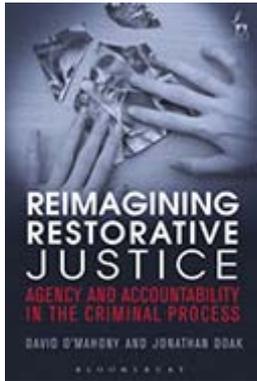


REIMAGINING RESTORATIVE JUSTICE: AGENCY AND ACCOUNTABILITY IN THE CRIMINAL PROCESS



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Restorative justice is a growing field of research, practice and policy. The broad idea of repairing the harmful consequences of a crime by involving direct stakeholders in a constructive dialogue has increasingly drawn the attentions of academics, practitioners and policymakers in the Western countries. However,

criminologists and legal scholars have often denounced the theoretical frameworks used to make sense of the applications of restorative justice as somehow underdeveloped: that is, in need of further conceptual and methodological refinement. David O'Mahony and Jonathan Doak's new and ambitious book aims to address this gap. They endeavor to "reimagine" restorative justice: that is, to rethink the meaning, role and position of this acclaimed development in criminal justice and criminological practice and thinking. To achieve this goal they devise a conceptual and analytical apparatus inspired by certain normative commitments. The application of their framework to current restorative justice practices produces a number of interesting and significant outcomes that render this book a valuable addition to the canon.

The book's premise is a sharp diagnosis that is shared by a good many scholars in the field: "... the underlying theory of restorative justice has not kept pace with the divergent range of practice developments..." As a consequence, the authors claim that a "lack of clarity" has increasingly surrounded the "purpose and function of restorative justice." This supposed chaos is one of the main issues which the book is intended to address. The analysis of the state of art of restorative justice (chapter 1 and 2) is preliminary and strategic to such a quest for clarity. This review is updated and comprehensive, scrutinizing established restorative practices and available theories on multiple and contested aspects of restorative justice (e.g., the role of the state, the nature of restoration, and "mainstreaming").

Once the ground has been prepared, O'Mahony and Doak are ready to "reimagine" restorative justice. From this perspective, the book's kernel is chapter 3, wherein the authors describe their conceptual and analytical toolbox. As a consequence, much of the book's credibility hinges upon how well-crafted, theoretically solid and logically consistent this chapter is. The keyword here is "empowerment," which is a well-known concept in the theory and practice of restorative justice. "Empowerment" means giving people sense of control over what's happening to them (e.g., being harmed by a crime), enabling them to feel they have the resources to tackle the situation whilst offering them actual opportunities to participate in achieving their goals. Both processes and outcomes of restorative justice should empower stakeholders. How? By establishing at the core of restorative practices the basic value of "agency" and by reconceptualizing the intended outcomes of those practices as accountability. O'Mahoney and Doak draw upon the work of a number of scholars from the psychology of empowerment tradition (Zimmermann), and more widely from the restorative justice literature (Zehr, Christie, Braithwaite), in order to further clarify those two basic concepts. They understand "agency" mainly as the capacity to make choices and to have a voice in the criminal justice process, whereas accountability is defined as the condition of taking active responsibility toward people affected by our choices.

The resulting "agency-accountability framework" is not just a desirable normative backbone for a "better" restorative justice, whereby processes and outcomes are cohered in order to empower stakeholders; it is actually a possible lens through which to look at the entire criminal justice system, one that inspires evaluation and reform.

At this point the authors embark upon an ambitious *tour de force*, that is, the rereading and rewriting of the entire restorative justice field in light of their "agency-accountability framework." They try to make sense (and offer antidotes to) a number of well-known vexing questions such as: victims' non-participation in restorative encounters; maintaining respect for offenders' rights; the limitation of community involvement in restorative policing and youth offender panels; reducing recidivism through restorative justice; and handling the side-effects of mainstreaming restorative justice. Additionally, they address issues related to the Euro-continental rough equivalent of restorative justice, that is, penal mediation. This analysis follows a common pattern: definition of the problem, application of an "agency-accountability framework," resulting reevaluation of the problem, and possible solutions.

This *tour de force* generates some thought-provoking outcomes. There is a very interesting problematization of the widely used concept of "victim's satisfaction" as parameter for measuring the success of restorative interventions. From the empowerment perspective, the authors argue, this may be a hollow signifier with potentially no empowering effects whatsoever on victims, unless linked to voluntary participation, shared information and ensuring victim safety.

A further point is the re-reading of the debate on the offender's rights in restorative justice. From the "agency-accountability framework" angle, the voluntariness of restorative practices is a fundamental value to be preserved, since it is not only a condition for respecting the offender's freedom, but also, and critically, a condition for the practice being empowering. Furthermore, the authors stress how the offender's participation in restorative justice has to be "active, productive and capable" in order to be empowering. Similarly, throughout chapter 5, the framework exposes the partial restorativeness of many well known and widely diffused restorative practices, such as youth offender panels and restorative policing, since they only minimally promote stakeholders' agency and accountability. Another significant point raised is the limited importance of the "reducing reoffending" mantra as one of the aims of restorative justice. Whilst the literature converges in identifying an impact of restorative justice on reoffending, the authors claim that, if we look at restorative justice through their framework, reoffending is not a critical point, whilst the empowering effects are primary. The final chapter weaves together the different findings generated by consistently following the interpretive line elaborated in chapter 3.

