psychological in nature but also include approaches that are social, moral and

environmental (Ronel and Segev, 2014). Positive criminology begins to respond, to some extent, to

the call made by Fergus McNeill who in his 2012 discussion paper, requested criminologists (and

others) to approach the issue of crime and reintegration with a greater interdisciplinary perspective.

In his paper, McNeill considers the interplay of four forms or domains which he argues are needed to

assist and contribute to an effective rehabilitation process, these include: psychological, moral, legal

and social. He argues that to date, mainstream criminologists and policy makers have maintained an

almost obsession-like approach examining mostly the psychological etiology of crime and control of

the criminal, thus ignoring important aspects of the legal, moral and social domains needed to

support a process of reintegration. McNeill is careful to highlight that while research to date has

helped develop our knowledge of rehabilitation, it comes from a purely psychological perspective

which has perhaps narrowed the options for practical responses.

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McNeill (2012) details, therefore, that in addition to the psychological aspects of the rehabilitation process, there is a need for researchers and practitioners to understand and engage with social processes of reintegration and desistance from crime. Such social processes are reciprocal in nature and are concerned with the re-socialization of citizens, the role of society and the community. This social element of rehabilitation is therefore concerned not just with connections we have with each other as individuals but with our communities and indeed the state. In addition to the social aspect of rehabilitation, McNeill highlights how a moral element of rehabilitation is essential to our concept of 'justice'. That punishment is limited in terms of what it can offer to help people move away from crime and of course prevent people from engaging in crime in the first place. The current system and our understanding of it offer limited opportunity for moral redress, whether that is for the victim, the community, or the perpetrator of crime. Indeed, we provide little opportunity to foster a process of engagement between the person and community who has been harmed, instead, we ignore their needs and focus on the perpetrator of crime, leaving no chance for repair of harm caused or reparation. Finally, McNeill's fourth form concerns the legal system. He details how we operate within a system that provides no opportunity for a perpetrator to return to their community as a reformed citizen; instead, they continue to carry the label 'offender' long after the crime is spent. McNeill argues that current legal processes supports the continued stigmatization of the community and family members involved in crime. Indeed, the rituals of prosecution, incarceration and labeling are not mirrored in any formal rehabilitative sense. With no symbolic gestures, processes or procedures for those convicted of a crime to return the back to their community they remain marked and scarred by the legal system. Indeed, there is no recognition of the harm potentially caused by the legal system itself.

Although the overwhelming and orthodox approach to responding to crime is one that focusses on punitive control, management, and risk aversion (Ward and Maruna, 2007) there are pockets of practice and criminological theory in which the principles of strength based approaches are in existence and indeed, thriving. Ronel and Segev (2014) provide a helpful review of a number

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of positive criminological theories applied to criminal justice practice, demonstrating this point. Yet, while positive criminology and strengths based approaches quietly flourish, this is not without challenge. They find themselves not only on the academic periphery of mainstream criminology but also within a political landscape that leans toward a right realist positivistic ideology. McNeill's (2012) four forms, therefore, provide an excellent framework to begin to scope and map out the current criminological landscape, from a strengths based perspective to crime. The remainder of this paper details each of McNeill's four forms, with examples and discussion of current strength based criminological theory and practice.

3.1   *Psychological*

As noted by McNeill (2012), the psychological domain is perhaps the most buoyant and fruitful of the four forms. As with the more traditional criminological literature, exploration of personal and psychological factors that contribute to the strengthening of a person's resolve to desist from crime, has received much attention in recent decades. In particular, examination has focused on psychological traits and the assessment and intervention of these. As this pool of literature is so abundant, the strengths based element from McNeill's psychological domain can only be briefly summarized here. Before doing so it is worth noting one particular concern, that is, there exists a lack of theoretical foundation of individual factors related to dynamic risk and thus dynamic protective factors also. Risk and dynamic factors are often listed and described in umbrella terms, they are often broken down further into sub-domains which at times conflict with each other and provide an inadequate conceptual explanation (Ward and Beech, 2015). Therefore it is worth bearing in mind the limitations of theory to support individual factors and how they operate in isolation, as well as the limitations in terms of the functional relationship between dynamic risk and protective factors themselves.

