Restorative Ambitions for Tempered Domination

John Braithwaite

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Micro- and geo-politics of restorative diplomacy

Since 2004 I have interviewed 5000 people about 80 geopolitically significant conflicts for my *Peacebuilding Compared* project (johnbraithwaite.com). I spoke with many presidents, but more grassroots peacemakers. I study how restorative diplomacy works when it works well. The Balzan Foundation will fund continuation of this work mainly in Africa during the next five years to code another 30 wars for the quantitative phase of *Peacebuilding Compared*.

With crime, restorative justice means restoring victims, restoring offenders, and restoring communities as an alternative to putting people in prison. It's about the idea that because crime hurts, justice should heal. This impels a relational form of justice. It means deep listening to former adversaries. As a process, restorative justice means that all stakeholders in an injustice are invited to sit in a circle to listen to who has been harmed, what might be done to repair those harms and meet the needs of stakeholders. A restorative circle reaches an agreement, then stakeholders sign it, agree to actions to put things right. The circle discusses what can be done to prevent future crime, commits to do something that might protect future victims.

Restorative justice is not as effective a way of reducing crime as some more expensive interventions. But few interventions are as cost effective, with benefit-cost ratios as high as 8 to 1 (Sherman at al. 2015). There have been eight meta-analyses of the crime prevention effectiveness of restorative justice. They follow very different inclusion criteria. Despite the fact that each of them covers a different suite of studies, all eight reach basically the same conclusion – that restorative justice achieves a statistically significant reduction in crime, but effect sizes are modest compared to the most effective interventions (Braithwaite 2021). Restorative justice has more powerful benefits for victims of crime than for offenders. Especially with violent crime, victims subsequently attack their attackers at times. So restorative healing and problem solving has the additional

benefit of preventing future crime by victims (Strang 2002). This is not captured in meta-analyses that measure reoffending by offenders only.

This is a particularly profound point when we consider the ways restorative justice can prevent wars – gang wars between organized crime groups, war between insurgency militias, or national armies. My research is about the idea that crime cascades to more crime, war to more war, crime cascades to war, and war to crime and suicide (Braithwaite 2022: Chapter 11). Restorative justice is a transformative intervention because war, crime, and suicide are cascade phenomena. Why does the United States have many times more mass shootings than other countries? Answers are not necessarily about how different America is from Italy. One central explanation is that the United States will have more mass killings than other countries in the future because it has had more mass killings in the recent past. It will get involved in more future wars than other countries because it has fought more wars in the recent past. For that reason, it also has more homicides and suicides on its own soil that it would have without fighting so many wars. Daughters of Australia's Vietnam war veterans suffer more rape victimization than other women. Cascades of violence are inter-generational (Braithwaite 2022: Chap.11). Like epidemiologists who disrupt virus contagions that reproduce themselves, criminologists might focus more on the idea that mercy and relationships can disrupt contagions of crime and war.

I hypothesize slavery as history's most critical cascade of violence. We cannot understand why ancient Rome was so violent in subjugation of its own people, and other peoples, without understanding that only 55 per cent of Romans were citizens in the first century BC. More recent waves of slave trading have a bigger impact today. 'Latin America and the Caribbean' is the region of the world with the highest homicide rate and the widest income inequality today because Latin America and the Caribbean was where the greatest surge of African slave trading was felt and also where genocide against Indigenous peoples was the bloodiest (Braithwaite 2022). On the African side, the African states decimated by giving up most slaves for the Americas are the states today that perform worst on the Human Development Index. Indigenous genocide and the volume of slaves in the United States was not at the scale of Latin America. Nevertheless, I argue that this explains why the United States has long had the highest crime rate of all Western democracies. This will seem speculative historiography to serious scientists. One way I try to be persuasive is with this supplementary datum. Within the United States, the Southern counties that received most slaves are counties today that have extraordinarily high homicide rates compared to the rest of the United States (e.g., Gouda and Rigterink 2017). Slave societies cascade crime, war, and economic exploitation because they inure cultures of domination. This means cultures of making others unfree. Punitive cultures of domination are of course the antithesis of restorative cultures that heal with the promise of justice

as a better future. Cultures of domination are obsessed with punishing outsiders for crimes of the past.

