

## CONDITIONS OF SUCCESSFUL REINTEGRATION CEREMONIES

### *Dealing with Juvenile Offenders*

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*Shifting criminal justice practices away from stigmatization and toward reintegration is no small challenge. The innovation of community conferences in New Zealand and Australia has two structural features that are conducive to reintegrative shaming: (a) selection of the people who respect and care most about the offender as conference participants (conducive to reintegration); and (b) confrontation with victims (conducive to shaming). Observation of some failures and successes of these conferences in reintegrating both offenders and victims is used to hypothesize 14 conditions of successful reintegration ceremonies.*

The spectre of failure haunts modern criminology and penology. Deep down many feel what some say openly—that ‘nothing works’: that despite decades of study and debate, we are no nearer deterrence than we ever were and/or that more ‘humane’ forms of treatment are mere masquerades concealing a descent into Kafkaesque bureaucracy where offenders suffer a slow and silent suffocation of the soul. Worse still, we fear that even when something does work, it is seen to do so only in the eyes of certain professionals, while ‘outside’ the system ordinary citizens are left without a role or voice in the criminal justice process.

This paper takes a different view. Rejecting the pessimism that pervades discussions about crime and punishment, it offers an optimistic view of at least one area—the punishment of juvenile offenders. It argues that it is possible to develop practices that ‘work’—both in the sense of reducing recidivism and reintegrating offenders into a wider web of community ties and support and, at the same time, in giving victims a ‘voice’ in a fashion that is both satisfying and also socially productive. Further, it links a theory (reintegrative shaming) and a practice (the reintegration ceremony) which explain how to understand and how to implement this success.

While there are elements that are quite distinctive about both the theory and practice of reintegrative shaming, there is also a great deal in common with the theory and practice of ‘making amends’ (Wright 1982); restorative justice (Cragg 1992; Galaway and Hudson 1990; Zehr 1990); reconciliation (Dignan 1992; Marshall 1985; Umbreit 1985); peacemaking (Pepinsky and Quinney 1991); redress (de Haan 1990) and feminist abolitionism (Meima 1990). We differ from abolitionists, however, in believing that it is right to shame certain kinds of conduct as criminal in certain contexts.

The rest of the paper has two sections. The second section outlines some fieldwork

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which we have undertaken to examine such ceremonies, makes a relatively brief series of arguments which connect the theory of reintegrative shaming to the seminal paper by Garfinkel on degradation ceremonies and outlines how the latter must be transformed to cover reintegration ceremonies. The major point of this section is a specification of the conditions for successful reintegration ceremonies. The third and longer section follows the logic of such ceremonies, illustrating each point with material derived from the fieldwork and offering comments about policy and implementation.

*Background to the Argument: Reintegrative Shaming in Theory and Practice*

The theory of reintegrative shaming (Braithwaite 1989, 1993) has been offered as a way of achieving two major aims. First, to recast criminological findings in a more coherent and productive fashion. Secondly, to offer a practical basis for a principled reform of criminal justice practices. Central to the endeavour is an understanding of the relationship between crime and social control which argues for the shaming of criminal *acts* and the subsequent reintegration of deviant *actors* once suitable redress and apology have been made. It is argued that societies that have low rates of common types of crime (such as Japan) rely more upon this type of social control, working hard at reforming the deviant through reconstructing his or her social ties. Conversely, high crime societies (such as the US) rely upon stigmatization, thus doing little to prevent cycles of re-offending.

This theory has clear practical implications and people involved in various reform programmes have drawn on it in various ways—sometimes as an inspiration for reform blueprints (see e.g., Howard and Purches 1992; Mugford and Mugford 1991, 1992; O'Connell and Moore 1992), often as a way to articulate what they are trying to achieve and give it a sharper focus. Some, such as the New Zealand Maoris, have comprehended and applied the principles of the theory for hundreds of years (Hazlehurst 1985). Where we have heard of or been involved in programmes, we have sought to carry out some limited fieldwork which would help us to understand both what is practically possible and how we might refine our ideas.

This paper utilizes such ongoing fieldwork, specifically observations of community conferences for 23 juvenile offenders in Auckland, New Zealand, and Wagga Wagga, Australia. In New Zealand, these conferences are called family group conferences. While there are differences between the approaches adopted in the two cities, both involve diverting young offenders from court and keeping them out of exclusionary juvenile institutions. Both programmes subscribe to the philosophy of reintegrative shaming as outlined above. Shame and shaming is commonly used in both programmes to describe what is going on; reintegration is commonly used in Wagga, while healing is more commonly used in Auckland for this aspect of the process. The approach in both cities involves assembling in a room the offender and supporters of the offender (usually the nuclear family, often aunts, uncles, grandparents, sometimes neighbours, counsellors, even a teacher or football coach) along with the victim of the crime (and supporters of the victim, usually from their nuclear family) under the supervision of a co-ordinator—a police sergeant in Wagga, a youth justice co-ordinator from the Department of Social Welfare in Auckland. Auckland conferences usually only have single offenders, but can have multiple victims in the room. Wagga conferences often bring together multiple offenders who were involved jointly in the same offences with

multiple victims. In the conferences we observed, the number of people in the room ranged from five to 30. More systematic data from New Zealand puts the average attendance at nine (Maxwell and Morris 1993: 74). At both sites, the offender(s) plays an important role in describing the nature of the offence(s). The psychological, social, and economic consequences of the offence—for victims, offenders, and others—are elicited in discussions guided by the co-ordinator. Disapproval, often emotional disapproval, is usually communicated by victims, and often by victim supporters and family members of the offender. At the same time, the professional who co-ordinates the conference strives to bring out support for and forgiveness towards the offender from participants in the conference.

A striking common feature of both locations is that the formal properties of the cautioning conference have come to take on a ceremonial or ritual character, based partly upon 'common sense', itself expanded and tempered by experiences of what does and does not seem to work well. With varying degrees of accomplishment, co-ordinators have developed procedures designed to ensure that the potential for shaming and reintegration of offenders is realized in practice. In so doing, they have effectively invented the reintegration ceremony, even if that is not what they would always call it. In this ceremony, identities are in a social crucible. The vision that an offender holds of himself as a 'tough guy' or that victims have of him as a 'mindless hooligan' are challenged, altered, and recreated (for example, as a 'good lad who has strayed into bad ways').

Viewing these events as a reintegration ceremony recalls the seminal contribution of Harold Garfinkel (1956) on 'Conditions of Successful Degradation Ceremonies'. Perhaps the same kind of social structures and socio-psychological processes he analyses in that paper are at work here, but in different combination and directed to different ends? Posing the problem that way has been a productive way for us to organize our views of reintegration ceremonies and so we choose to use the Garfinkel approach as a way of outlining this rather different set of events.

By degradation ceremonies, Garfinkel meant communicative work that names an actor as an 'outsider', that transforms an individual's total identity into an identity 'lower in the group's scheme of social types' (1956: 420). Most criminal trials are good examples of status degradation ceremonies and this view of them became a central idea in the sociology of deviance, especially among labelling theorists (see Becker 1963; Schur 1973). For Erikson (1962: 311), for example, this communicative work constitutes 'a sharp rite of transition at once moving him out of his normal position in society and transferring him into a distinctive deviant role'. Moreover, Erikson continues, an '... important feature of these ceremonies in our culture is that they are almost irreversible' (1962: 311).

Such a view, however, is simplistic, exaggerated, and overly deterministic (Braithwaite 1989). Most people who go into mental hospitals come out of them; many alcoholics give up drinking; most marijuana users stop being users at some point in their lives, usually permanently; most kids labelled as delinquents never go to jail as adults. Labelling theorists did useful empirical work, but their work was myopic, exclusively focused on 'front-end' processes that certify deviance. Above all, they envisaged individuals as having 'total identities'. We suggest that by employing instead the notion of multiple identities one can recast the interest in transformation ceremonies, asking questions as much about ceremonies to decertify deviance as to certify it.

While degradation ceremonies are about the sequence disapproval–degradation–exclusion, reintegration ceremonies are about the sequence disapproval–non-degradation–inclusion. In a reintegration ceremony, disapproval of a bad act is communicated while sustaining the identity of the actor as good. Shame is transmitted within a continuum of respect for the wrongdoer. Repair work is directed at ensuring that a deviant identity (one of the actor's multiple identities) does not become a master status trait that overwhelms other identities. Communicative work is directed at sustaining identities like daughter, student, promising footballer, in preference to creating 'master' identities like delinquent.

Considerable analytic and policy implications follow this refocusing from degradation to reintegration. Indeed, we suggest that the implication is a redesign of everything about contemporary criminal justice systems and everything about the labelling theory critique of those institutions. To achieve this, however, it is necessary to show where one must transcend earlier accounts. As a first step, we juxtapose in Table 1 Garfinkel's conditions of successful degradation ceremonies with our own conditions of successful ceremonies of reintegration. These latter were condensed from our observations and cast in a form that allows comparison and contrast. Eight of the conditions we specify for reintegration ceremonies involve presenting a deliberate twist on Garfinkel's conditions. The other six are based on observations and discussions and, we feel, address some of the theoretical neglects of the ethnomethodological tradition.

### *Reintegration Ceremonies in Practice*

In this section, we outline each of the 14 conditions identified in Table 1. For each one, we provide a detailed discussion, drawing on our field work observations.

*(1) The event, but not the perpetrator, is removed from the realm of its everyday character and is defined as irresponsible, wrong, a crime*

Courtroom ceremonies tend to degradation rather than reintegration—that is, they remove both event *and* perpetrator from the everyday domain in just the way suggested by Garfinkel. This is because the production-line technocracy and discourse of legalism makes it easy for the offender to sustain psychological barriers against shame for acts that the court defines as wrongful. It is hard for a person who we do not know or respect, who speaks a strange legal language, who forces us into a relationship of feigned respect by making us stand when she walks into the room, to touch our soul. Thus event and perpetrator remain united. One casts out both or neither. So the denunciation of the judge may degrade the offender, but the process is so incomprehensible, such a blur, that all the judge usually accomplishes is some authoritative outcasting.

In contrast to formal courtrooms, community conferences in New Zealand and Wagga are held in less formal spaces. Conference co-ordinators purposively assemble actors with the best chance of persuading the offender of the irresponsibility of a criminal act. Close kin are prime candidates for commanding the respect that enables such persuasion, but with homeless or abused children the challenge is to discover who