The desistance literature tells us that part of the process of change is an internal one, albeit occurring within a social vacuum. There is a number of explanations to help our understanding of

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the process of desistance from the psychological perspective, such as identity theory or cognitive transformation (Maruna, 2001, Giordano et al., 2008, Paternoster and Bushway, 2009). Much has been written about these processes, but in essence, the criminological literature claims that in order for a person to move away from an offending life they need to develop or adopt a new non-offending identity. The literature highlights that desisters internally shift their sense of self, away from one that affiliates with the idea of offending, to one that is engaged and active in new non-offending activities. Some of these internal shifts require the person to be believed in (Maruna et al., 2004); to develop a sense of hope for their future (Maruna, 2001); and develop gratitude to help recovery from past trauma (Guse and Hudson, 2014). For many, transformation is about being able to 'knife off' (Sampson and Laub, 2003) and ridding oneself of the past and the psychological stigma associated (Maruna and Roy, 2007). Clearly, however, the process of cognitive transformation is far more complex than briefly outlined here, and several complex factors need to be in play to facilitate this process. In essence, a psychological and internal change is required for an individual to move away from offending and reintegrate back into society.

In addition to the transformation of self, a number of other psychological or internal factors have been identified as those that might help a person move away from offending; self-control and agency. These are not new concepts to the field of criminology, indeed, many theorists such as Gottfredson and Hirschi (1990) argued that as a result of parents failing to instill self-control in their children at a young age, criminality is determined. This, of course has led studies to examine if higher levels of self-control might serve as a factor to support the process of desistance (Salas-Wright et al., 2014) and if preventative strengths based work might support the family as a whole (Early and GlenMaye, 2000). Having self-control is however believed to assist in the process of deciding not to offend. In one study examining the thought process of men who had previously committed sexual offenses but then went on to desist from offending found that 'consequential thinking' triggered the act of self-control (Mitchell and Galupo, 2016). Likewise, the work of Agnew (2014) highlights that in general people are not just concerned with their own self-interest but they are biologically inclined

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to express social concerned and interest of others. Such tendencies mean that most people are interested in developing close relationships and ties with others, and indeed want to engage in caring roles. Such informal bonds and conformity to social norms appear to impact on people's choices to desist from crime (Sampson and Laub, 1990). Indeed, with interventions such as Circles of Support and Accountability, promoting self-control, a sense of agency, social concern, and belief in one's own capabilities to change, are essential (Höing et al., 2015). Such psychological shifts are believed to be strengthened in by the Pygmalion effect (Maruna et al., 2004). Here the belief from others, such as a probation officer believing their client is capable of change, strengthens the client's own resolve to achieve change. Thus, by improving one's own sense of control and ability, this psychological change acts as a protective buffer.

A particularly buoyant area of interest in the criminological literature is the exploration of interventions that foster and promote psychological protective factors. For example, therapeutic communities appear to help promote a positive sense of self and support a changing identity (Stevens, 2012); they help enhance self-esteem and reduce feelings of hostility (Brown et al., 2014); and increase self-awareness and personal insight (Genders and Player, 1995). There is also an extensive coverage and examination of accredited offender behavior programmes (Beech et al., 2001, Hollis, 2007, Marshall and Burton, 2010, Friendship et al., 2003) and the therapeutic style required for those working with offenders (Maguire et al., 2010, Marshall et al., 2003). Such programs have begun to adopt strengths based approaches in an effort to generate positive psychological results (Ward et al., 2007). Findings show these types of program engender hope, increase self-esteem (Marshall et al., 2005) develop gratitude and life satisfaction (Huynh et al., 2015) increase feelings of trust and respect and help people to feel worthy of personal investment (Hunter et al., 2015).