I am critical of restorative justice theory for straying too far from its early emphasis on punitive culture as an antithesis of restorative justice (as in Howard Zehr's *Changing Lenses* (1990), for example). A second generation of theorists correctly observed that restorative justice circles do agree on punitive remedies quite often. Revisionists therefore concluded that it is important to theorise restorative justice as unopposed to punishment. This presentation ends with what I hope is a better restorative theory of what the punitive should look like.

Levels of restorative justice

All of us can contribute to a more peaceful world that resorts to domination less, and restorative dialogue more, to solve its problems. Macro level contributions are made by little people to campaigns against modern slavery. And to the peace movement. We talk to people about the unacceptability of children starving in Africa again because of food and fertilizer shortages, hyper-inflation, caused yet again in Africa by a European war. The war in Ukraine could have, should have, been prevented by restorative diplomacy from both sides (Braithwaite 2024).

Restorative justice makes the personal political. It makes the political personal. It is deeper than a practice. Restorative justice is a way of living for a person, a more caring, relational way of being. So with a war in Ukraine, we must listen with compassion to those who believe that it is right and just to keep fighting Russia for as long as it takes because Russia is an aggressor, just as it is important to listen to those who want practical peacemaking to end the killing or to end discrimination against Russian speakers who want to go to their Russian church in Ukraine. In the Indonesian wars between Christian and Muslim militias twenty years ago, and between different ethnic groups, peace at the local level came from many individual acts of kindness and reconciliations of everyday life (Braithwaite et al. 2010). The Christian priest picks up an old Muslim couple whose car, house and children were burnt to ashes by his Christian congregation. He drives the couple to market on a hot day. The respected Muslim woman gathers Muslims to walk together to a church for the first time since the inter-religious slaughter for the funeral of a Christian man they respected. In conflicts from Ambon to Aceh, Muslim communities rebuilt churches they burnt down. Christian congregations rebuilt mosques they incinerated. They prayed together in their own ways inside these places of worship rebuilt for a future of interfaith love.

These reconciliation rituals of everyday life are why, I argue, just 20 years after the end of these wars, Indonesia has moved from being a high violence society to a low violence society with an imprisonment rate one third of Europe's

imprisonment rate. It has a growing restorative justice movement with its own cultural and religious roots. Indonesia has by far the largest number of Muslims of any country. Until the early years of this century, it also had the most terrorist incidents of all countries. Today it accounts for a lower rate of terrorism than any Muslim society I know. Jamat Islamiah, which accounted for most of the worst incidents of terror, such as the Bali bombing that killed 202 innocents, and that triggered revenge Christian terror in incidents that killed up to three times as many as Bali's 202. Jamat Islamiah is still a powerful religious movement across Indonesia. It runs countless religious schools and mosques. But it has totally renounced violence as a strategy. We argued in our *Peacebuilding Compared* book on Indonesia's wars that restorative healing, love for enemies, was the heart of this accomplishment (Braithwaite et al. 2010).

Restorative justice as a personal way of living is not enough. Restorative practices in primary groups like families, schools, sporting clubs, and workgroups also matter. Perhaps the social movement for restorative justice might have made more progress in the legal system had prosecutors and police learnt in school restorative circles how to solve problems of bullying, theft, disruption of learning, and attempts to expel children from schools. Children are not born democratic. They must learn to be democratic in how they solve problems and improve learning. Restorative justice is a good way to learn to become democratically empowered to transform educational institutions away from patriarchy, gendered violence, and other dominations.

So my colleagues' research how we can make the social movement politics of restorative justice more personal in how it transforms the way we live relational lives. It is partly about transforming intermediate institutions like schools and workplaces. School bullies are more likely to become workplace bullies. That is a special concern when their workplace becomes the President's office. Leaders who do restorative diplomacy perform better at bringing peace to the world. Restorative diplomacy is a phenomenon I seek to understand in my Balzan Research project. First, however, we must confront the critique of restorative justice theory that human beings are fundamentally rational animals rather than relational animals.