# CONDITIONS OF SUCCESSFUL REINTEGRATION CEREMONIES

TABLE 1

| Conditions of successful degradation ceremonies   | Conditions of successful reintegration ceremonies  |
|---|--|
| <p>1. Both event and perpetrator must be removed from the realm of their everyday character and be made to stand as 'out of the ordinary'.</p> <p>2. Both event and perpetrator must be placed within a scheme of preferences that shows the following properties:</p> <p>(a) The preferences must not be for event A over event B, but for event of <i>type</i> A over event of <i>type</i> B. The same typing must be accomplished for the perpetrator. Event and perpetrator must be defined as instances of a uniformity and must be treated as a uniformity throughout the work of the denunciation.</p> <p>(b) The witnesses must appreciate the characteristics of the typed person and event by referring the type to a dialectical counterpart. Ideally, the witnesses should not be able to contemplate the features of the denounced person without reference to the counter-conception, as the profanity of an occurrence or a desire or a character trait, for example, is clarified by the references it bears to its opposite, the sacred.</p> <p>3. The denouncer must so identify himself to the witnesses that during the denunciation they regard him not as a private but as a publicly known person.</p> <p>4. The denouncer must make the dignity of the supra-personal values of the tribe salient and accessible to view, and his denunciation must be delivered in their name.</p> <p>5. The denouncer must arrange to be invested with the right to speak in the name of these ultimate values. The success of the denunciation will be undermined if, for his authority to denounce, the denouncer invokes the personal interests that he may have acquired by virtue of the wrong done to him or someone else.</p> <p>6. The denouncer must get himself so defined by the witnesses that they locate him as a supporter of these values.</p> <p>7. Not only must the denouncer fix his distance from the person being denounced, but the witnesses must be made to experience their distance from him also.</p> <p>8. Finally, the denounced person must be ritually separated from a place in the legitimate order, i.e., he must be defined as standing at a place opposed to it. He must be placed 'outside', he must be made 'strange'.</p> | <p>1. The event, <i>but not the perpetrator</i>, is removed from the realm of its everyday character and is defined as irresponsible, wrong, a crime.</p> <p>2. Event and perpetrator must be uncoupled rather than defined as instances of a profane uniformity. The self of the perpetrator is sustained as sacred rather than profane. This is accomplished by comprehending: (a) how essentially good people have a pluralistic self that accounts for their occasional lapse into profane acts; and (b) that the profane act of a perpetrator occurs in a social context for which many actors may bear some shared responsibility. Collective as well as individual shame must be brought into the open and confronted.</p> <p>3. Co-ordinators must identify themselves with all private parties—perpetrators, their families, victims, witnesses—as well as being identified with the public interest in upholding the law.</p> <p>4. Denunciation must be both by and in the name of victims and in the name of supra-personal values enshrined in the law.</p> <p>5. Non-authoritative actors (victims, offenders, offenders' families) must be empowered with process control. The power of actors normally authorized to issue denunciations on behalf of the public interest (e.g., judges) must be decentred.</p> <p>6. The perpetrator must be so defined by all the participants (particularly by the perpetrator himself) that he is located as a supporter of both the supra-personal values enshrined in the law and the private interests of victims.</p> <p>7. Distance between each participant and the other participants must be closed; empathy among all participants must be enhanced; opportunities must be provided for perpetrators and victims to show (unexpected) generosity toward each other.</p> <p>8. The separation of the denounced person must be terminated by rituals of inclusion that place him, even physically, inside rather than outside.</p> <p>9. The separation of the victim, any fear or shame of victims, must be terminated by rituals of reintegration.</p> <p>10. Means must be supplied to intervene against power imbalances that inhibit either shaming or reintegration, or both.</p> <p>11. Ceremony design must be flexible and culturally plural, so that participants exercise their process control constrained by only very broad procedural requirements.</p> <p>12. Reintegration agreements must be followed through to ensure that they are enacted.</p> <p>13. When a single reintegration ceremony fails, ceremony after ceremony must be scheduled, never giving up, until success is achieved.</p> <p>14. The ceremony must be justified by a politically resonant discourse.</p> |

the child does respect.<sup>1</sup> Perhaps there is an uncle who he feels sticks up for him, a football coach he admires, a grandmother he adores. The uncle, the football coach, and the grandmother must then be urged to attend. Normally, they are flattered to be told that they have been nominated as one of the few human beings this young person still respects. So they come. They come when the appeal to them is 'to support and help the young person to take responsibility for what they have done'. Thus the setting and the ceremonial character seek to 'hold' the offender while allowing separation from the offence.

Victims play a crucial role in this, for they are in a unique position to communicate the irresponsibility of the *act*. Much delinquency is casual and thoughtless (O'Connor and Sweetapple 1988: 117–18). The offenders who thought all they had done was to take 50 dollars from the house of a faceless person find that person is a vulnerable elderly woman who did without something significant because of the loss of the money. They learn that as a result of the break-in she now feels insecure in her own home, as does her next door neighbour. Both have invested in new security locks and are afraid to go out in the street alone because they have come to view the neighbourhood as a dangerous place. Collateral damage from victimization is normal rather than exceptional and co-ordinators become expert at drawing it out of victims and victim supporters. Techniques of neutralization (Sykes and Matza 1957) that may originally have been employed, such as '... I am unemployed and poor while the householder is employed and rich' are seriously challenged when confronted by the elderly victim. Sometimes this shocks the offender. Other times it does not. Many of the worst offenders have developed a capacity to cut themselves off from the shame for exploiting other human beings. They deploy a variety of barriers against feeling responsibility. But what does not affect the offender directly may affect those who have come to support her. The shaft of shame fired by the victim in the direction of the offender might go right over the offender's head, yet it might pierce like a spear through the heart of the offender's mother, sitting behind him. It is very common for offenders' mothers to start to sob when victims describe their suffering or loss. So while display of the victim's suffering may fail to hit its intended mark, the anguish of the offender's mother during the ceremony may succeed in bringing home to the offender the need to confront rather than deny an act of irresponsibility.

Indeed, in our observations mothers often seize the ceremony of the occasion to make eloquent and moving speeches that they have long wanted to make to their child:

I imagine life as a family living in a valley and the children gradually start to venture out from the family house in the valley. Eventually they have to climb up the mountain to get out of the valley. That mountain is adolescence. At the top of the mountain is a job. When they have that they can walk gently down the other side of the mountain into life. But there's another way they can go. They can decide not to climb the path up the mountain but to wander in the easier paths out into the valley. But those paths, while they are easier, lead to greater and greater

<sup>1</sup> A common cynicism when we have spoken to American audiences about these ideas has been that it sounds like a good idea for sweet, sheep-loving New Zealanders, with their intact families, but that it could never work in the face of the family disintegration of American slums. This is an odd perspective, given the empirical reality in New Zealand that Youth Aid Officers saw 'poor family support/background' as the most important factor *in favour of* opting for referral of a case to a family group conference rather than some other disposition (Maxwell and Morris 1993: 60–1). Moreover, in practice, 14 per cent of young people processed in family group conferences do not live with their families, compared to 4 per cent of those processed by informal police diversion (Maxwell and Morris 1993: 64, 66).

darkness. I'm concerned that my little boy took one of those paths and I'm losing him into the darkness.

Co-ordinators work at bringing out collateral damage. Parents are asked: 'How did this episode affect the family?' Offenders are asked: 'How did mum and dad feel about it?' Typically, the offender will admit that their kin were 'pretty upset'. In Wagga, the co-ordinator then routinely asks why and in a large proportion of cases, young people will say something to the effect that the parents care about them or love them. This is the main chance the reintegrative co-ordinator is looking for. Once this is uttered, the co-ordinator returns to this again and again as a theme of what is being learnt from the conference. In the wrap-up, he will reaffirm that 'Jim has learned that his mum and dad care a lot, that his Uncle Bob wants to help . . .' This is not to deny that this strategy of reintegration can be mismanaged:

Co-ordinator: 'James, why are your parents upset?'

James: [Silence]

Co-ordinator: 'Do you think it's because they care about you?'

James: 'Don't know.'

Another way this path to reintegration can be derailed is when the parents indulge in outcasting attacks on their child. Co-ordinators sometimes manage this problem by intervening to divert stigmatization before it gets into full swing:

Mother: 'He used to be a good boy until then.'

Co-ordinator interrupts: 'And he still is a good boy. No one here thinks we're dealing with a bad kid. He's a good kid who made a mistake and I hope he knows now that that's what we all think of him.'

Even when serious stigmatic attacks are launched, the communal character of the encounter creates the possibility of reintegrative amelioration. The worst stigmatic attack we observed arose when the mother of a 14-year-old girl arrived at the conference. She told the co-ordinator that she was unhappy to be here. Then when she saw her daughter, who preceded her to the conference, she said: 'I'll kill you, you little bitch.' A few minutes into the conference, the mother jumped up from her seat, shouting: 'This is a load of rubbish.' Then pointing angrily at her shaking daughter, she said: 'She should be punished.' Then she stormed out. These events might have created a degradation sub-ceremony of great magnitude. Instead, the other participants in the room were transformed by it and developed a quite different direction. Victim supporters who had arrived at the conference very angry at the offender were now sorry for her and wanted to help. They learnt she was a street kid and their anger turned against a mother who could abandon her daughter like this. This dramatic example highlights two common processes seen in the conferences—the alteration of perspectives and the generation of social support. We believe these processes occur for two reasons:

1. the more serious the delinquency of the young offender, the more likely it is to come out that she has had to endure some rather terrible life circumstances. Rather than rely on stereotypes they see the offender as a whole person (a point we return to later); *and*

2. participants at the conference have been invited on the basis of their capacity to be supportive to either the offender or the victim. Being supportive people placed in a social context where supportive behaviour is expected and socially approved, they often react to stigmatic attacks with gestures of reintegration.

Even as they use stigmatic terms, ordinary citizens understand the concept of communicating contempt for the deed simultaneously with respect for the young person. An adult member of the Maori community caused tears to trickle down the cheeks of a huge, tough 15-year-old with the following speech:

Stealing cars. You've got no brains, boy . . . But I've got respect for you. I've got a soft spot for you. I've been to see you play football. I went because I care about you. You're a brilliant footballer, boy. That shows you have the ability to knuckle down and apply yourself to something more sensible than stealing cars . . . We're not giving up on you.

*(2) Event and perpetrator must be uncoupled rather than defined as instances of a profane uniformity. The self of the perpetrator is sustained as sacred rather than profane. This is accomplished by comprehending: (a) how essentially good people have a pluralistic self that accounts for their occasional lapse into profane acts; and (b) that the profane act of a perpetrator occurs in a social context for which many actors may bear some shared responsibility. Collective as well as individual shame must be brought out into the open and confronted*

In speaking of degradation ceremonies, Garfinkel (1956: 422) says: 'Any sense of accident, coincidence, indeterminism, chance or momentary occurrence must not merely be minimised. Ideally, such measures should be inconceivable; at least they should be made false.' There must be no escape, no loophole. Rather, degradation insists upon fitting an identity of total deviant with a single, coherent set of motives into a black and white scheme of things. In contrast, a condition of successful reintegration ceremonies is that they leave open multiple interpretations of responsibility while refusing to allow the offender to deny personal responsibility entirely. In degradation ceremonies, the suppression of a range of motives and the insistence upon one account of responsibility allow the criminal to maintain (at least in her own eyes) an identity for herself as 'criminal as victim', to dwell on the irresponsibility of others or of circumstances. When the crime is constructed as the bad act of a good person, uncoupling event and perpetrator, a well-rounded discussion of the multiple accountabilities for the crime does not threaten the ceremony as an exercise in community disapproval. The strategy is to focus on problem rather than person, and on the group finding solutions to the problem. The family, particularly in the New Zealand model, is held accountable for coming up with a plan of action, which is then ratified by the whole group. The collective shame and collective responsibility of the family need not detract from individual responsibility for the crime nor from community responsibilities, such as to provide rewarding employment and schooling for young people. Yet the collective assumption of responsibility moves the ceremony beyond a permanent preoccupation with the responsibility of the individual that might stall at the point of stigmatization and the adoption of a delinquent identity. The practical task of designing a plan of action is a way of putting the shame behind the offender, of moving from a shaming phase to a reintegration phase. Agreement on the action plan can be an



even more ceremonial decertification of the deviance of the offender through institutionalizing a signing ceremony where offender, family, and police put their signatures side by side on the agreement. In signing such an agreement, the responsible, reintegrated self of the offender distances itself from the shamed behaviour. The sacredness of the self is sustained through its own attack upon and transcendence of the profane act. Similarly, the collectivity of the family acknowledges its shame and takes collective responsibility for problem solving in a way that transcends its collective shame.