Reimagining Restorative Justice is a significant addition to the literature for a number of reasons. First, since the literature on restorative justice is more inclined towards evaluation or operational standard-setting than theoretical (re)imagination, the idea of a book aiming to be theoretically generative is a welcome call to make this field deeper and not only wider. Additionally, this work aims to apply a specific theoretical framework to the empirical literature and policy documents in the field, as a way tackling the divide between empirical studies of how restorative justice works and theoretical studies on its meanings and values. Finally, the authors' review of the field is both comprehensive and updated. This is commendable since the field is fast growing: as both a systematic and synthetic exercise it may be of great benefit to both students and researchers. The study accomplishes this in a methodologically rigorous and logically consistent way. The tone is always balanced, which is quite an exception in a field wherein both apostolic enthusiasm and preconceived criticism abound. I should also add that it is well written and readable.

My issues with this book coalesce around one main area: the degree of articulation of the concept of empowerment.

The authors' description of empowerment is certainly clear but very succinct. Less than two pages are dedicated to the basic conceptual issues surrounding the idea of empowerment, and a limited range of scholarly sources are considered. The sections within chapter 3 apply the few conceptual elements singled out at the outset to restorative justice, trying to flesh out the (quite thin) theoretical skeleton presented beforehand. I believe that the limited engagement with empowerment – and especially the lack of critical appraisal of this concept, its diverging uses and political implications – render the applications of their framework less compelling than they could have been. For instance, although the authors do mention the controversial relationships between empowerment, agency and strategies of responsabilisation, they do not tackle the (neoliberal) roots of such a declination of the empowerment/agency dyad. Whilst “empowerment” may sound like a highly liberating concept, it carries the risk of being a means of offloading guilt and control to disenfranchised and dependent people in the name of self-determination. The authors aim to reduce this risk by including in their theory the principle of providing stakeholders with resources to reach empowerment. Unfortunately, this critical point seems conceptually under-articulated, resulting in a downplaying of the dimension of political/social empowerment in favor of a more central role assigned to psychological/individual empowerment. Additionally, the subjectivating effects of empowering “victims” and “offenders” are bypassed, as are the well-known (both in theoretical and empirical criminological literature) disempowering effects of labelling people as “victims” and “offenders.” A thorough discussion of such issues would have likely made their takes on issues such as victims' satisfaction and community reintegration more convincing. From this angle, in fact, victims' satisfaction is not only a hollow signifier when decoupled from agency and accountability but also a possible projection of the victim-as-a consumer-of-justice, including, possibly, restorative justice. Community reintegration is not only a matter of more or less participation in the restorative process, but a conceptual infrastructure (widely discussed in political and social theory) with distinctive political roots and deployments which demand critical appreciation. To this list, I could add the limited “problematization” of crime that this work provides. The book seems to convey the message that both the concept of crime as a breach of interpersonal relationships and the idea of crime as an outcome of primary and secondary criminalization processes are compatible with empowerment. The conceptual and political tensions between these two visions are erased.

A further issue is the philosophical anthropology upon which empowerment theory rests in general, and our authors' version in particular. The stakeholders they refer to throughout the book are stylized as emotional and vulnerable actors, who, however, are consistently making choices or expected to do so. What “kind” of human beings are these? Do they match what empirical studies tell us about “victims,” “offenders” and “communities” in restorative justice? This aspect remains underdeveloped whilst it could have given further depth to their theoretical discussion, if properly addressed.

I would like to (provocatorily) raise a final point which relates to the very premise of this book. As already said, the book's starting point is that the "theory" of restorative justice has not kept pace with the "practice." The status of such a "problem" – a kind of taken-for-granted tenet in much of the recent literature on restorative justice – appears to me as contentious. Firstly, I am not sure what "theory" means here – perhaps the pure intellectual activity happening in university departments? If so, it should be acknowledged that often academics' reflections are far less imaginative than what blossoms out of practitioners' hopes and despair, inventiveness and need. The authors imply that practitioners' atheoretical daily work lacks "clarity" and that this justifies the theory's orderly intervention. However, the epistemic superiority of "theory" with respect to "practice" that the authors seem to endorse is just presupposed. Conversely, I think that one of the strengths of restorative justice has been its reluctance to be encapsulated under normalizing labels, its resistance to easy crystallizations and its tendency to be plural.

These issues make me wonder whether this book, rather than a *re-imagining*, is a (useful) *re-assessing* of restorative justice practices by further developing (more than forging afresh) theoretical tools well known in the field. A reassessment is a different operation to a re-imagining in at least one respect: it lacks the creative force of imagination able to produce much needed realistic utopias in (and against) criminal justice.

O'Mahony and Doak's new book is an updated and comprehensive analysis of restorative justice, one of the best available for methodological rigor and synthesis. I would suggest this reading to upper undergraduate and postgraduate students alike as well as to anyone who is approaching the restorative justice field. Practitioners and researchers perhaps may not find here a fully-fledged and radical reconfiguration of restorative justice; however, they will be pleasantly surprised by numerous prompts to refocus their own imagination on many vexing questions surrounding this frontier of criminal justice.

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