Surely deterrence works

National security intellectuals tend to be ideologues about deterrence rather than scientists of the subject. They contend, for example, that mutual assured destruction works because in the centuries before 1945 great powers were always fighting wars. After the first use of atomic bombs, however, these great power wars stopped. I allow such deterrence theorists the belief that NATO and Russia are not at war as we speak. Niceties like control groups worry little about such

international relations theory. Yes, France and Germany have not invaded each other, nor any other major power, since 1945. But the two greatest powers in South America, Argentina, and Brazil, have avoided wars with each other for much longer than Western powers without nuclear weapons. There have been no wars among the countries of the Association of South-East Asian Nations (ASEAN), more than 600 million people, since ASEAN was founded. The ASEANS have no nuclear weapons, no plans whatsoever to develop them; they have all signed a treaty, as has Australia and the Pacific region south of them, to ban nuclear weapons from these regions. Could the very existence of ASEAN and ASEAN diplomacy be one reason for the disappearance of wars among ASEAN states? I think so. Might it be that the best explanation of why EU states do not fight wars is the very existence of the EU and EU diplomacy for peace? Could it be that the fact that France and the UK have had nuclear weapons is not important to understanding the long peace within the EU? That is my hypothesis.

International relations scholars are not always uninterested in control groups. Sechser and Fuhrmann (2017:73) analysed 210 instances of one state making an explicit 'compellent threat' that threatened the use of force against another state to secure an outcome. It compared threats of states with nuclear weapons to threats by states with no nuclear weapons. Their conclusion: "The evidence is clear: states that possess nuclear weapons enjoy no more success when making compellent threats." The world sensed this early during the nuclear era. President Truman flew nuclear weapons into the Korean War theatre as a compellent threat to an enemy without nuclear weapons at that time. North Korean and Chinese troops responded by surging south to multiply the slaughter until the war had killed more than three million people. Armistice dialogue ended that slaughter; nuclear deterrence backfired.

The international relations research ethos of mostly being uninterested in control groups is quite unlike my fellow criminologists. Good criminologists are pessimistic that the severity of deterrent threats provides one of the good explanations of where crime rates are high. Sure, we think it surprising that people are not so afraid of being executed or long prison terms that use these sanctions improves prevention. Empirical research of increasing rigor suggests that more potent punishments deter little, often not at all, or even often backfire to make things worse. Law and order ideologues believe otherwise. They assert that tough punishment is the way to bring crime down, just as there are militarist ideologues who believe that bigger arsenals make us safer, in spite of the evidence to the contrary synthesized in Braithwaite (2024).

What does good social science research with control groups, including randomized controlled trials, show about punitive prevention of other problems, beyond crime and war? When I was a child, my dear grandfather would argue

with my mother about *his* belief in the philosophy of 'spare the rod and spoil the child'. Now we have the empirical evidence that grandad was wrong and my mum was right in this debate. Likewise in my school, there were punitive teachers who put into practice a philosophy of frequent use of the cane as the educational practice par excellence of their lived experience. Today we know the evidence shows that readiness to resort to the rod produced worse education outcomes in schools (Braithwaite 2022, 2024).

Consider President Nixon's 'war on drugs' that continues to this day. It became an actual war in Mexico where the drug cartels are strongest. A sophisticated body of time-series studies show that the philosophy of decapitating the leadership of cartels makes the problem worse (Braithwaite 2022: 95). The more decapitation success the war on drugs has, the more violence and murder occurs in the drug trade. That drug trade becomes a monster with more heads. Drug sales do not drop.

The same thing happened with the war on terror. After the invasions of Afghanistan and Iraq and the NATO bombing of Libya had initial regime change success, the number of Al Qaeda and Islamic State terrorists and terrorist killings in the world doubled (Braithwaite and D'Costa 2018). Decapitation of the leaders of terrorist groups fails to reduce terrorism overall or often makes it worse (Jordan 2009). Decapitation of the leadership of insurgencies tends to induce a temporary calm during the leadership change, but no long-run reduction in the intensity or duration of civil war (Ryckman 2020). Drone assassinations during the war on terror after 9/11 tended to make terror worse (Lehrke and Schomaker 2016). Even the most celebrated decapitation of a terror organization, the assassination of Osama bin Laden, was associated with a subsequent rise in terrorist killings (Fisher and Becker 2023). In decades past, Israel has had great success in assassinating leaders of the Palestinian armed resistance and in assassinating one leader of Hezbollah after another in Lebanon. Late 2024 is the peak period of Israeli success at decapitating these organizations. This is not succeeding in inducing surrender; it remains to be seen if it will lead to a 'wipeout of the terrorists'.