*(3) Co-ordinators must identify themselves with all private parties—perpetrators, their families, victims, witnesses—as well as being identified with the public interest in upholding the law*

Garfinkel's third condition of successful degradation ceremonies is that the denouncer must claim more than a private role but must communicate degradation in the name of an [imaginary, unified, and static] public. This condition is explicitly incorporated into Western criminal law, wherein the police and the judge in a criminal trial are legally defined as fiduciaries of public rather than private interests. In community conferences, this totalizing fiction is put aside. Co-ordinators have responsibilities to, and identify with, a plurality of interests. Reintegration and consensus on an agreement is quite unlikely unless the co-ordinator identifies with and respects all the interests in the room. Outside interests will put the agreement at risk unless the co-ordinator also speaks up on behalf of any public interest beyond the set of private interests assembled for the conference. This sounds demanding, perhaps even impossible. How can so many interests be juggled and a workable outcome reached? Our answer is simple—in practice consensus is reached more than 90 per cent of the time at both research sites and in most of these cases the consensus is implemented (Maxwell and Morris 1993: 121).<sup>2</sup>

*(4) Denunciation must be both by and in the name of victims and in the name of supra-personal values enshrined in the law*

For Garfinkel, degradation ceremonies are enacted in the name of the supra-personal values of the tribe. We have seen that successful reintegration requires confronting the private hurts and losses from the crime as well. A key condition for the success of reintegration ceremonies is to get the victim to turn up. Where victims are institutions (like schools), this means getting victim representatives to turn up (e.g., the principal, elected student representatives). Blagg (1986) has discussed the greater problems of making reparation meaningful with impersonal victims. Victim or victim representative attendance has been nearly universally achieved in Wagga, but in New Zealand the success rate has been under 50 per cent (Maxwell and Morris 1993: 75), though there is reason to suspect that the latter disappointing statistic has been improving in more recent times in New Zealand.<sup>3</sup> Some will be surprised at the near-universal

<sup>2</sup> See, however, the discussion of professionally manipulated consensus under point (5) and in the conclusion to this article.

<sup>3</sup> The main reason for non-attendance for victims in New Zealand was simply their not being invited, followed by being invited at a time unsuitable to them (Maxwell and Morris 1993: 79), a result of poor understanding of the philosophy of the reform by conference co-ordinators, heavy workload, and practical difficulties, such as the police failing to pass on the victim's address. Only 6 per cent of victims said they did not want to meet the offender (Morris *et al.*, in press).

success in Wagga and the recent higher success in New Zealand in getting victims along to conferences. But when the co-ordinator issues a combined appeal to private interest, public virtue (playing your part in getting this young person back on track) and citizen empowerment, the appeal is rather persuasive. In the words of Senior Sergeant Terry O'Connell—the key actor in adopting and developing the programme at Wagga—the key is to 'make the victim feel important and they will come'. And important they are: in New Zealand victims can effectively veto any agreement reached at the conference, but only if they actually attend and listen to the arguments. Even in conventional dyadic victim-offender reconciliation programmes in a non-communitarian society such as the United States, victim interest in participation is quite high (Weitekamp 1989: 82; Galaway 1985: 626; Galaway and Hudson 1975: 359; Novack *et al.* 1980; Galaway *et al.* 1980). Some of this may be sheer curiosity to meet the person who 'did it'.

When the victim and victim supporters turn up, of course, there remains the possibility that private hurts and losses will not be fully communicated to the offender. Sometimes the victim says that they suffered no real loss. For example, at one conference we attended, the victim said that the car stolen for a joy ride was found as soon as he noticed it to be missing and he could detect no damage. Here the co-ordinator must reiterate the public interest in being able to assume that one can park a car somewhere without constant worry that it might be stolen. Pointing out that '... it was a lucky thing for you and Mr X [the victim] on this occasion' reinforces responsibility in the absence of specific private harm. Furthermore, in stressing the public as well as the private view of a crime, if the absence of private harm means that there is no direct compensation to be paid or worked for, conferences will usually agree to some community service work for the offender. Often there will be both private compensation and community work, signifying both the private and the public harm. The gesture of restoration to both community and victim, even if it is modest in comparison to the enormity of the crime, enables the offender to seize back pride and reassume a law-respecting, other-respecting, and self-respecting identity.

*(5) Non-authoritative actors (victims, offenders, offenders' families) must be empowered with process control. The power of actors normally authorized to issue denunciations on behalf of the public interest (e.g., judges) must be decentred*

Degradation ceremonies for Garfinkel are about privileging authoritative actors with the right to denounce the profane on behalf of the tribe. Judges, for example, silence the denunciations of victims or pleas for mercy from relatives. Their role in the courtroom is simply as evidentiary fodder for the legal digestive system. They must stick to the facts and suppress their opinions. Consequently, they often emerge from the experience deeply dissatisfied with their day in court. For victims and their supporters, this often means they scream ineffectively for more blood. But it makes no difference when the system responds to such people by giving them more and more blood, because the blood-lust is not the source of the problem; it is an unfocused cry from disempowered citizens who have been denied a voice.

Reintegration ceremonies have a [dimly recognized] political value because, when well managed, they deliver victim satisfaction that the courts can never deliver. In

Wagga, a standard question to the victims is: 'What do you want out of this meeting here today?' The responses are in sharp contrast to the cries for 'more punishment' heard on the steps of more conventional courts. Offered empowerment in the way we have suggested, victims commonly say that they do not want the offender punished; they do not want vengeance; they want the young offender to learn from his mistake and get his life back in order. Very often they say they want compensation for their loss. Even here, however, it is surprising how often victims waive just claims for compensation out of consideration for the need for an indigent teenager to be unencumbered in making a fresh start.

Clifford Shearing attended two of the Wagga conferences with us. Struck by the readiness of victims not to insist on compensation claims but to press instead for signs of remorse and willingness to reform, Shearing said, '... they all wanted to win the battle for his [the offender's] soul<sup>4</sup> rather than his money'.

How can we make sense of outcomes that are so at odds with preconceptions of vengeful victims? In fact, even in traditional stigmatic punishment systems, victims are not as vengeful as popular preconceptions suggest (Weitekamp 1989: 83-4; Heinze and Kerstetter 1981; Shapland, Willmore, and Duff 1985; Kigin and Novack 1980; Youth Justice Coalition 1990: 52-4). Citizens seem extremely punitive and supportive of degradation ceremonies when asked their views in public opinion surveys. Distance, a stereotyped offender, and a simplification of evil conduce to public support for degradation ceremonies. But the closer people get to the complexities of particular cases, the less punitive they get (Ashworth 1986: 118; Doob and Roberts 1983, 1988). As we noted earlier, the reality of the meeting between victim, offender, and others tends to undermine stereotyping. Instead, immediacy, a particular known offender and a complex grasp of all the situational pressures at work conduce to public support for reintegration.

Some reconciliations at family group conferences are quite remarkable. The most extraordinary case we know of involved a young man guilty of aggravated assault with a firearm on a woman who ran a lotto shop. The offender locked the woman at gunpoint in the back of her shop while he robbed her of over \$1,000. When the time for the conference came, she was mad, after blood. Yet after considerable discussion, part of the plan of action, fully agreed to by the victim, involved the victim housing the offender while he did some community work for her family! This is not an isolated case, although it involves the most dramatic shift of which we became aware. Occasionally, victims make job offers to unemployed offenders at conferences.

Unresolved fury and victim dissatisfaction is, of course, the stuff of unsuccessful reintegration ceremonies. An important recent New Zealand evaluation shows that failure as a result of such dissatisfaction remains (Maxwell and Morris 1993: 119). In fact over a third of victims who attended conferences said they felt worse after the conference, a result of insufficient attention to victim reintegration (see point (9) below).

It is not only victims who can benefit from the empowerment that arises from having cases dealt with in this non-traditional setting. Offenders and offenders' families are also very much empowered when community conferences work well. Maxwell and Morris (1993: 110) found that New Zealand conferences work better at empowering

<sup>4</sup> An allusion to Rose (1990) and his discussion of 'governing the soul'.

parents than offenders.<sup>5</sup> This is probably true in Wagga as well, though the Wagga approach rejects the Auckland tendency to give the arresting police officer the first opportunity to explain the incident of concern. Instead, the young person, rather than police or parents, are always given the first opportunity to describe in their own words what has brought them to the conference. We see this Wagga practice of temporally privileging the accounts of the young persons as a desirable way of seeking to empower them in the dialogue. For all parties, success is predicated upon a significant degree of agency. On the other hand, when agency is denied the ceremonies fail. Then there is the pretence of empowerment, with families and offenders being manipulated into agreements that are developed by the police or youth justice co-ordinators, an outcome that is not uncommon (Maxwell and Morris 1993: 112). There can be little real experience of shame when apology and remedial measures are forced on the offender and his family rather than initiated by them. Empowerment is crucial to reintegration, while manipulation makes instead for degradation.

*(6) The perpetrator must be so defined by all the participants (particularly by the perpetrator himself) that he is located as a supporter of both the supra-personal values enshrined in the law and the private interests of victims*

This condition of successful reintegration is accomplished by having the offender's responsible self disassociate itself from the irresponsible self. Apology is the standard device for accomplishing this, as Goffman pointed out:

An apology is a gesture through which an individual splits himself into two parts, the part that is guilty of an offence and the part that disassociates itself from the delict and affirms a belief in the offended rule (1971: 113).

At all the conferences we attended, the offenders offered an apology.<sup>6</sup> Often they agreed to follow up with a letter of apology or a visit to apologize again to the victim and other members of the family. Often there was also apology to parents, teachers, even the police. A common feature of successful reintegration ceremonies can be a rallying of the support of loved ones behind the disassociation of self created by a genuine apology. After one moving and tearful statement by a Maori offender in Auckland, for example, elders offered congratulatory speeches on the fine apology he had given to his parents.

The verbal apology can be accompanied by physical acts. The most common physical accompaniment to apology is the handshake. Female victims sometimes hug young offenders, an especially moving gesture when it reaches across a racial divide. In Maori conferences,<sup>7</sup> kissing on the cheek, nose pressing and hugging occur among

<sup>5</sup> This is not to downplay the wonderful successes with offender empowerment that can and do occur within the New Zealand process: 'I felt safe because my whanau [extended family] were there with me. I would have felt like stink if I had to face it on my own. My auntie explained it so I understood. It was good that she allowed me to take a role' (young person quoted in Maxwell and Morris 1993: 78).

<sup>6</sup> In this regard, we were somewhat surprised by Maxwell and Morris's (1993: 93) finding that an apology was formally recorded as offered in only 70 per cent of their sample of conferences. We wondered if all of the more informal means of apology (including backstage apology) were counted in this result.

<sup>7</sup> With Samoan conferences, it is common for offenders to apologize on their knees, a degrading form of apology in Western eyes, but perhaps not so when the cultural context is to elevate the offender quickly, embracing his restored identity. That is, for the Samoan, the kneeling may represent part of a reintegrative sequence rather than signifying degradation.

various of the participants (even visiting sociologists!). Ritual bodily contact is not the only form of physical act to accompany apology. Other common acts include the handing over of compensation or the offer of a beverage. In a recreation of the theme that commensalism celebrates solidarity, successful ceremonies have ended with victim and offender families arranging to have dinner together after the conference.

Despite the manifestly successful effect of apology, it is not something encouraged by court rooms. Criminal trials tend to leave criminal identities untouched by attacks from responsible, law-abiding, or caring identities. Indeed, degradation tends to harden them. It is not a major challenge in identity management for a tough guy to sustain this identity during a criminal trial. The challenge is more difficult in an open dialogue among the different parties assembled for a community conference. Usually, there are some things that the police know about the offender's conduct that his parents do not know and there are vulnerabilities the parents know that the police do not. The traditional criminal process enables the offender to sustain different kinds of stories and even different identities with parents and police. Conferences can expose these multiple selves to the partitioned audiences for which these selves are differentially displayed. Out of one conference, Wagga parents learned that their teenage son had punched a 14-year-old girl in the face; then the police learned that the boy had beaten his mother before, once with a broom; then everyone learned that he had also hit other girls. There are some lies that the offender can live in the eyes of the police; others in the eyes of his parents; but many of them cannot stand in the face of a dialogue among all three that also enjoins victims.

