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# REALISING RESTORATIVE JUSTICE

human rights and personal realities

22-24 June, 2016

Leiden The Netherlands

more information at [euforumj.org/events/leiden](http://euforumj.org/events/leiden)



*People's willingness to  
participate in mediation &  
individual factors:*

**The role of Moral Foundations  
and their relation with  
Restorative and Retributive  
orientations**

Pereira, A. & Aertsen, I.  
22 June, 2016

# 1. Research Questions

Is the public willing to, in certain conditions, participate in restorative justice processes such as victim-offender mediation?

Is the decision of participation in a restorative justice process significantly associated and predicted by individual factors?

# I. Moral foundations

MFT

- Harm/Care
- Fairness/reciprocity
  
- Authority/respect
- Ingroup/loyalty

Shweder's moral languages (2003; 2006)

Ethic of autonomy

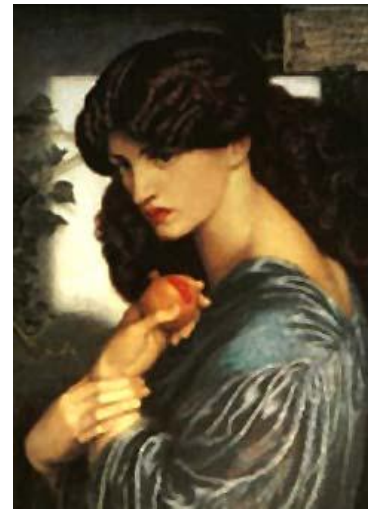
Ethic of community

Pereira, A. & Aertsen, I. (2016)

## Restorative Justice foundational ethics: Masters and Smith (1998) models of justice



Portia (Merchant of Venice 2004)



*Persephone by Rossetti*

Pereira, A. & Aertsen, I. (2016)

## II. Peoples' Justice Perception

- Adriaenssen and Aertsen (2014:13) define punitive attitudes as

*“an attitude towards the goals of punishment, specified forms of penal sanction, the intensity of penal sanctions and specific sentencing policies”.*

- *Attitudes towards the goals of punishment: Retributive and Restorative orientations*
  - *Retributive justice versus Restorative justice ?*
  - *Retribution versus restoration ?*

## 2. Research design

- **Research Design**

- Case vignette survey

- **Sample**

- Non-probabilistic: convenience sample of 147 college students from the University of Porto (Portugal);
- Exclusion criterion: the students' field of study could not be Law or Criminology.

### 3. Results and Discussion

**Table 1.** Proportion of individuals which decides to participate and not to participate in victim-offender mediation after the hypothetical burglary victimization for the full sample and considering gender, previous burglary victimization experience and previous contact with the court.

Decision to participate in the mediation process	Total Sample		$p^1$	Female		Male		$p^2$	Previous burglary victimization experience		$p^3$	Previous contact with Court		Previous contact with Court		$p^4$		
	N	%		N	%	N	%		Yes			No		Yes			No	
			N					%	N	%	N	%	N	%	N	%	N	%
<b>Decides to participate</b>	107	76,4	<b>0,000***</b>	45	84,9	61	71,8	0,075	10	55,6	97	80,2	<b>0,033*</b>	20	69,0	87	79,1	0,249
<b>Decides not to participate</b>	33	23,6		8	15,1	24	28,2		8	44,4	24	19,8		9	31,0	23	20,9	

<sup>1</sup> p-value results from binomial test.

<sup>2</sup> p-value results from  $X^2$ .

<sup>3</sup> p-value results from Fisher's Exact Test .

<sup>4</sup> p-value results from  $X^2$ .

Note : \*\*\* p<0.001 \*\*p<0.01 \* p<0.05

## Axis I of the Discussion:

	Restorative Orientation
Retributive Orientation	0,433**



## Logistic regression models predicting the decision to participate in the victim-offender mediation process

	Model 1		Model 2		Model 3	
	$X^2_{Wald}$	Exp(B)	$X^2_{Wald}$	Exp(B)	$X^2_{Wald}$	Exp(B)
<b>Gender (1=F)</b>	2.629	2.226	.940	1.692	1.061	1.824
<b>Previous burglary victimization experience (1=Yes)</b>	<b>4.226*</b>	<b>.310</b>	<b>5.969*</b>	<b>.200</b>	<b>4.642*</b>	<b>.225</b>
<b>Previous contact with Court (1=Yes)</b>	.485	.706	.925	.588	.000	1.001
<b>Harm/Care (MF)</b>			.036	.987	.011	.992
<b>Fairness/Reciprocity (MF)</b>			<b>6.402*</b>	<b>1.223</b>	3.016	1.163
<b>Ingroup/Loyalty (MF)</b>			<b>6.697**</b>	<b>0.836</b>	<b>6.972**</b>	<b>.816</b>
<b>Authority/Respect (MF)</b>			.483	.963	.282	.968
<b>Retributive Orientation</b>					<b>4.081*</b>	<b>.566</b>
<b>Restorative Orientation</b>					<b>8.256**</b>	<b>2.440</b>
<b>Constant</b>	<b>15.368***</b>	<b>3.329</b>	1.317	3.993	.508	2.943
<b>G<sup>2</sup></b>	7.556		<b>23.739***</b>		<b>34.480***</b>	
<b>X<sup>2</sup><sub>HL</sub></b>	.753		9.200		7.382	
<b>R<sup>2</sup> (Nagelkerke)</b>	.083		.244		.342	