A final area in the criminological literature that examines psychological strengths is strengths-based risk assessment tools. There are a number of tools being used and under

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development. Tools include: The Structured Assessment of Violence Risk in Youth (SAVRY), which measures a number of protective factors in young people and includes psychological factors such as 'attitudes towards intervention and authority', 'commitment to school', and 'resilient personality traits' (Shepherd et al., 2016, Lodewijks et al., 2010); the Structured Assessment of Protective Factors (SAPROF), assesses the presence of protective factors for violent risk including psychological factors such as self-control, empathy, coping, intelligence and motivation (de Vogel et al., 2011); specialist tools designed to explore protective factors unique to offending populations such as, sexual offenders the SAPROF (de Vries Robbé et al., 2015, Miller, 2015); the Active Risk Management System (ARMS) (Blandford and Kewley, in press) which consists of eight risk factors and five protective factors, commitment to desist being the only psychological factor (Nicholls and Webster, 2014); or a pre-screening tool for adult offenders called the Service Planning Instrument (SPIn), which consists of 11 strengths and 39 risk and needs. In terms of psychological strengths, the SPIn screens for attitudes, social and cognitive skills, and mental health (Jones et al., 2015). A significant amount of attention has of course been given to understanding the accuracy of risk assessment that incorporates protective factors for juvenile offenders (Spice et al., 2013, Zeng et al., 2015, Klein et al., 2015, Taylor et al., 2004). While such tools are of value for practitioners, there are many issues. These include issues of poor training, limited resources for the completion of assessments, inadequate validity in the tools (Smallbone et al., 2013). Also, while such tools might help to identify deficits and areas of need, practitioners are not always able to implement or facilitate access to such resources and thus do not develop robust management plans to support change (Kewley et al., 2015). Likewise, when practitioner values conflict with strength based principles; practitioners become disenfranchised with the emergent of poor risk management strategies (Kewley, in press).

3.2   Social

As with the psychological domain, the social domain has also been well researched. Much more is known of the type of social and environmental factors needed to support and help a person reintegrate and desist from crime. One of the strongest social predictors of the desistance process

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appears to be through the exchange of meaningful and enduring social relationships. Weaver and McNeill (2015) found in the narratives of desisters that when relationships are meaningful, interdependent, and operate as a resource of support by positively influencing and helping each other, the process of reintegration is more likely to be successful. Likewise, findings suggest that the connection and re-connection with family ties and bonds, getting married or starting a family (Sampson and Laub, 1993) all point towards the facilitation of the desistance process (Farrall, 2004).

While social support is recognized as important within intimate and personal relationships, the strengthening of wider community relationships is also believed to help the desistance process by helping bond the person with others outside of their network (McNeill, 2009). For example, the work of restorative practitioners working with young people and local communities can be seen to help unite and repair the relationships between the individual and the community (Bergseth and Bouffard, 2013). Such bonds help improve each parties attitudes about each other, thus the community learns of the needs of young people and young people learn about the needs of the community. This all helps with the de-labelling process of those involved in crime. Not only does this reciprocal process help to develop social relationships it helps strengthen the resolve of those attempting to desist (Bazemore and Erbe, 2004). In their examination of protective factors against sexual offending, de Vries Robbé et al. (2014) found that both personal and professional support networks were potential positive influencers. Indeed, the relationship between the professional and client is critical to providing effective supervision and supporting the desistance process as these relationships can promote respect, humanity, offer support and engage in meaningful goal setting (McNeill, 2009).

In cases where social isolation is a factor, as is often found with those whose offending behavior carry the greatest social stigma, such as substance users or sexual offenders; strong social bonds are vital. In one study where participants faced social isolation, it was only the support and kindness of faith communities that provided people the opportunity to reengage (Kewley et al.,

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2016). Likewise, high-risk violent individuals who desisted from crime felt this process was only possible through the connectedness they felt with family members. Mindful of the consequences of the stigma, they feared social interaction; it was the attachment and bond with close family that was therefore, essential to their desistance process (Haggård et al., 2001).

