

Punishing Juveniles: Principle and Critique EDITED BY IDO WEIJERS
AND ANTONY DUFF. [Oxford: Hart Publishing, 2002. viii + 215 pp.
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A total of nine substantive chapters, neatly divided into three separate sections, are found in this volume on the subject of juvenile justice. The first section looks at the development of the juvenile justice system from a historical perspective. The pressure to “save” children from the deleterious effects of the penal system in the early twentieth century is traced, up to the more recent swings in public opinion for harsher penalties as a consequence of (a perceived) rise in juvenile crime and loss of faith in the rehabilitative ideal. A danger with writings on the juvenile justice system in the English language is that too often it is the English and American movements toward a more punitive regime that are analysed. In this respect, the chapter by Professor Junger-Tas is refreshing in that she deals with the similar twists and turns in the juvenile justice system in Europe in general, and the Netherlands particular, in her chapter (“The Juvenile Justice System: Past and Present Trends in Western Society”). It is interesting to note that the welfare approach

continues to retain much of its influence in many of the continental systems such as Belgium, France and Germany.

The present problem confronting reformers of the juvenile justice system in any part of the world is the “double paradox” described by Professor Weijers in his chapter (“The Moral Dialogue: a Pedagogical Perspective on Juvenile Justice”). On the one hand, children are regarded as less responsible for their actions in view of their developmental stage. On the other hand, there is also a wish to make them learn from their mistakes by holding them individually accountable for what they have done. The most promising approach to emerge from the criminal justice discourse in recent years where these conflicting aims are reconciled is the restorative justice approach where the offender actively confronts the damage and impact of his act, and performs acts of reparation either to the victim of the crime or the community at large. However, disagreement remains as to conditions under which restoration can be achieved, the continued relevance of punishment/retribution, and the role of shame and guilt in this approach. These issues are discussed in the other two sections of the book.

One advantage of a collection of essays by different scholars as opposed to a work by a single author is that the reader gains differing opinions on the same topic. Professor Walgrave (“Not Punishing Children, but Committing them to Restore”), for example, argues that punishment (in the sense of intentional infliction of pain) has no role in the restorative justice approach, whereas Professor Duff (“Punishing the Young”) argues that retributive penalties are not inconsistent with the restorative justice approach through treating juveniles as responsible agents. Punishment is reconceptualised as a communicative enterprise which communicates disapproval of the offender’s act, persuades him to repent for the crime, and to make acts of reparation. Professor Weijers agrees that the communicative approach solves the double paradox of juvenile justice, but he doubts if the occasion of punishment offers this possibility of a moral dialogue. In inquisitorial systems of criminal justice, the moral dialogue can take place within the trial process, but for adversarial systems where the main participants are the prosecutor and defence counsel, rather than the offender himself, he advocates the creation of alternative processes such as family conferences to enable this moral dialogue to take place.

The third section of the book analyses the concepts and use of shame, remorse and guilt within the restorative approach. Psychological differences between them, and the proper emotion that ought to be evoked, are discussed. A recurring conclusion is that remorse rather than shame or guilt holds the most potential for fulfilling the objectives of the restorative justice approach.

The issues raised in this volume are of obvious importance to anyone involved in, or who seeks a better understanding of, juvenile justice. These issues have a particular resonance for readers from Singapore where the

restorative justice model is the stated philosophy of the Juvenile Court of Singapore. Family conferencing based on Braithwaite's model of reintegrative shaming is also practiced here. The call by Professors Morris ("Shame, Guilt and Remorse: Experiences from Family Group Conferences in New Zealand"), Taylor ("Guilt, Shame and Shaming") and Olthof ("Shame, Guilt, Antisocial Behaviour and Juvenile Justice: A Psychological Perspective") in the third section of the book for greater study of the methods used in family conferences, and the emotions evoked, would hopefully caution reformers in Singapore as well.

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