The data suggest on all domains of social science for which we have quality evidence that the defiance curve in response to escalating coercion is steeper than the deterrence curve, whether this is punishment in families, schools, controlling crime, decapitation of insurgencies, the war on drugs, or decapitation in the war on terror. Brehm and Brehm (1981) conducted many psychological experiments on how the defiance effect (which they called a reactance effect) mostly exceeds the deterrence effect of increasing coercion. More than a hundred randomized experiments in the Brehm and Brehm tradition of research on the effect of coercion follow a pattern summarized in Figure 1. I drew this figure to be

consistent with both the pattern revealed from the first 50+ experiments discussed by Brehm and Brehm up to 1981, and a greater number since. Figure 1 shows that escalating deterrence on the X axis is the sum of a deterrence effect that grows less steeply than the defiance effect except when deterrence is very extreme. The red dotted line shows 'net compliance'. The net effect of coercion on compliance is the sum of a deterrence effect and a defiance effect.

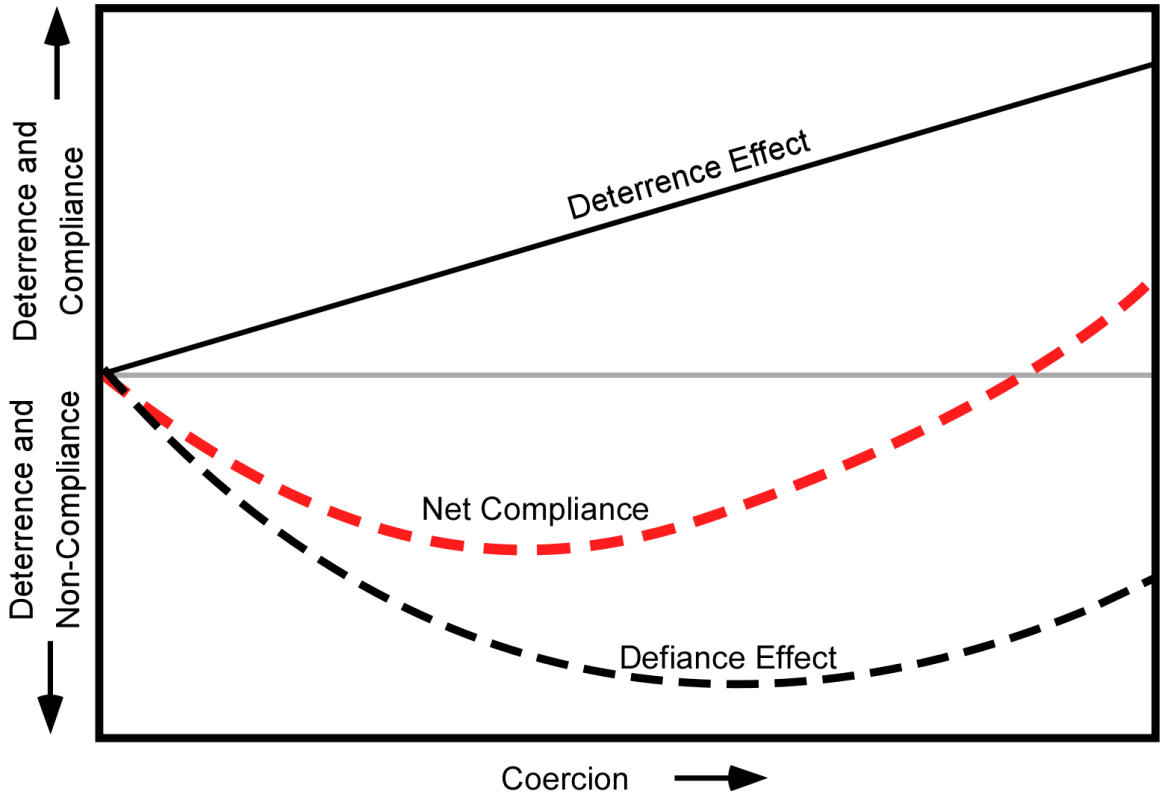

Figure 1: A theory of the effect of coercion on compliance as the net result of a deterrence effect and a defiance effect (based loosely on experiments summarized by Brehm and Brehm (1981).