All this is not to deny that apology, even the sincerest apology, can be secured without challenging a delinquent identity that remains dominant over a law-abiding identity. In one case, a 14-year-old girl acknowledged that the effect of stealing a cheque from the mail-box of an elderly woman had been 'awful' for the victim and she apologized with feeling. But when it came to the action plan, she was intransigently against the idea of returning to school: 'No. I don't like school.' Even a modest proposition from the group for community service work of 20 hours over four weeks was bitterly resisted: 'It's too much time. I want to be a normal street kid and if you're a street kid you need time to be on the street. That would take up too much of my time.' Nothing was going to interrupt her career path as a street kid! This is a familiar theme in literature on identity maintenance from writers associated with labelling and similar perspectives. There comes a point where a change which seems both possible and advantageous in the immediate context is resisted because of the degree of commitment to a path and the consequent 'side bets' (Becker 1960) that an individual has made in following that path.

Interestingly, however, our empirical observations match the general case we made earlier: namely, that while such commitment to deviance is possible, it is also rare. The norm is strongly towards the reversibility rather than irreversibility of the deviant identity and, as in the case just described, in contrast to the labelling claim, irreversibility seems more connected to the individual commitment to an identity (agency) than to structural features that prevent reversion. No doubt, the matter of commitment is not exhausted by these brief comments. We might suppose that as adults get older, deviant identities might become more encrusted and harder to change (and hence shaming and reintegration less relevant). For some people such a process probably occurs. But as data on the relationship between age and deviance shows

(Hirschi and Gottfredson 1983; Youth Justice Coalition 1990: 22–3) reversion from deviant to mainstream identities is the norm with progressing age. Thus the idea that shaming and reintegration ceremonies are valuable only for the young is not well founded. Indeed, preliminary qualitative evidence indicates that it may be extremely valuable for individuals well into middle age.<sup>8</sup>

*(7) Distance between each participant and the other participants must be closed; empathy among all participants must be enhanced; opportunities must be provided for perpetrators and victims to show (unexpected) generosity toward each other*

At the start of conferences, victims and offenders, victim supporters, and offender supporters tend to work hard at avoiding eye contact. By contrast, at the end of a successful reintegration ceremony, participants are looking each other in the eye. Reintegration ceremonies succeed when one side makes an early gesture of self-blame or self-deprecation. In one case, an offender wrote a long letter of apology to the victim before the conference was convened. At another conference, a mix-up by the police resulted in the victim being advised of the wrong date for the conference. Despite this, she came within 15 minutes of a 'phone call at 6 p.m. in the middle of preparing for dinner guests'. The conference co-ordinator said that she agreed to drop everything to come 'if it would help the boys'. 'What do you think of that?' said the co-ordinator. 'She's a nice lady', said one of the offenders. 'And I bet you were frightened to go out from your own house after this', added the mother of another offender.

In many cases, the offender's family does not wait for their offspring to come under attack from the victim. They pre-emptively launch the attack themselves in terms so strong that the victim can be moved to enjoin that the family '[Not] be too hard on the boy. We all make mistakes.' Self-deprecating gestures from either side can facilitate reintegration, which is powerfully facilitated by exchanges such as:

Victim: 'It was partly my fault. I shouldn't have left it unlocked.'

Offender: 'No that's not your fault. You shouldn't have to lock it. We're the only ones who should be blamed.'

A common strategy of all parties for seeking to elicit empathy from others is to refer to how they may suffer these problems themselves in another phase of their own life cycle. Offender's uncle to offender: 'In a few years you will be a father and have to growl at your boys.' Co-ordinator to victims: 'You were once parents of teenagers yourselves.'

<sup>8</sup> In Australia, we have been experimenting with reintegrative conferences with white-collar crime, cases that illustrate the problem of victim shame. A recent case has involved action by the Trade Practices Commission against a number of Australia's largest insurance companies in what have been the biggest consumer protection cases in Australian history. The victims were Aborigines in remote communities who were sold (generally) useless insurance and investment policies as a result of a variety of shocking misrepresentations, even the misrepresentation that the Aborigine would be sent to jail if he did not sign the policy. Victims sometimes escaped through the back door when the government man in the white shirt arrived to interview them, fearing that *they* had done something wrong. Many shook and cried throughout their interviews. They felt shame at losing the little money their families had. The apologies issued by company chief executives at highly publicized press conferences were about communicating the message that it was the company who had to face 'the same job' (as Aborigines put it). Moreover, full compensation with 15 per cent compound interest would acquit the shame victims felt as providers. In addition, insurance company top management were required to attend negotiation conferences at Wujal Wujal, where they faced their victims, apologized to them and lived the life conditions of their victims, sleeping on mattresses on concrete floors, eating tinned food, during several days of negotiation. For more details on this and other cases of corporate shaming praxis, see Fisse and Braithwaite (1993) and Braithwaite (1992).

One case we attended involved a father and son who had a stormy relationship. A Maori elder counselled the father that he should put his arm around his boy more often, advice the father conceded that he needed to take. The father was a harsh and tough man, once a famous rugby forward with a reputation as an enforcer. The attempt of a Maori police officer to elicit empathy in these difficult circumstances was both innovative and effective, since tears began to stream down the face of the young offender, who up to this point had managed the impression of being a young tough:

Policeman: 'Look what you have done to your father and mother. If your father hit you, you'd stay hit. You wouldn't be getting up. But he hasn't.' [Offender gasps, his chest heaving with unnatural struggling for air]. 'I was always angry and bitter at my father. He was a hard man.'

Uncle interjects: 'Yes, he'd hit you first, then ask questions afterwards.'

Policeman continues: 'Then he died. Then I realised how I loved and missed the old bastard. Don't wait till your father dies, Mark.'

At this point the mother buried her head in her lap with quiet sobbing. Then the father and then the son cried, by which point all in the room had tears in our eyes. How impressive an accomplishment this was—eliciting such empathy for a father about whom it was clearly difficult to say anything laudatory. Taken out of context, it does not seem a very positive thing to say about a father that he has refrained from ironing out his son. But for a son who himself was enmeshed in the culture of rugby and who knew his father's history of ironing out a great number of other human beings, the tribute was deeply moving.

*(8) The separation of denounced persons must be terminated by rituals of inclusion that place them, even physically, inside rather than outside*

Already we have mentioned a number of rituals of inclusion: apology and its acceptance, handshaking, the putting of signatures side by side on an agreement, and so on. In a traditional Samoan context, this is taken further. Following an assault, the Matai, or head of the extended family unit of the offender, will kneel on a mat outside the house of the victim family until he is invited in and forgiven. Sometimes that will take days. There may be something to learn from the Samoans here on the conditions of successful reintegration ceremonies, namely the provision of a spatio-temporal dimension to the imperative for reintegration. For how long should I continue to avoid eye contact with this person who still kneels in front of me? When do I conclude it by embracing him in forgiveness? The sheer physicality of his remorse makes ignoring him indefinitely a rather limited third option. The ceremony is driven by a spatial imperative. Indeed, most successful ceremonies in our own society specify place (e.g., a church, a presentation dais) and a time when it is appropriate and fitting to carry out that ceremony. Moreover, in moving individuals through space and time, those movements are not haphazard—they fit the messages of transformation or reaffirmation that the ceremony seeks to convey.

In Wagga, the spatial arrangement that is employed to convey both the unity of the community and yet the tension between victim and offender, is a horseshoe seating arrangement. At one end of the horseshoe sits the offender(s) with her family(ies) sitting in the row behind. At the other end sits the victim(s) with his family(ies) sitting

in the row behind him. The horseshoe symbolizes the tension of the meeting, part of one community but at widely separated points on this matter. Moreover, movements within the space can and do occur, such as when people cross the central space to shake hands at certain moments. These are culturally contingent matters; offending boys are commonly made to sit on the floor during Polynesian conferences, a temporary obeisance that seems culturally appropriate to them rather than debasing. Sometimes they are asked to come out and stand at the front for their formal apology, after which they return to their seat in a circle. In each of these, the physical space is used constructively to convey important messages. And, as we shall see later, the separation of the overall space into front and backstage areas also has its uses.

The symbolic meanings signified by space rarely surface in the discursive consciousness of the participants (or so we presume) but the successful use of space is not predicated upon that level of reflection. In all probability, more still could be done with the symbolic use of space in such ceremonies—one could take this even further by placing offenders alone in the centre of the horseshoe for the first stage of the conference, though one might worry about this intimidating them into silence. These are matters that require more detailed exploration, but note here merely that there is a fine line between artifice and artificiality.

The temporal dimension of the ceremony is also important. The phases in a successful ceremony are clearly visible in the way that participants comport themselves and a 'winding down' is often discernible. Indeed, the phased structure is not dissimilar to that described by Bales (1950) in his work on interaction process analysis. As Bales argued there, the social group that has formed to handle a particular risk (in this case for the ceremony) comes to develop a bounded process of its own, marking its phases with different styles of comportment and mood. Although breaks in the meeting are rarely used in Wagga,<sup>9</sup> one could conceivably have a coffee break once there had been good progress toward a settlement during which the protagonists could physically mix; after the break, offender families could come back side by side with their children to present their plan of action. Certainly, such activities are used to mark the end of the formal ceremony and handle transitions back to the 'outside world' and at such moments drinking together, whether coffee or—as might be appropriate in other contexts, alcohol—serves to mark that transition (Gusfield 1987; cf. also Bott 1987; Hazan 1987).

It is also important to note here that the physical act of handing over money as compensation or a bunch of flowers (as happened in one case) creates a strong imperative for an apology-forgiveness interaction sequence. Most English-speaking people find it normal to cancel grudges at the moment of a physical act of compensating wrongdoing by uttering the word 'sorry'. Faced with such an utterance, only unusual victims resist the imperative to return a word of forgiveness, to 'let bygones be bygones', or at least to show acceptance, thanks, or understanding.

Regrettably the common legal processes of a *gesellschaft* society sanitize such physical moments out of transactions. They are, in the Weberian sense, 'disenchanted'. With the loss of that enchantment they lose also powerful opportunities for transformations of self and context. Rational actor models of the world notwithstanding, successful

<sup>9</sup> In New Zealand, it is usual to have a break in the proceedings during which the offender's family meets on its own to prepare a plan of action.



practice of justice is not merely a technical-rational action. When restitution is reduced to 'the cheque is in the mail' (likely put there by the clerk of the court) matters of deep moral concern have been reduced to mere money, to the ubiquitous question 'how much?' (Simmel 1978). In contrast, successful reintegration ceremonies put reintegrative physicality back into the process. In so doing they transcend the merely rational to speak to vital concerns of human conscience.

*(9) The separation of the victim, any fear or shame experienced by victims, must be terminated by rituals of reintegration*

The objective of reintegrating offenders is advanced by reintegrating victims; the objective of reintegrating victims is advanced by reintegrating offenders.<sup>10</sup> Victims are invisible in Garfinkel's model, but our thesis is that effective reintegration ceremonies are victim-centred, a centrality described under conditions (3), (4), and (5). Victims often suffer from bypassed shame (Scheff and Retzinger 1991) and bypassed fear. The girl who is sexually assaulted by a young man often feels that the incident says something about the respect in which she is held by males. She feels devalued to have been treated with such disrespect (Murphy and Hampton 1989). One way to rehabilitate her self-respect is a ceremonial show of community respect for her. Apology from the man who disrespected her is the most powerful way of resuscitating this self-esteem and community shaming of the disrespecting behaviour is also powerful affirmation of the respect for her as a person.

Victims often continue to be afraid after a crime and at an apparently irrational level. When a break-in causes a victim to feel insecure in her home, it is good for this fear to be openly expressed. For one thing, there is practical advice the police are usually able to give that can leave the victim both safer and feeling more assured of being safe.