Criminological interventions that provide social support and help build social capital have also evidenced promising results. Branded as a new idea of 'voluntary aftercare' (Maguire and Raynor, 2006) working to help people with convictions reintegrate back into the community is not a new concept to either prison, probation or voluntary sectors (Wong, 2013). Indeed in the early 20th century, those leaving prison would often be met by members of religious communities who would help with the practical and emotional elements of resettlement. Now re-framed as a criminal justice intervention, programs such as *Through the Gate* or *offender mentoring* are contemporary strategies to help reintegrate people (Maguire et al., 2010). It is worth noting that the complex needs of those being released from prison might fail to be met as profit led operationalization of such interventions, run the risk of becoming target driven (Burke, 2016) and risk-focused rather than needs led and value based.

Further issues required for social reintegration is that of the need for civic engagement. In order for communities to accept returning individuals back into meaningful relationships, the community itself needs to have the resilience and ability to undertake work that builds restorative links, rather than uphold punitive and retributive ones (Fox, 2010). Indeed, the readiness of the community to accept the returning person back into their community is critical (Bazemore and Stinchcomb, 2004). Thus in addition to the legal and institutional framework that governs the re-entry of people (discussed later), the value base and ideological perspective in which society constructs ideas of crime and the criminal are important. Poor social constructions of people convicted of crime ultimately undermine efforts to help and support people reintegrate and contribute to society.

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3.3   Moral

In this third domain, McNeill (2012) defines the moral aspect of reintegration as a concept of 'justice'. He notes how the criminal justice system offers limited chances for individuals to repair and engage in moral redress. Indeed, current rehabilitation interventions and approaches focus, in the main, on changing or facilitating change within the individual. It is not yet commonplace for a person to be provided an opportunity to demonstrate reparation or restoration within the community or to the victim harmed. Yet the need for people to 'give back' is a persistent theme in the desistance literature (Maruna, 2001) and essential for the restoration process to occur (Maruna, 2009). While there are limited examples of this type of process within our contemporary criminal justice system, there are some strengths based interventions in operation. While further exploration and testing of these interventions are required, they provide opportunity for moral redress and offer justice to all parties involved.

While most people returning back to the community, after a period of imprisonment or community sentence, need secure employment, good housing, social capital and a sense of well-being; they also need the opportunity to demonstrate to others they have reformed (Maruna, 2011). One intervention called Circles of Support and Accountability (CoSA) might begin to provide a model for this as they provide an opportunity for those convicted of sexual offending to reintegrate and demonstrate a change in the community (Höing et al., 2015, Hanvey et al., 2011). People involved in CoSA are offered the opportunity to engage with a selection of trained community members who serve as a moral authority, supporting, and guiding them as they reintegrate back into society (Fox, 2016). The bond and mutual goal sharing of this intervention help the person reintegrate and buy into a sense of doing good and not letting fellow group members down. This sense of duty and belonging helps to hold people accountable and to take responsibility for their own actions and choices. There are of course a number of challenges to this type of work in that it requires the commitment of community volunteers who require support and training, this is therefore, not resource neutral (Höing et al., 2014). Likewise, in the current regime this type of work needs to be

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embedded within a public protection framework and thus might not be seen by the person

attempting to reintegrate as a genuine community driven initiative, but rather an intervention

managed by authorities and delivered by volunteers. However, as an intervention that allows people

to demonstrate change, it is a viable model.

Perceiving people with convictions as an asset to the community might also help reframe

current thinking and approaches to working with people in the criminal justice system; not just for

those reintegrating but also for the community they return to. Burnett and Maruna (2006) provide a

summary of a number of restorative type interventions that provide such a climate in which

prisoners were given the opportunity to work towards meaningful reparation. They detail the work

of one initiative where prisoners served as advisors for the Citizens Advice Bureau (CAB). The CAB

provide free, confidential support and advice to the general public regarding a wide range of matters

such as welfare, employment dispute, financial advice and legal matters. This scheme gave an

opportunity to selected inmates to provide a service to others while reportedly, was also invaluable

in their own process of reintegration. Indeed, it was noted that having the opportunity to develop

and practice empathy, provided an essential learning opportunity in which feelings of giving

something back was experienced. However, this opportunity is rare and highlights a number of

tensions that exist when trying to implement strengths based interventions in a risk-centric culture.