Pereira, A. & Aertsen, I. (2016)

## Axis I of the Discussion:

- According to Walgrave (2008), retribution has three main elements:

the blameworthiness  
of the unlawful  
behavior is clearly  
communicated

the responsibility  
of the offender  
is indicated

the moral  
unbalance  
provoked by  
crime is  
repaired

- Walgrave (2008) uncouples punishment from retribution.

## Axis I of the Discussion:

- In this sense, the work of Walgrave (2008) proposes the existence of two different forms of operationalization of the retributive goal:

**Punitive retributivism**



Through the application of punishment as intentional infliction of pain

**Constructive retributivism**



Through restorative justice

As Taoism explains the “*yin and yang refer to any pair of... seemingly opposed forces that are in fact complementary and interdependent*”

(Haidt, 2012: 228).

## Axis I of the Discussion:

- Positive association between the retributive and restorative orientations



The three elements that compose retribution are answered in restorative justice processes, but in a *constructive manner*

- ✓ The retributive orientation predicts negatively the decision of participation in mediation
- ✓ The restorative orientation predicts positively and strongly the decision of participation in the victim-offender mediation process.



The *Retributive and Restorative Justice Orientations scale* (Okimoto, Wenzel & Feather, 2012) defines the retributive orientation as *punitive retributivism*, not as *constructive retributivism*.

Neira, A. & Aertsen, I. (2016)

## Axis II of the Discussion

	1.	2.	3.	4.	5.	6.	7.	8.
<b>1. Gender (1=F)</b>								
<b>2. Previous burglary victimization experience (1=Yes)</b>	.102							
<b>3. Previous contact with Court (1=Yes)</b>	<b>-.304***</b>	.000						
<b>4. Harm/Care (MF)</b>	<b>.203*</b>	.015	-.085					
<b>5. Fairness/Reciprocity (MF)</b>	.162	.015	-.054	<b>.651***</b>				
<b>6. Ingroup/Loyalty (MF)</b>	-.077	-.069	-.036	<b>.302***</b>	<b>.288***</b>			
<b>7. Authority/Respect (MF)</b>	.085	-.051	-.095	<b>.238**</b>	<b>.285***</b>	<b>.535***</b>		
<b>8. Retributive orientation</b>	.125	.058	.072	<b>.257**</b>	<b>.283***</b>	<b>.338***</b>	<b>.373***</b>	
<b>9. Restorative orientation</b>	.115	-.063	-.115	<b>.371***</b>	<b>.455***</b>	<b>.213*</b>	<b>.224**</b>	<b>.433***</b>

## Departing from our analysis in Axis I...

- Controlling for the retributive orientation:
  - ✓ the associations found between the restorative orientation and the ingroup/loyalty and authority/respect moral foundations were no longer significant.
  - ✓ the associations between the restorative orientation and the harm/care and fairness/reciprocity moral foundations remained significant.
- Controlling for the restorative orientation:
  - The associations between the retributive orientation and the harm/ care and fairness/reciprocity moral foundations became non- significant.
  - The retributive orientation remained significantly associated with the ingroup/loyalty and authority/respect set of moral intuitions .

## Integrative model for the Restorative orientation

	Model 1		Model 2	
	$\beta$	T	$\beta$	T
<b>Constant</b>		<b>32.548***</b>		<b>4.610***</b>
<b>Gender (1=F)</b>	.093	1.039	.025	.302
<b>Previous burglary victimization experience (1=Yes)</b>	-.068	-.786	-.062	-.814
<b>Previous contact with Court (1=Yes)</b>	-.111	-1.234	-.096	-1.213
<b>Harm/Care (MF)</b>			.001	.009
<b>Fairness/Reciprocity (MF)</b>			<b>.416</b>	<b>3.421***</b>
<b>Ingroup/Loyalty (MF)</b>			.088	.869
<b>Authority/Respect (MF)</b>			.072	.741
<b>R</b>		.175		.520
<b>R<sup>2</sup></b>		.031		.271
<b>Adjusted R<sup>2</sup></b>		.009		.231
<b>F</b>		1.386		<b>6.792***</b>

## Fairness/reciprocity moral foundation and the Restorative orientation

- Masters and Smith (1993)
- Shweder's ethic of autonomy departs from an idea of self-interest:

*"(...) based on the idea that people are, first and foremost, autonomous individuals with wants... needs" to explain why "(...) societies develop moral concepts such as rights, liberty and justice"*  
(Haidt, 2012: 84).