In one Wagga conference involving teenage lads who inflicted a terrifying assault on a much younger boy and girl, the boys offered to come around to the home of the victim family to apologize more formally to all members of the family. The young girl looked afraid and said that she did not want them coming near her home. So it was decided they would apologize in writing. But from that point on in the conference, the cautioning sergeant highlighted the fact that there was no particular meaning to the choice of these two children as victims. It was a one-off incident that could have happened to anyone. At the end of the conference, the sergeant ushered the offenders and their supporters out, asking the victim family to stay behind. Then he asked the children if they now felt assured that these boys would not come after them again. He asked them what they thought of the boys and they said that the conference had put it all behind them now. They felt more sorry for the boys than afraid of them. The mother said later that she had come to see them as frightened little boys. This interpretation

<sup>10</sup> In practice, the Wagga process has been more oriented from the outset to reintegrating victims than the New Zealand process. Many New Zealand co-ordinators, interpreting literally a clause in the New Zealand Children, Young Persons and Their Families Act, have been reluctant to allow victim supporters to attend the conference. There has been a lot of learning in New Zealand on this question, but in some parts there is still a fear of the vindictiveness of victims and, more particularly, of victim supporters. If victims are to be reintegrated, however, caring supporters are a necessary ingredient. Our strongest criticism of the New Zealand reform effort has been the half-hearted commitment to victim reintegration in many quarters.

was confirmed by a minister of religion who met with the family immediately after the conference.

Note here the importance of two smaller backstage conferences after the formal conference—a further instance of the significance of space referred to earlier. Backstage conferences can do some reintegrative work for both offenders and victims that cannot be accomplished front stage. Every conference we have attended broke up into some important little backstage meetings after the main conference. At times, the reintegrative work that happened after the conference was more significant than that transacted within it. A boy who maintained a defiant demeanour throughout the conference shed a tear when his uncle put his arm around him after the conference (his identity as nephew allows him to cry, but not the identity he must maintain in the face of his mates). A mother confesses that she does not believe she can get her daughter to attend the agreed community work and another uncle volunteers to ‘make sure she gets there’. Backstage intimacy can allow some masks to be removed that actors feel impelled to sustain during the conference proper. A practical implication is not to rush the exit from the theatre.

*(10) Means must be supplied to intervene against power imbalances that inhibit either shaming or reintegration, or both*

Of the various criticisms we have heard raised about the ceremonial process that we are describing in this paper, one of the most common concerns the imbalance of power in society and the way that this must spill over into, and hence structure in negative ways, the reintegration process. How, they ask, can this process disassociate itself from wider matters of class, race, patriarchy, and age stratification? If such disassociation does not occur, how can the ceremony act other than to reproduce that same patterning of ageism, class, race, and patriarchy? The risk is obvious. The ethnomethodologists of the 1960s, among whom Garfinkel is counted, were rightly condemned by the marxists of the 1970s (Taylor, Walton, and Young 1973) for inattentiveness to issues of power. By using Garfinkel's work as a starting point might we not fall into the same trap, blithely praising a ceremony whose deeper realities are much darker than we sense? Are the ceremonies of reintegration we are discussing capable of intervening against power imbalances in any serious way?

Our answer to this falls into several parts, and these parts relate to what we have seen in our observational work.

First, in no sense is intervention to deal with individual offences the most important thing we can do to respond constructively to the crime problem: attacking deeper structures of inequality is more important (Polk 1992; Braithwaite 1991, 1993). But let us not underestimate how important a basis of inequality criminal justice oppression is to (say) Aboriginal Australians. The structure of laws and the daily routines of the police and the courts contribute mightily to that oppression. Thus, to alter the police-court process is an important step, even if it is not a sufficient step. Indeed the very history of the Antipodean conferences we are discussing here begins with Maori frustration with the way the Western state disempowered them through the criminal justice system (Report of the Ministerial Advisory Committee 1986). These reforms ‘came from below’ and were explicitly understood by Maori protagonists to introduce

communitarian reintegrative features into a system that lacked them and which stigmatized their young people in destructive ways. In this sense, if in no other, we advocate the reintegration ceremonies because they are valuable in the eyes of most of those who are involved in them.<sup>11</sup>

Our second point is more theoretical. At the core of the criticism about power imbalances undermining the ceremony is a failure to think through the precise nature of the ceremony. The current of mainstream sociology that has dealt with ritual and ceremony has principally been conservative and functionally oriented (Cheal 1988). As a result, the tendency has been to emphasize static, system-integrative, and totalizing aspects of rituals over dynamic aspects, multiple identities, and social change. But that shortcoming is a feature of the theory, not the ceremony. If commentators associate conservatism with ceremony for this reason, they do so out of habit rather than evidence. There are dynamic features to these ceremonies which emphasize agency and social freedom (within obvious bounds) not merely totalizing conformity. No doubt, there are meanings which ceremonies permit and others they do not and no doubt some of those privilegings and silencings may be problematic. But we dispute that they can be 'read off' in advance.

Third and last, the criticism implies that anyone who pursues the course we describe here is utopian—class, race, and patriarchy are so ingrained in 'the system', it can be said that the system can never transcend them. Perhaps. But our view is quite different. We see that the existing 'system'—which is not particularly systematic in that it lacks unity, coherence, and direction—is racked with problems arising from differences in power which we can identify as 'class, race, and patriarchy'. But we go on to argue that if so, this identifies the places where we need to work relentlessly for change. Moreover, we suggest that our observations of such ceremonies indicate that while power imbalances remain ineradicably within what we describe, they also provide a greater space in which people can be agents than the existing processes. More voices are heard, saying more things than in conventional courts and that is a positive thing. Concrete examples may help to make the point.

It is an empirical question whether powerful outside voices are likely to be raised in a conference or a court against a father who dominates his daughter. Here we observe that the condition of the successful reintegration ceremony is that the co-ordinator act on this fact of domination by asking the daughter *who she would like* to be there to stick up for her against her father.

The philosophy of the New Zealand reforms (Children, Young Persons and Their Families Act 1989) is that when families are in deep trouble, a social worker from the state is not likely to be the best person to straighten out their problems (Maxwell and Morris 1993). However big a mess the family is in, the best hope for solving the problem of families resides within the families themselves and their immediate communities of intimate support. What the state can do is empower families with resources: offer to pay to bring Auntie Edna from another city for the conference (as they do in New Zealand), offer to pay for a smorgasbord of life skills, job training, remedial education, anger control courses, but with *the power of choice from that*

<sup>11</sup> In New Zealand, 53 per cent of the offenders processed through family group conferences are Maori (Maxwell and Morris 1993: 69). On Maori perceptions of the value of the reforms, see n. 13 below.

*smorgasbord resting entirely with the young offender and her support group.*<sup>12</sup> Processes like this do offer a redress of power imbalances centred upon race, albeit not completely. In New Zealand, where the Maori community contribute half the cases processed by the New Zealand juvenile justice system, conferences offer an important redress in a criminal justice system that is otherwise not a peripheral but a central source of their disempowerment. The same point can be made about racial minorities in all the English-speaking countries. It is a small blow against black oppression when the white father of the victim of a brutal assault offers to go with the family of the Aboriginal offender to argue the reversal of a decision to expel him from school because of the assault. Conferences will never usher in revolutionary changes; they do, however, give little people chances to strike little blows against oppression.

The possibilities for improving the position of women within criminal justice processes also seem to us to be quite promising. This is illustrated by the Wagga case mentioned earlier of the mother who was being beaten by her son. Court-based criminal justice systematically obscures the fact that in Australia we have a massive problem of son-mother violence. Domestic violence is constructed in the literature as spouse abuse because mothers keep the problems with their sons submerged, blaming themselves, refusing to complain against their own children. If the Wagga case discussed earlier had gone to court, it is most unlikely that the assault on the girl would have led on to a discussion of the wider problem of the assault on the mother and other females. The family group conference approach enabled community confrontation of this 15-year-old boy with the problem of his violence at an early enough age for such a confrontation to make a difference. But most mothers and sisters are unlikely to co-operate in a stigmatic or punitive vilification of their young son or brother. Ceremonies must be perceived as reintegrative, directed not only at getting the boy to take responsibility for his actions but also at supporting and helping him, before most mothers and sisters will break the silence.

We could add that the economic prospects of offenders, which are often very dim, are not always neglected in these conferences. While this is not a widespread feature, sometimes the unemployed are helped to find jobs; sometimes the homeless are found homes; often the school dropouts are assisted in getting back to school or into some alternative kind of technical training or educational development. Clearly there are many more important fronts on which to struggle for a more just economic system than through family group conferences, but these conferences are at worst not deepening the problems that the young offenders face.

In short, while the reintegration ceremonies we write of here do not overcome inequalities, they can be and are sensitive to them and do what they can to allow for and/or redress some of those inequalities. In so doing, they create spaces for agency and voice; they return conflicts that are 'stolen' by state professionals to ordinary citizens (Christie 1977). This, we think, is a progressive move. The structural feature of successful conferences that we hypothesize to be most critical here is proactive empowerment of the most vulnerable participants—offenders and victims—with the choice of caring advocates, who may be more powerful than themselves, to exercise countervailing power against whoever they see as their oppressors.

<sup>12</sup> With the weak welfare states that exist in both Australia and New Zealand, the range of such choices effectively available to young people, in most localities but particularly in rural localities, is very poor (Maxwell and Morris 1993: 180).

*(11) Ceremony design must be flexible and culturally plural, so that participants exercise their process control constrained by only very broad procedural requirements*

We should be pluralist enough to see that a good process for Maoris will not necessarily be a good process for Europeans, or even for some Maoris who say they don't believe in 'too much shit about the Maori way' (Maxwell and Morris 1993: 126).<sup>13</sup> At the same time, we should not be so culturally relativist as to reject the possibility of Europeans learning something worthwhile from Maori practice. Family group conferences are essentially a Maori idea, but the idea has been very favourably received by white communities in New Zealand and Australia, Australian Aboriginal communities, and Pacific Islander communities living in New Zealand. The reason is the flexibility built into the approach. Because Samoan participants have genuine process control, they can choose to encourage kneeling in front of the victim. Maori communities can choose to break the tension during proceedings by singing a song, something Westerners would find a rather odd thing to do on such an occasion. Maori conferences often signify the sacredness of the public interests involved (conditions 3 and 4) by opening and closing the conference with a (reintegrative) prayer.

Every conference we have attended has been completely different from every other conference. Indeed, flexibility and participant control of the process are the reasons why this strategy can succeed in a multicultural metropolis like Auckland. This is not a communitarian strategy for the nineteenth century village, but for the twenty-first century city. Flexible process, participant control—these are keys to delivering the legal pluralism necessary for the metropolis. Another key is that this is an individual-centred communitarianism, giving it a practical edge for constructing community in an individualistic society. The authors of this paper choose not to attend Neighbourhood Watch meetings, because the appeal of community obligation is not sufficient to motivate our participation. In contrast, if one of us were asked to attend a family group conference on the basis that either a victim or an offender from our neighbourhood or family had nominated us as a person who could lend support, we would go. We would be flattered to have been nominated by the individual. This is what we mean by the practical appeal of individual-centred communitarianism. Helping an individual is more motivating to citizens than abstractions such as 'contributing to making your neighbourhood safer'.