Individuals selected to participate were screened so as not to risk any problems of breaches of

confidentiality. While the intervention was a great success, for both inmates, clients and the CAB

itself; the program kept a low key in terms of publicizing the intervention. This was to limit any

public concern or damage to the reputation of the CAB. Indeed, this strategy demonstrates the

potential risk, resistance, and barriers faced by agencies even attempting to engage in strength

based activities with criminal justice clients.

Restorative justice is a widely used mechanism to assist moral redress between the offender

and the community. Yet, the term 'restorative justice' is not as clearly defined as it could be and

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often serves as an umbrella term for a range of restorative type interventions including conferences, community panels, mediation, sentencing circles and youth diversionary tactics (Shapland et al., 2006). Essential to the restorative justice process is that all parties engage in a democratic and peaceful way to repair the harm caused (Braithwaite, 2003). This means that the perpetrator, as well as the victim/community, collectively decided the best way forward for the person to repair the harm. This approach provides moral autonomy to all involved, including the perpetrator. Traditional approaches are community led. This approach has been embraced in Northern Ireland with the adoption of peacemaking principles across a number of sectors and agencies, not just criminal justice ones (Payne and Conway, 2011).

While there are encouraging findings of studies examining restorative justice interventions, in that they tend to report high levels of victim/offender satisfaction and experience some decreases in recidivism (Latimer et al., 2005), very few empirical studies exist that rigorously test reoffending rates. Instead, studies tend to focus on the satisfaction of those involved. Because clients self-select and opt into a process of restorative justice, it is possible that they are more likely to be already engaged in a process of desistance and thus at a reduced risk of reoffending (Ward et al., 2014). A further problem is that very few conferences or interventions operate without the influence of the state. For example, the role of the facilitator at a conference tends to be carried out by a criminal justice professional, rather than a lay person. Indeed in most (youth) restorative justice programs they "remain marginal programs very much in the shadow of the punitive paradigm" (Braithwaite, 2006, p. 394). Therefore the true representation of 'community' restoration is perhaps debatable. One of the final criticisms when considering restorative justice within the context of offender rehabilitation is that without complementary rehabilitation support, the perpetrator may still not have the capacity or opportunity to change, even though they are able to demonstrate remorse for their crime (Ward et al., 2014).

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3.4   Legal

It is argued that the role and function of the legal system in relation to supporting those attempting

to return and reintegrate back into the community is failing (Maruna, 2011, Maruna, 2012). When

thinking about reintegration and strengths based approaches within the current legal system, it is

limited. It operates in a social and political vacuum that is punitive and reductivist (Cavadino et al.,

2013), thus it can only serve to stigmatize and criminalize people and their family even after 'justice'

has been served. While there are some approaches that can be seen as an attempt to engage the

judiciary in strengths based approaches, the weight of contemporary correctional regimes cause

tension and friction for agencies and practitioners involved. While restorative justice type

interventions, such as conferences or community courts aim to divert people (usually targeted

towards young people) away from the criminal justice system, they tend to be used for tackling low

level anti-social behaviors and minor offences, and are less common practice for more serious

offences (*Restorative Justice Council, 2016*). However, they have shown promising results in terms of

reduced reoffending (Shapland et al., 2008) and victim satisfaction (Shapland et al., 2007).

An important observation discussed in detail by Maruna (2011) is that the process of

desistance or reintegration is not marked within our criminal justice system in any formal way.