Braithwaite (2002) explained that the policy implication of this is that restorative justice should be the main game of crime and war prevention. Repeated failure of restorative justice, however, should result in a perception of an inexorable takeover of the conflict by more punitive systems:

> Responsive regulation [does not require] participants in restorative justice to issue threats: the police officer who says, 'Next time I'll be taking you to court and you'll probably go to jail.' What is required is quite the reverse. It is for conference participants to identify with the offender as someone they are working with to prevent inexorable outside forces from taking over the case and putting it on a more punitive track. Inexorability is a societal accomplishment of the legal system—under a responsive regulatory regime everyone can see that it works inexorably. It is not an accomplishment of the issuance of threats in individual cases, which only amounts to bluff if there is in fact no inexorability in the system. Threat is counterproductive because it

> increases [defiance] . . . which undermines compliance. What is needed to achieve deterrence without defiance is societal inexorability of escalation (supporting deterrence) combined with offers of help without threat to avert that escalation—offered by others with whom one identifies (knocking out defiance). This is the way to improve compliance in a world where the impact of sanctions on compliance is the sum of a deterrence effect and a defiance effect. Put another way, my hypothesis is that restorative justice works best with a spectre of punishment in the background, threatening in the background but never threatened in the foreground. Where punishment is thrust into the foreground by implied threats, other-regarding deliberation is difficult because the offender is invited to deliberate in a self-regarding way—out of concern to protect the self from punishment. This is not the way to engender empathy, internalization of the values of the law and the values of restorative justice, the sequences of remorse, apology, and forgiveness that transform lives in permanent ways (Braithwaite 2002:35-36).

Brehm and Brehm qualified the finding that deterrence begins to work more powerfully than defiance when deterrence is extreme. Deterrence works least, even with extreme punishment, when commitment to the behaviour that is being deterred is passionate. In ancient Rome, the more Roman Christians were thrown to the lions, the stronger Christianity grew. It took over Rome. Rome became the centre of Christian civilization. At the other extreme, when a freedom that is regulated is not perceived to be a fundamental freedom, defiance effects are slight and rational deterrence works well. For most of us, being able to park a car wherever we want is not a fundamental freedom. Therefore, moderate escalations in the size of parking fines work to prevent cities from becoming overly cluttered with cars (Braithwaite 2002: Figure 4.3,106-7).

In most contexts, escalation of violence is the outcome of coercion, including in simulations of nuclear attacks and in real world experience of nuclear threats. We have seen what happened when President Truman signalled threat and flew many nuclear weapons into the Korean War theatre. In simulation exercises that include participants like Joseph Biden and Hilary Clinton, defiance effects are greater than deterrence effects. What you get again and again with simulation of escalating nuclear threats is escalation to Armageddon (Braithwaite 2024: 259).

The alternative

We might resort instead to cooperative, restorative security. Just as we learnt to nurture childrearing in families, schools, and the youth justice system through cooperative and restorative practices. That at least is the conclusion of my body of empirical and theoretical work. The social science of deterrence failure can bring about a culture change in international affairs, in families, in workplaces,

and many other domains. Across all of them, it is best to presumptively prefer restorative practices over retributive practices. Then cultures of peace can progressively become deeply embedded across human societies.

An instructive meta-analysis on deterrence of corporate crime shows the same result as in these other domains of deterrence. My intuition used to be that when business regulatory law had strongly punitive sanctions available to them and used them, deterrence of corporate crime to protect the environment and protect consumers would improve greatly. The University of Maryland meta-analysis by Schell-Busey et al (2015) showed that it does not improve – a shocking finding for the young John Braithwaite. When enforcement agencies had a strong mix of regulatory strategies, however, a mix that included firm punishment, then corporate compliance with the law does occur. Corporate deterrence is important, but only as an important part of a regulatory mix.

My theoretical inference from the Maryland meta-analysis, as it is from Figure 1, is that we cannot do without deterrence in finding solutions to big problems. But deterrence works when it plays second fiddle to a wide range of other regulatory strategies. What do I hypothesize is the most important of those other strategies? Restorative justice.

So today the older Braithwaite articulates a general theory of deterrence in human affairs: a theory of 'minimally sufficient deterrence' to prevent crime, prevent war, prevent school truancy, and much more. Not maximum deterrence, nor minimum deterrence, but minimally sufficient deterrence. He broadens this to a theory of minimally sufficient punishment (Braithwaite 2022: Chapter 9). Punishment can be reduced 'decrementally', step by step, in all these domains until we see evidence emerge that problems arise because there is not enough punishment in the regulatory mix (Braithwaite and Pettit 1990).

Punishment should be in the back seat—not the front seat—driving change. Restorative justice should be the front seat of human problem-solving as we push punishment further and further to the rear. Restorative justice can propel political momentum that works on the empirics of practical pathways towards making families, schools, workplaces, international relations, and counterterrorism less dominating. And more effective in preventing domination.

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