Fiske (1998) *"even self-interested individualism itself is a form of culturally organized interdependence in which people organize their interaction with reference to models of "self-expression" and "self-esteem"—which are ...oriented to social values... competitive models of "success" ... are no more natural and no more fundamental than cultural models of altruistic caring"*

Walgrave (2008: 82) *"we are all individuals with particular needs, wishes and ambitions, but we are also living with others...the concept of common self-interest actively joins both in orienting self-interest to a project of common self-interest, which is seen in turn to serve individual self-interests"*



## Integrative model for the Retributive orientation

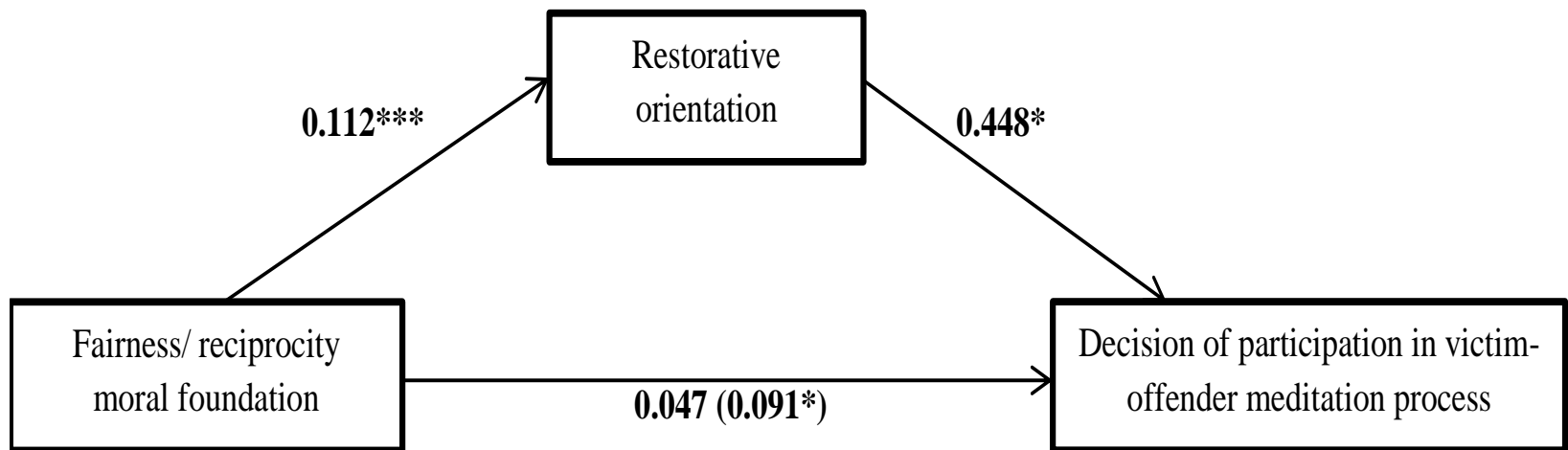
	Model 1		Model 2	
	$\beta$	T	$\beta$	T
<b>Constant</b>		<b>32.066***</b>		<b>4.737***</b>
<b>Gender (1=F)</b>	.135	1.499	.107	1.286
<b>Previous burglary victimization experience (1=Yes)</b>	.030	.342	.059	.767
<b>Previous contact with Court (1=Yes)</b>	.100	1.115	.130	1.631
<b>Harm/Care (MF)</b>			-.035	-.282
<b>Fairness/Reciprocity (MF)</b>			.194	1.583
<b>Ingroup/Loyalty (MF)</b>			.189	1.861
<b>Authority/Respect (MF)</b>			<b>.253</b>	<b>2.582*</b>
<b>R</b>		.149		.509
<b>R<sup>2</sup></b>		.022		.259
<b>Adjusted R<sup>2</sup></b>		.000		.219
<b>F</b>		1.003		<b>6.404***</b>

## Logistic regression models predicting decision to participate in the victim-offender mediation process

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**Indirect effect of the fairness/reciprocity moral foundation on the decision of participation in the victim-offender mediation process through the restorative orientation.**



*“it is this intuition of having a common self-interest that motivates victims and offenders to meet and to try to understand one another”*  
(Walgrave, 2008: 82)

## 4. Final Remarks: Applicability of the results to practice

- Exploration of the effect of moral priming the presentation of the mediation process at the letter of presentation and at the preparatory meeting on the decision of participation in the preparatory meeting and the decision of effective participation in the mediation process, considering the individuals' pattern of reliance on the different moral foundations and the relationships found between moral foundations and the retributive and restorative orientations and, finally, the decision of participation in mediation.

# Thank you for your attention!!!!

Questions and Feedback are  
welcome!!!!

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