While the reintegrative strategy is firmly grounded in the theory of legal pluralism, certain basic procedural rules cannot be trumped. The most important of these is that if the offender denies committing the alleged offences, she has the right to terminate the

<sup>13</sup> While it is easy to find Maoris who resist the notion that there is a lot of point in turning back the clock to a pre-European society and others who see family group conferences as a corruption and debasement of Maori traditions by the Western justice system, we suspect the predominant Maori reaction is as expressed by the Maori researchers on the Maxwell and Morris project in the following quote—accepting the need for mutual accommodation between Maori and Western justice systems, especially when victims and offenders come from different cultures:

'We feel that the Act for the most part is an excellent piece of legislation which promises exciting possibilities for the future. When the processes outlined in the Act were observed, Maori families were indeed empowered and able to take an active part in decisions concerning their young people. It is not difficult to see the beneficial influences that the Act may eventually exert on wider Maori, Polynesian and Pakeha society. Maori society could gain immensely from legislation that acknowledges and strengthens the hapu and tribal structures and their place in decisions regarding the wellbeing of young people and [from legislation] that provides them with an opportunity to contribute to any reparation and to support those offended against. The same scenario would apply to Pacific Island peoples. Pakeha society would also benefit from a process which acknowledges the family and gives redress to victims' (Maxwell and Morris 1993: 187).

conference, demanding that the facts be tried in a court of law. She does not have to plead guilty. The conference can proceed only if she chooses 'not to deny' charges made by the police. Some of the more informal ground rules that co-ordinators enforce, such as 'no name calling' and 'no badgering of the young person' have the effect of tipping the balance against degrading discourse in favour of reintegrative dialogue. What such basic procedural rules do is constitute a generally acceptable framework within which a plurality of dialogic forms can flourish (see Habermas 1986).

Given a commitment to flexibility and participant empowerment, one central concern is the prospect of standardization and routinization. It would be easy for ceremonies to be converted into Foucauldian 'discipline', extending the net of state control. Disturbing signs of this as a future trend can be discerned, for example in the near-automatic tendency of some state officials at New Zealand conferences to suggest a curfew as part of the plan of action. Families can and do argue against their children being put on a rigid curfew, suggesting that a degree of participant control of the process is prevailing against pressures for standardized response, but the routinization of the suggestion without apparent consideration of case details implies a standardizing tendency. Similarly, after a training conference for co-ordinators in Wagga that we attended with Clifford Shearing and Jane Mugford, they expressed concern to us that some of the contributions to the training by local social workers and psychologists undercut the shifts away from stigmatization and toward community empowerment. The tendency there was to speak and reason in abstract categories such as 'problem youth' in a way that, taken seriously, would erode the agency and voice of participants in favour of the imposition of control by 'experts'.

These tendencies notwithstanding, our view is that, at present, the family group conferences do not extend the net of state control (see also Moore 1992), but rather extend the net of community control, partly at the expense of state control, partly at the expense of doing something about problems that were previously ignored (such as mother-bashing by sons).<sup>14</sup> Conferences can be used by communities to co-opt state power (formalism harnessed to empower informalism) (Braithwaite and Daly, in press); or they can be used by state authorities to expand their net of coercion by capturing informal community control (as in the net-widening critique). The contingent potential for both these developments and for the re-emergence of professionalized routinization need to be kept in mind in planning the expansion of such programmes.

*(12) Reintegration agreements must be followed through to ensure that they are enacted*

In the early days of the family group conferences in both New Zealand and Wagga, there was poor follow-up to ensure that agreements reached at the conference were implemented. Now more systematic procedures are in place in New Zealand to ensure, for example, that where monetary compensation is involved, victims do receive it. For a sample of 203 family group conferences held in 1990, Maxwell and Morris (1993: 102) found that in 59 per cent of cases agreements were completely implemented within three to four months and partly completed in a further 28 per cent of cases, leaving only

<sup>14</sup> Maxwell and Morris's (1993: 176) New Zealand data support this interpretation. They find that the result of the New Zealand reforms is fewer children going to court, fewer receiving custodial penalties, but more children whose delinquency was previously ignored altogether or discharged by the court experiencing moderate interventions such as formal apology, compensation, and community service decided through family group conferences or police diversion.

13 per cent of cases in which the tasks were largely uncompleted in this time frame—a very good result. At Wagga, young offenders and their families are invited to at least one follow-up workshop to close out the process. Families have an opportunity to swap notes at the workshop on the difficulties they have faced in implementing their plan of action. The Wagga police also see a reintegrative rationale for the workshop in helping families to overcome their shame by working with other families in the same situation. It is possible that this interpretation is right, as illustrated by the following passage from our fieldwork notes:

Of the three offenders [in this particular case] George was the one who seemed totally unmoved by what the victim and his family said at the conference. George's mother got together with mothers of George's friends who had also been in trouble, to talk about their problems. One of the mothers said that her boy had been sexually assaulted and that was one thing that upset him. Later George's mother said to George that he has not had it so tough as John, who had been sexually assaulted. George said nothing. Later, he called his mother back, broke down and said he had been sexually assaulted too (by the same person, we assume). George's mother now dates the assault as marking the time since which George had been getting into trouble. Her social construction of George is no longer as a boy who went bad. Now it is of a boy who was good, who went through a bad time as a result of a sexual assault, and who is now coming to terms with what happened to him and is coming out of it—a 'good boy' again.

Implementation of agreements from family group conferences is more effective than with court ordered compensation largely because the compensation is a collective obligation entered into by voluntary collective agreement.<sup>15</sup> Moreover, the coordinator will often secure the nomination of a relative who will be responsible for ensuring that the offender complies with the terms of the agreement. Dr Gabrielle Maxwell has made the same point about completion of community work orders: 'The community work projects that work are the ones the family comes up with itself.'

*(13) When a single reintegration ceremony fails, ceremony after ceremony must be scheduled, never giving up, until success is achieved*

Traditional criminal justice processes paint themselves into a corner because of two imperatives: the desire to give kids another chance; notwithstanding this, the desire to signal that 'the system is tough and next time you will not be so lucky'. These two imperatives intersect with the empirical reality that young offenders offend a lot during their years of peak offending. Most will come through this peak period within two or three years if the criminal justice system does not make things worse by degradation ceremonies (such as institutionalization). The two imperatives and the empirical pattern of offending intersect to cause the criminal justice system to do exactly what its

<sup>15</sup> As an aside, it is worth noting here the implications for the justice model which provides a critique of family group conferences as inferior to courts. Courts, according to this critique, provide singular, consistent justice, in contrast to the plural, inconsistent justice of conferences. It is an interesting empirical question whether in practice, as opposed to theory, courts do deliver more just sanctioning when compensation, fines, and community service ordered by the court are defied in the majority of cases. It is not inconceivable that even though there is greater inequity in the sanctions ordered by group conferences, in the sanctions actually implemented there is greater equity for the group conference than for the court process.

practitioners know is the worst thing to do, that is, set up a self-defeating chain of events:

- Conviction 1: 'Take this as a warning.'
- Conviction 2: 'I'll give you a second chance. But this is your last chance.'
- Conviction 3: 'With regret, I must say that you have already been given your last chance.'

The policy in New Zealand is to avoid this slippery slope. While some cases in the juvenile justice system continue to slide down it, most do not and since 1988 the rate of institutionalization of young offenders has dropped by more than half (Maxwell and Morris 1993: 176), possibly by 75 per cent (McDonald and Ireland 1990: 16). Now, most detected offences are judged not to warrant the cost of convening a family group conference, and informal warnings to juveniles on the spot or at the police station remain the predominant response for very minor offences (Maxwell and Morris 1993: 53). Taking no action beyond a formal letter of warning from the police is also common (Maxwell and Morris 1993: 59). Visits by the police to the offender's home to arrange informally for reparation and apology to the victim occur in a quarter of non-arrest cases (Maxwell and Morris 1993: 53). Only if these steps are insufficient is a full conference arranged.

In addition to these informal pre-conference measures, some New Zealand young offenders have been through six or seven formal conferences for different offences. The New Zealand Police Association, which strongly supports the family group conference strategy for most offenders, has reservations about repeated use of the approach on 'hardened' offenders. They illustrated the problem with examples such as this:

Ngaruawahia reports that a 16 year old youth had a Family Group Conference on 26 June 1990 for three offences, another on 10 July for six offences, another on 20 July 1990 for two offences, Youth Court hearing on 24 July 1990, another Family Group Conference on 14 February 1991 for two offences. The youth committed suicide at Weymouth Boys Home in April 1991 (New Zealand Police Association 1991: 19).

Of course, such a case seems a 'failure'. But what kind of failure is it? We can think of three ways of categorizing it: (a) a failure of the family group conference; (b) the likely failure of any approach with the most difficult cases; or (c) the failure of giving up on the family group conference in favour of the court-institutionalization route. The implication of the passage is that this is a failure of type (a), but we suspect that it is better understood as type (b) and/or (c).

Of course, it would be naïve to expect that a one- or two-hour conference can normally turn around the problems of a lifetime. In any case, the theory of the conference is not really that what is said at the conference will change lives in an instant and irreversible way—a conference is a social activity, not a genie from a bottle. Rather the hope for the conference is that it will be a catalyst for community problem solving. Viewed in this way, when there is re-offending after a conference, it is to some extent the community that has failed. The failure of the conference was in not catalysing the right sort of community support for the offender. If the failure is not inherent to the conference process, but is a failure in the community catalysis of the intervention, then one conference after another, each time seeking to catalyse community support in a different way, or with different invitees, makes sense.



To achieve a successful reintegration ceremony, then, it is necessary that co-ordinators must never give up, that they act as if there is always a reason for the failure of the last intervention *other than* the irretrievable badness of the offender. Even if the offender dies before the community succeeds in preventing his offending, by trying again and again with reintegrative approaches, the co-ordinator believes that she has at least refrained from accelerating his criminal career path during the time he lived. The typical criminal career is a useful touchstone, here. Knowing the pattern typical of some offenders, it is *disabling* to conceive success in terms of stopping offending. At the same time, it is *enabling* to define success as a downward shift in the slope of a criminal career path and failure as allowing an upward shift. Unless the offences are extreme,<sup>16</sup> it is always better to keep plugging away with a strategy that neither succeeds nor fails than to escalate to one that fails. At least the former does no harm.

Is there a practical way of implementing the attitude of never giving up? Below is an example of how the police might react to the first eight detected offences of a career criminal under a reintegrative strategy.

- First offence:* Boy warned by the police on the street for a minor offence. 'If I catch you at this again, I'll be in touch with your parents about it.'
- Second offence:* Same type of minor offence on the street results in a formal letter of warning and a visit to the family home to discuss the warning.
- Third offence:* Family group conference. Still a fairly minor offence, so no elaborate follow-up or detailed plan of action, just the reintegrative shaming of the offender and calling on the offender and the family to take responsibility for the problem in their own way. For the overwhelming majority of such minor offenders, this is the last the juvenile justice system will see of them, so any more detailed intervention is wasteful overkill.
- Fourth offence:* Second family group conference. More rigorous conference. What did the participants do, or fail to do, after the last conference? More detailed plan of action to respond to this analysis of the problem. Designation of offender supporters to monitor and report on implementation. Follow-up by co-ordinator to report back to participants on implementation. Modest quantum of community work.
- Fifth offence:* Third family group conference. Escalation of shaming of offender: 'You gave undertakings to your family at the last conference that you have broken in the most thoughtless way. You breached the trust your parents put in you with that agreement.' Redesign the plan of action. This time, secure a more solemn oath to the parents. Follow through. More community work.
- Sixth offence:* Fourth family group conference. New invitees. The smorgasbord of intervention options that the family group can choose (life skills or work skills courses, remedial education, church-run programmes, anger control courses, regular meetings with the school counsellor,

<sup>16</sup> There will be rare cases where the offender is so dangerous that escalation to institutionalization is inevitable and necessary. We have no dispute with such a course of action in those cases.

outward bound, drug rehabilitation programmes, etc.) is put before them in a different way. 'We chose the wrong option before. That was our mistake. But we believe in the caring side of you that your family sees so often, so eventually you will find with them the right option to assist you to consider the hurt you cause to victims like Mrs Smith and to consider your own future.' Keep up the shaming, this time focused on the particular circumstances of Mrs Smith. Work for Mrs Smith.

*Seventh offence:* Fifth family group conference. Try again basic strategy of fourth conference with a different victim, different participants, and a different way of presenting the smorgasbord of intervention options.