Unlike the process of labeling a person as a 'criminal' through the court process and public

sentencing process, this is not mirrored for those returning back to the community. There is no

public acknowledgment they are returning, reformed citizens. Re-entry courts do, however; offer a

strengths-based solution to help tackle this need for de-labelling (Maruna and LeBel, 2003). Re-entry

courts, traditionally developed to support substance users through therapy and away from crime

continue to show promise (Wormith et al., 2007); people with mental health conditions (DeMatteo

et al., 2013); and incarcerated mothers (McGrath, 2012). While, internationally each of these courts

operates with some difference, essentially, courts enable members of the judiciary or panel to work

holistically, as case managers throughout the duration of the offender's sentence treatment, and

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period of reintegration. Thus the legal perspective allows the criminal justice system process to be marked from start to end.

While all courts do not operate as re-entry courts, therapeutic jurisprudence (TJ) provides a therapeutic lens in which to examine the legal system and their laws (Gal and Wexler, 2015). TJ tends to put the needs of the client at the center with the aim of achieving some form of rehabilitation, reintegration, reparation or indeed restoration. Likewise, TJ allows for individual legal practitioners to operate with a greater 'client centered' approach (Segev, 2015). Operating in this way not only serves to provide comfort to the client, providing a humane relationship throughout the process but likewise, models trust and compassion to judges and other members of the court.

This final domain and its preceding 'moral' element are perhaps the least well represented when it comes to the utilization of strengths based approaches both in the academic realm and the 'real world'. One explanation for this might be the community protection framework in which the criminal justice system operates. A community protection approach to criminal justice is one that prioritizes the needs of the public and the community above and beyond the needs of the person committing the crime (Kemshall and Wood, 2007). Such an approach tends to enforce controls on the person rather than work with them; this is often achieved by management and restriction. Yet, such punitive strategies and policies are limited in that they are only surface deep. The moral will of the legal and criminal justice system is currently failing to prevent crime, we can see this because in the main it responds and reacts to crime *post hoc*. While the intention of policy is to protect the community after a crime has been committed, such policies often cause further harm and unintended consequences to others, such as the perpetrators family (for detailed discussions regarding these consequences see Levenson and D'Amora, 2007, Levenson and Cotter, 2005, Levenson et al., 2015). Therefore, after punishment has been served and strategies put in place to control, monitor and survey the perpetrator; little legal and moral action is taken to work with the perpetrator. As noted, there are some areas emerging within this legal domain that consider the

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strengths of people as they are supported by a process of reintegration. However, this remains an underdeveloped arena and one that needs much further attention and exploration.

4. Conclusion

There are pockets of practice and areas of policy and research in which an interest in strengths based approaches are fertile. From this brief review of the literature and use of McNeill's (2012) four forms of rehabilitation to frame the current landscape, such approaches can be seen to provide a humane, ethical, and perhaps effective response to those convicted of crime, desisting, and attempting to reintegrate back into the community. Yet the pervading punitive political climate and continuing fascination with the pathological deficits of the 'criminal', means that positive criminological or strengths based paradigms exist as subsidiary options to genuine approaches to crime. There is a solution however and it is one which draws upon both the recent positive criminological movement and the calling from McNeill, who states that: "a more fully integrated and interdisciplinary theory and practice of rehabilitation urgently needs to be developed" (p.19). This is an important call. A greater interdisciplinary approach to tackling crime and developing theory is indeed needed. It must not fall to criminologists, psychologists, and legal representatives alone, to tackle issues of crime. Instead, a true interdisciplinary approach ought to include disciplines such as sociology; education; philosophy; economics; politics; history; and the arts. It must combine the work of academics and practitioners but also it must not ignore the voices of people interwoven within the criminal justice system, such as those convicted of a crime, victims of a crime and their social networks. Indeed, the development of an interdisciplinary and integrated rehabilitation theory that examines not only the causes of crime but explores strengths based approaches through the psychological, social, moral and judicial elements of reintegration, is needed. With an integrated and interdisciplinary rehabilitation theory, practitioners and researchers can begin to explore and test alternative approaches to rehabilitation, providing policy makers with evidenced based knowledge to guide policy.

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Highlights

- A criminological review of strengths based approaches to crime
- Examination of Fergus McNeill's (2012) four forms of 'offender' rehabilitation
- Discussion focusing on some of the limitations of current approaches to rehabilitation