

TO: Students in 406
FROM: R. B. Taylor
DATE: 11/7/06
RE: More thoughts on Braithwaite

First: there's more. You have only just barely touched on the volume of work that is John Braithwaite. Don't think you have it all down. Since the publication of this book there have been several other major works. He developed a theory of republican justice which suggests a completely different sentencing policy than is followed anywhere today.¹ This model has upset those who think that it discards the just deserts model of proportional sentencing, which you are going to read about next week.² He has developed the area of international regulation, how it is working, and how it might work better.³ He has explored specific areas of business regulation, such as tax fraud, and has considered how the amount of regulation in an area can have an impact on how much fraud is taking place, but also adds a dynamic, over-time component.⁴ Can you say campaign finance reform? He has begun to connect his work with procedural justice models.⁵ He is contributing to restorative justice models.⁶ And of course he is continuing his work in the regulatory area generally.⁷

Reactions to the shaming model. Reactions have ranged from laudatory⁸ (“the new Durkheim”) to tepid⁹ (“the theory, in my judgment, is principally another try at

¹ For a succinct statement of the republican model see: Braithwaite, J., & Pettit, P. (1994). Republican Criminology and Victim Advocacy. *Law & Society Review*, 28(4), 765-776.

² Von Hirsch, A., and Ashworth, A. (1992). Not not just deserts: A Response to Braithwaite and Pettit. *Oxford Journal of Legal Studies*, 12(1), 83-98.

³ Braithwaite, J., & Drahos, P. (2000). *Global Business Regulation*. Cambridge: Cambridge University Press.

⁴ Braithwaite, J. (2005). *Markets in Vice, Markets in Virtue*. New York: Oxford University Press.

⁵ Makkai, T., & Braithwaite, J. (1996). Procedural justice and regulatory compliance. *Law and Human Behavior*, 20(1), 83-98.

⁶ Braithwaite, J. (1999). Restorative justice: Assessing optimistic and pessimistic accounts. In *Crime and Justice: a Review of Research*, Vol 25 (Vol. 25, pp. 1-127).

⁷ Braithwaite, J. (1993). Beyond Positivism - Learning from Contextual Integrated Strategies. *Journal of Research in Crime and Delinquency*, 30(4), 383-399.

Makkai, T., & Braithwaite, J. (1994). The Dialectics of Corporate Deterrence. *Journal of Research in Crime and Delinquency*, 31(4), 347-373.

Makkai, T., & Braithwaite, J. (1994). Reintegrative Shaming and Compliance with Regulatory Standards. *Criminology*, 32(3), 361-385.

⁸ Scheff, T. J. (1990). Crime, Shame, and Reintegration - Braithwaite, J. *American Journal of Sociology*, 96(3), 741-746.

combining elements from various current theories, but ... it does have the interesting new element of distinguishing between stigmatization and reintegrative shaming”) to carefully critical.¹⁰ Uggen’s critique, and Braithwaite’s response, and Uggen’s rejoinder, are must reading.¹¹ The core of Uggen’s critique is:

The unfortunate limitations of the theory – to predatory crime, moralizing social control, and the law on the books – all flow from the incompatibility of its initial assumptions. They go to the heart of very different views of the social world and very different models of social control.

Implications

This is an enormously generative model, with implications for just about every area of criminal justice policy, and may be especially appropriate to important emerging criminal challenges such as international and transnational crimes of many different types.

⁹ Akers, R. L. (1990). Crime, Shame, and Reintegration - Braithwaite, J. *Contemporary Sociology-a Journal of Reviews*, 19(5), 722-723.

¹⁰ Uggen, C. (1993). Crime, Shame and Reintegration - Braithwaite, J. *Law and Social Inquiry-Journal of the American Bar Foundation*, 18(3), 481-499.

¹¹ Braithwaite, J. (1993). Pride in criminological dissensus. *Law and Social Inquiry*, 18(3), 501-512.