*Eighth offence:* Sixth family group conference. Change tack. Eventually come back to the fact that the offender is still responsible for this particular criminal act, but lead off with collective self-blame: 'As a group, your parents, your sister, grandfather and aunt, your teacher, Mrs Brown, who has such a soft spot for you, and me as the co-ordinator of this conference, we all feel responsible that we have let you down. We haven't listened to you well enough to come up with the right ways to help you. We need you to tell us where we have gone wrong.' Various other options can follow, such as one family member after another coming along prepared to give a speech on the mistakes they have made in the course of the saga. A search could be initiated by the family to find some new participants in the conference to add fresh perspectives, even asking another couple to become 'god-parents'. An option on the co-ordinator's side could be to bring in a consultant professional of some sort with new ideas to participate in the conference.

Obviously, it gets very difficult to keep coming up with new angles, to keep projecting faith in the essential goodness of the offender, to persist with the never-give-up ideology. The relentless optimism that successful reintegration enjoins may eventually surrender in the face of a natural human pessimism. We saw one stigmatizing conference for an offender (his fourth) which exemplified this surrender. During this encounter, the exasperated co-ordinator described the offender as a 'Yahoo'. Before inviting the offender to give his side of the story, he turned to the family and asked them what they thought was wrong with the boy. He said: 'The responsibility is the parents, not ours. I don't care. The Department doesn't care. We can just send it on to court.' The Youth Advocate said that she saw the key question as being whether 'his friends were bad or he was the bad one'. She supported the interpretation of the police that escalation to institutionalization was the track the boy was heading down. The police, the co-ordinator and the youth advocate had given up and everything they said gave the impression that they had given up on him. Even when the boy apologized, the co-ordinator evinced utter cynicism when he retorted dismissively, 'That's what you said last time.' This was a fully fledged degradation ceremony rather than an attempt at reintegration.

Pessimism is a natural human reaction to repeated misfortune and eventually the most determined commitment to 'never giving up on the offender' may succumb to it.

But a tenacious commitment to the ideology of never giving up will allow co-ordinators to cling to it for the fourth conference after the failure of the third. A slightly more tenacious commitment allows optimism to survive the fifth conference into the sixth. At each stage, more and more offenders drop off never to return, their criminal careers coming to an end without being inflicted with degradation ceremonies. Very few offenders indeed will make it through to a sixth conference. If we can hold out with optimism until then, the criminal justice system will have been transformed to a 99 per cent reintegrative institution. That can hardly be a bad outcome.

True disciples of reintegration, including ourselves, take the injunction to never give up on offenders to the absolute extreme. Even when a criminal career has continued to the point of the offender being the most powerful organized criminal in the country, the best hope for dealing with him is conceived as persuading him to convert his illegitimate capital into a legitimate business, giving his children a better future, a more respectable future, than the shame of his criminal empire. Going further still, as we have illustrated earlier (see n. 8 above), we think even the top management of certain Australian insurance companies are best negotiated with reintegratively! In the extraordinary cases where offenders are such a danger to the community that incarceration is defensible, we should not give up on pushing for reintegration, even though the degradation ceremony of confinement makes this maximally difficult.

*(14) The ceremony must be justified by a politically resonant discourse*

Shaming and reintegration are terms that we think have merit (that we will not defend here) in the discourse of criminological theory. These days, they have surprising currency among the police and community of Wagga. But in New Zealand, the terms that have more currency are, respectively, young offenders and their families 'taking responsibility' and 'healing'. The discourse of responsibility and healing may have more popular political appeal than that of shame and reintegration, as evidenced by the wide political support it has attracted in New Zealand and the growing support throughout Australia (Interim Report of the Select Committee on the Juvenile Justice System 1992; Tate 1992).

Much more crucial to this political and media support has been the marketing of this reintegration strategy as victim-centred and family-centred. It is a progressive reform that calls the hand of conservative politicians. They are forever claiming that victims are the forgotten people of the criminal justice system and bemoaning the declining importance of the family in contemporary society. Here is a reform that empowers victims and at the same time values and empowers families. Such a reform puts conservatives in a vulnerable position when they seek to oppose it.

Moreover, conservatives have also found in Australia and New Zealand that they cannot count on their allegedly 'natural allies' in law and order campaigns, the police. The Australian and New Zealand Police Federation carried a resolution at its 1991 conference supporting the New Zealand juvenile justice reforms. In New Zealand, 91 per cent of the time, police report that they are satisfied with the outcomes of the conferences in which they participate, a higher level than for youth justice co-ordinators (86 per cent), parents (85 per cent), offenders (84 per cent) and victims (48 per cent) (Morris and Maxwell 1992). Perhaps this should not surprise us. The approach appeals to the common sense of police. On balance, it cuts their paperwork

and economizes on criminal justice system resources; they often feel empowered by the capacity the conference gives them to make practical suggestions to the family on what might be done about the problem (an opportunity they are rarely given by courts); they like to treat victims with the decency that they believe courts deny them (in particular, they like to see victims actually getting compensation); and they find that the programme builds goodwill toward the police in communities that are empowered through the process. Most critically, they find participation in community conferences more interesting, challenging, and satisfying work than typing up charges and sitting around in courthouses for cases that are rushed through in a matter of minutes. This is by no means a universal police reaction. But we can certainly say that the strongest support for these reintegrative programmes in Australia has come from the police. While New Zealand reform was Maori-driven, the Australian reform is being police-driven.

Finally, the political appeal of the process is that it can be advocated in the discourse of fiscal restraint. In New Zealand, one of the most conservative governments in the Western world liked a reform that helped the budget deficit by allowing them to sell most of the institutions for juvenile offenders in the country. We were told that the Department of Social Welfare alone estimated that in 1991, they saved \$6 million as a result of the reform. In this area of criminal justice, youth justice co-ordinators not only do the job more effectively than judges in court, they are cheaper than judges. By the same token, youth justice advocates are cheaper than prosecutors and public defenders. At all levels of the criminal justice system there are savings—not always massive savings, but rarely trivial.<sup>17</sup>

At the same time, reintegration ceremonies offer an attractive political package for a reforming politician. Presented properly, it can satisfy the otherwise incompatible imperatives of keeping the police and the finance ministry happy at the same time. It can even put the victims movement and liberally minded criminal justice reformers—who so often seem diametrically opposed—together on the same platform of support.

### *Conclusion*

A useful way of thinking about ceremonies for dealing with rule breakers is in terms of the ratio of stigmatic to reintegrative meanings during the ceremony. When that ratio is high, we have a degradation ceremony; when low, a reintegration ceremony. There are few, if any, actors who are perfectly faithful to the theory of reintegrative shaming during such ceremonies. Typically, messages are mixed, as with the Maori participant quoted above: 'You've got no brains, boy (stigmatization) . . . But I've got respect for you (reintegration) . . .' There are many actors like this one who communicate shame while also sustaining a high ratio of reintegrative to stigmatizing meanings. The subtleties in the ways shaming and reintegration are mixed by practical human communicators are myriad. We noted one police sergeant who addressed male offenders by their names whenever he was engaging them in responsibility talk, but

<sup>17</sup> Against this view, economists might say that we should cost the (considerable) time involved in the attendance of victims and supporters, for example. If we calculated these costs, perhaps there would be no savings. But why should we make a negative entry for victims in the economic calculus when the fact is that the reform increases utility for victims? To enter the costs would make sense only if we could value the benefits. And if we did that, then no doubt the system we describe would again show a better balance sheet.

who called them 'mate' whenever he switched to reintegrative talk. When we pointed out this observation and asked him whether he was aware of the pattern, the sergeant told us it was a conscious communication strategy.

In Giddens's (1984) terms, many actors have practical but not discursive consciousness of the idea of reintegration; some actors, like this sergeant, have both. A feasible objective is to increase the proportion of actors who are conscious of the virtues of reintegration. This is not best achieved by lectures from theoretical criminology texts, but from telling stories (Shearing and Ericson 1991) and simple homilies such as that of one police constable: 'Just because we sometimes do stupid things; that does not mean we are a stupid person.' It could be that if there is a key principle of successful reintegration ceremonies, it is that there should not be too many principles. Training of co-ordinators should be kept simple, leaving them wide discretion to implement flexibly a few broad principles.

Stigma cannot be rooted out of confrontations between people who are angry and affronted by acts of rule breaking. But the ratio of stigmatization to reintegration can be shifted substantially by story-based training methods that focus on a few core principles—empower the victim, respect and support the offender while condemning his act, engage the offender's supporters. Just by having a process that is more victim-centred, problem-centred, and community-oriented, rather than centred on the offender and his pathologies, we institute a logic that produces less stigmatization and more reintegration. Obversely, the offender-centred logic of the courtroom or the psychiatrist's couch institutionalizes stigmatization.

One of the inevitable problems is that the stigmatizing, disempowering professional knowledges of the court and consultancy rooms penetrate the reintegration ceremony. Most depressingly, this was observed in New Zealand with the role of certain youth advocates, private lawyers contracted by the state to watch out for the rights of young offenders during conferences. Sometimes they 'earn their fee' by taking charge, telling the family what sort of action plan will satisfy the police and the courts. Or worse, we see 'the practice of law as a confidence game' (Blumberg 1967) where advocate, co-ordinator and police conspire to settle a practical deal among the professionals, then sell that deal to the conference participants, a deal that in at least one case seemed to us a sell-out of both the offender and the victim.

We commented earlier about the observations made by Clifford Shearing and Jane Mugford after a Wagga training session. Their point was that the reform process must create a new knowledge, a citizen knowledge, otherwise the old professional knowledges would colonize the spaces in the programme. We agree—hence the importance of the simple principles outlined above and the importance of the central involvement of local police—citizen consultative committees and other community groups in guiding reform. At the same time, however, we think the professional knowledges also include the seeds of their own reform. Reintegrative concepts have a major place in psychological and particularly social work discourse. These can be brought to the fore through reforms such as we are seeing in New Zealand and Wagga. While the youth advocates were criticized by a number of people we spoke to in New Zealand for importing professional control into family group conferences, some of these critics also pointed out how many advocates had changed their legalistic habits to accommodate the communitarian ideology of the conferences. Finally, there can be no doubt that these reforms are part of wider changes in police knowledges in Australia and New Zealand—away

from 'lock-'em-up' law enforcement and toward community policing. None the less, at the crucial middle management levels, the old punitive knowledges of policing continue to predominate and must be confronted by reasoned cases based on the success of alternative practices. Reformers can't lock professional knowledges out of the process. Hence, reformers must be engaged with police education, counter-colonizing that area with reintegrative ideas.<sup>18</sup>

There are no criminal justice utopias to be found, just better and worse directions to head in.<sup>19</sup> The New Zealand Maori have shown a direction for making reintegration ceremonies work in multicultural metropolises such as Auckland, a city that faces deeper problems of recession, homelessness, and gang violence than many cities in Western Europe. Implementation of these ideas by the white New Zealand authorities has been riddled with imperfection—re-professionalization, patriarchy, ritualistic proceduralism that loses sight of objectives, and inappropriate net-widening. The important thing, however, is that the general direction of change is away from these pathologies; it is deprofessionalizing, empowering of women, oriented to flexible community problem-solving and, for the most part, narrowing nets of state control (Maxwell and Morris 1993: 25, 134, 136, but see 128, 176; on net-narrowing at Wagga see Moore 1992; O'Connell 1992). Most critically, it shows that the conditions of successful reintegration ceremonies that criminologists identify when in high theory mode can be given practical content for implementation by police and citizens.

As both Max Scheler and Garfinkel point out: 'There is no society that does not provide in the very features of its organisation the conditions sufficient for inducing shame.' (Garfinkel 1956: 420). The question is what sort of balance societies will have between degradation ceremonies as a 'secular form of communion' and reintegration ceremonies as a rather different communion. Garfinkel showed that there was a practical programme of communication tactics that will get the work of status degradation done. We hope to have shown that equally there is a practical programme of communication tactics that can accomplish reintegration.

#### REFERENCES

- ASHWORTH, A. (1986), 'Punishment and Compensation: Victims, Offenders and the State', *Oxford Journal of Legal Studies*, 6: 86–122.
- BALES, R. (1950), *Interaction Process Analysis*. Cambridge: Addison Wesley.
- BECKER, H. S. (1960), 'Notes on the concept of commitment', *American Journal of Sociology*, 66: 32–40.
- (1963), *Outsiders: Studies in the Sociology of Deviance*. New York: Free Press.
- BLUMBERG, A. S. (1967), 'The Practice of Law as a Confidence Game: Organizational Cooptation of a Profession', *Law and Society Review*, 1: 15–39.

<sup>18</sup> Something the senior author has been actively engaged with since 1986 as a member of the NSW Police Education Advisory Council.

<sup>19</sup> There is no persuasive evidence that the reforms we have described actually work in reducing delinquency. That would require random allocation experiments. We can say that official statistics do not support the conclusion that they are failing. Crime rates in Wagga Wagga seem to have fallen since the juvenile justice reforms were introduced. In New Zealand, juvenile crime rates were falling slightly before the Children, Young Persons and Their Families Act 1989 was passed, and continued to fall slightly after its introduction (Maxwell and Morris 1993: 45).

- BLAGG, H. (1985), 'Reparation and Justice for Juveniles: The Corby Experience', *British Journal of Criminology*, 25: 267-79.
- BOTT, E. (1987), 'The Kava Ceremonial as a Dream Structure', in M. Douglas, ed., *Constructive Drinking: Perspectives on Drinking from Anthropology*. Cambridge: Cambridge University Press, pp. 182-204.
- BRAITHWAITE, J. (1989), *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.
- (1991), 'Poverty, Power, White-Collar Crime and the Paradoxes of Criminological Theory', *Australian and New Zealand Journal of Criminology*, 24: 40-58.
- (1992), 'Corporate Crime and Republican Criminological Praxis', Paper to Queens University Conference on Corporate Ethics, Law and the State, Kingston.
- (1993), 'Inequality and Republican Criminology', in John Hagan and Ruth Peterson, eds, *Crime and Inequality*. Palo Alto: Stanford University Press.
- BRAITHWAITE, J., and DALY, K. (in press), 'Masculinities, Violence and Communitarian Control', in T. Newburn and B. Stanko, eds, *Just Boys Doing Business? Men, Masculinity and Crime*. London: Routledge.
- CHEAL, D. (1988), 'The Postmodern Origins of Ritual', *Journal for the Theory of Social Behaviour*, 18: 269-90.
- CHRISTIE, N. (1977), 'Conflict as Property', *British Journal of Criminology*, 17: 1-26.
- CRAGG, W. (1992), *The Practice of Punishment: Towards a Theory of Restorative Justice*. London: Routledge.
- DE HAAN, W. (1990), *The Politics of Redress: Crime, Punishment and Penal Abolition*. London: Unwin Hyman.
- DIGNAN, J. (1992), 'Repairing the Damage: Can Reparation Work in the Service of Diversion?', *British Journal of Criminology*, 32: 453-72.
- DOOB, A., and ROBERTS, J. (1983), *Sentencing: An Analysis of the Public's View of Sentencing. A Report to the Department of Justice, Canada*. Department of Justice: Canada.
- (1988), 'Public Attitudes towards Sentencing in Canada', in N. Walker and M. Hough, eds, *Public Attitudes to Sentencing*. Aldershot: Gower.
- ERIKSON, K. T. (1962), 'Notes on the Sociology of Deviance', *Social Problems*, 9: 307-14.
- FISSE, B., and BRAITHWAITE, J. (1993), *Corporations, Crime and Accountability*. Sydney: Cambridge University Press.
- GALAWAY, B. (1985), 'Victim-Participation in the Penal Corrective process', *Victimology*, 10: 617-30.
- GALAWAY, B., and HUDSON, J. (1975), 'Issues in the Correctional Implementation of Restitution to Victims of Crime', in J. Hudson and B. Galaway, eds, *Considering the Victim*. Springfield, IL: Charles C. Thomas.
- (1990), *Criminal Justice, Restitution and Reconciliation*. Monsey, NY: Criminal Justice Press.
- GALAWAY, B., HENZEL, M., RAMSEY, G., and WANYAMA, B. (1980), 'Victims and Delinquents in the Tulsa Juvenile Court', *Federal Probation*, 44: 42-8.
- GARFINKEL, H. (1956), 'Conditions of Successful Degradation Ceremonies', *American Journal of Sociology*, 61: 420-4.
- GIDDENS, A. (1984), *The Constitution of Society*. Berkeley, CA: University of California Press.
- GOFFMAN, E. (1971), *Relations in Public*. New York: Basic Books.
- GUSFIELD, J. R. (1987), 'Passage to Play: Rituals of Drink in American Society', in M. Douglas, ed., *Constructive Drinking: Perspectives on Drinking from Anthropology*. Cambridge: Cambridge University Press, pp. 73-90.

- HABERMAS, J. (1986), 'Law as Medium and Law as Institution', in Gunther Teubner, ed., *Dilemmas of Law in the Welfare State*. Berlin: Walter de Gruyter.
- HAZAN, H. (1987), 'Holding Time Still with Cups of Tea', in M. Douglas, ed., *Constructive Drinking: Perspectives on Drinking from Anthropology*. Cambridge: Cambridge University Press, pp. 205-19.
- HAZLEHURST, K. (1985), 'Community Care/Community Responsibility: Community Participation in Criminal Justice Administration in New Zealand', in K. Hazlehurst, ed., *Justice Programs for Aboriginal and Other Indigenous Communities*. Canberra: Australian Institute of Criminology.
- HEINZ, A., and KERSTETTER, W. (1981), 'Pretrial Settlement Conference: Evaluation of a Reform in Plea Bargaining', in B. Galaway and J. Hudson, eds, *Perspectives on Crime Victims*. St. Louis, MO: Mosby.
- HIRSCHI, T., and GOTTFREDSON, M. (1983), 'Age and the Explanation of Crime', *American Journal of Sociology*, 89: 552-84.
- HOWARD, B., and PURCHES, L. (1992), 'A Discussion of the Police Family Group Conferences and the Follow-Up Program (Stage 2) in the Wagga Wagga Juvenile Cautioning Process', *Rural Society*, 2: 20-3.
- Interim Report of the Select Committee on the Juvenile Justice System (1992). Adelaide: Parliament of South Australia.
- KIGIN, R., and NOVACK, S. (1980), 'A Rural Restitution Program for Juvenile Offenders and Victims', in J. Hudson and B. Galaway, eds, *Victims, Offenders and Alternative Sanctions*. Lexington, MA: Lexington Books.
- MARSHALL, T. F. (1985), *Alternatives to Criminal Courts*. Aldershot: Gower.
- MAXWELL, G. M., and MORRIS, A. (1993), *Family Victims and Culture: Youth Justice in New Zealand*. Wellington: Institute of Criminology, Victoria University of Wellington.
- MCDONALD, J., and IRELAND, S. (1990), *Can It be Done Another Way?* Sydney: New South Wales Police Service.
- MEIMA, M. (1990), 'Sexual Violence, Criminal Law and Abolitionism', in B. Rolston and M. Tomlinson, eds, *Gender, Sexuality and Social Control*. Bristol: European Group for the Study of Deviance and Social Control.
- MOORE, D. B. (1992), 'Facing the Consequences. Conferences and Juvenile Justice', *National Conference on Juvenile Justice*. Canberra: Australian Institute of Criminology.
- MORRIS, A., and MAXWELL, G. (1992), 'Juvenile Justice in New Zealand: A New Paradigm', *Australian and New Zealand Journal of Criminology*, 26: 72-90.
- MORRIS, A., MAXWELL, G., and ROBERTSON, J. P. (in press), 'Giving Victims a Voice: A New Zealand Experiment', *Howard Journal of Criminology*.
- MUGFORD, J., and MUGFORD, S. (1991), 'Shame and Reintegration in the Punishment and Deterrence of Spouse Abuse'. Paper presented to the American Society of Criminology Conference, San Francisco, 20 November.
- (1992), 'Policing Domestic Violence', in P. Moir and H. Eijckman, eds, *Policing Australia: Old Issues, New Perspectives*. Melbourne: MacMillan, pp. 321-83.
- MURPHY, J. G., and HAMPTON, J. (1989), *Forgiveness and Mercy*. New York: Cambridge.
- New Zealand Police Association (1991), Submission to the Review of the Children, Young Persons and their Families Act 1989. Wellington: New Zealand Police Association.
- NOVACK, S., GALAWAY, B., and HUDSON, J. (1980), 'Victim and Offender Perceptions of the Fairness of Restitution and Community-Service Sanctions', in J. Hudson and B. Galaway, eds, *Victims, Offenders and Alternative Sanctions*. Lexington, MA: Lexington Books.



- O'CONNELL, T. (1992), 'It May Be the Way to Go', *National Conference on Juvenile Justice*. Canberra: Australian Institute of Criminology.
- O'CONNELL, T. and MOORE, D. (1992), 'Wagga Juvenile Cautioning Process: The General Applicability of Family Group Conferences for Juvenile Offenders and their Victims', *Rural Society*, 2: 16-19.
- O'CONNOR, I., and SWEETAPPLE, P. (1988), *Children in Justice*. Sydney: Longman-Cheshire.
- PEPINSKY, H. E., and QUINNEY, R. (eds) (1991) *Criminology as Peacemaking*. Bloomington: Indiana University Press.
- POLK, K. (1992), 'Jobs not Jails: A New Agenda for Youth', *National Conference on Juvenile Justice*. Canberra: Australian Institute of Criminology.
- Report of the Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare (1986), *Puao-Te-Ata-Tu* (day break). Wellington, New Zealand: Department of Social Welfare.
- ROSE, N. (1990), *Governing the Soul: Shaping the Private Self*. London: Routledge and Kegan Paul.
- SCHEFF, T. J., and RETZINGER, S. M. (1991), *Emotions and Violence: Shame and Rage in Destructive Conflicts*. Lexington, MA: Lexington Books.
- SCHUR, E. M. (1973), *Radical Non-Intervention: Rethinking the Delinquency Problem*. Englewood Cliffs, NJ: Prentice-Hall.
- SHAPLAND, J., WILLMORE, J., and DUFF, P. (1985), *Victims in the Criminal Justice System*, Cambridge Studies in Criminology. Brookfield, VT: Gower.
- SHEARING, C. D., and ERICSON, R. V. (1991), 'Towards a Figurative Conception of Action', *British Journal of Sociology*, 42: 481-506.
- SIMMEL, G. (1978), *The Philosophy of Money*. London: Routledge.
- SYKES, G., and MATZA, D. (1957), 'Techniques of Neutralization: A Theory of Delinquency', *American Sociological Review*, 22: 664-70.
- TATE, SENATOR M. (1992), Opening Address, *National Conference on Juvenile Justice*. Canberra: Australian Institute of Criminology.
- TAYLOR, I., WALTON, P., and YOUNG, J. (1973), *The New Criminology: For a Social Theory of Deviance*. London: Routledge and Kegan Paul.
- UMBREIT, M. (1985), *Crime and Reconciliation: Creative Options for Victims and Offenders*. Nashville, TN: Abigton Press.
- WEITEKAMP, E. (1989), *Restitution: A New Paradigm of Criminal Justice or a New Way to Widen the System of Social Control?* Unpublished Ph.D dissertation, University of Pennsylvania.
- WRIGHT, M. (1982), *Making Good: Prisons, Punishment and Beyond*. London: Hutchinson.
- Youth Justice Coalition (1990), *Kids in Justice: A Blueprint for the 90s*. Sydney: Law Foundation of New South Wales.
- ZEHR, H. (1990), *Changing Lenses: A New Focus for Criminal Justice*. Scottdale, PA: Herald Press.