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## **Why do People Stop Offending? Recent Theories on Desistance and Their Value in Practical Approaches to Offenders**

### **1. Introduction**

The development of desistance theories is a rather recent event and while general theories on why people offend (and implicitly desist) are the very basis of criminology, thorough engagement with solely the desistance process has only begun towards the end of the 20<sup>th</sup> century. I will first briefly describe the development of theories on desistance. Next, Laub and Sampson's *Age-graded theory of social control*, the *Cognitive transformation theory* developed by Giordano *et al.*, Maruna's *Theory of narrative self-change* and Wikström's *Situational action theory* will be examined in more detail, especially with relation to the question of how they account for different offending populations. Finally, I will discuss the levels at which concepts such as 'abstract' and 'general' on the one hand and 'particular' and 'diverse' on the other perform best and what are the implications of such considerations for the theories on desistance in relation to an existing prison practice in Slovenia named sociotherapy.

The story of criminology has for the most part been the story of finding the difference between 'us' and 'them', between the law-abiding majority and the offending minority, the 'good' and the 'evil'. The search for a certain 'disposition' to commit crime has begun with the pioneering work of Lombroso and his contemporaries and continued to the present day with only few exceptions and throughout its course the main focus has been the young delinquent boy turned

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into a hardened criminal.<sup>1</sup> Even when studies on criminality tried to incorporate questions of gender, race and other biographical elements, those groups of offenders were considered as separate, marginal topics and were usually compared against the typical offender – the young white male.<sup>2</sup>

Moreover, criminological studies have focused on ‘chronic’ or ‘persistent’ offenders, using the criteria of frequency and duration of offending to delineate them from the rest of ‘occasional’, ‘once-in-a-lifetime’ offenders.<sup>3</sup> Once identified as being responsible for a disproportionate percentage of crime, such a group of persistent offenders may serve more than one purpose: on the one hand it can act as a rather straightforward category to be studied in order to explain crime as a social occurrence; on the other hand it can also act as a catalyst to unite the rest of the law-abiding society and outline the margins of the behaviour it is not willing to accept.<sup>4</sup>

While the concept of ‘others’ can be very helpful in uniting the societal majority of law-abiding people, it is linked to another interesting phenomenon – that of change. Most of criminological major theories seem to suggest, that engaging in criminal activity almost necessarily leads to further and perhaps more serious criminal activity.<sup>5</sup> Moreover, people in general tend to think that change in human behaviour is rather uncommon and especially with relation to crime the phrase ‘once a criminal, always a criminal’ is readily accepted. On the other hand, individual cases of change for the better are appraised and ‘[t]here is no public narrative more potent today – or throughout [...] history – than the one about redemption’.<sup>6</sup> It is no wonder that the best rated movie on IMDb, *Shawshank redemption*, in fact uses just such a narrative.<sup>7</sup> Redemption may be too strong a word to use in an academic context,<sup>8</sup> but the terms rehabilitation, resettlement, re-entry, recovery, and lately desistance have been used in different periods to encompass roughly the same meaning:

“the long-term abstinence from crime among individuals who had previously engaged in persistent patterns of criminal offending [with the emphasis on]

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<sup>1</sup> Maruna, *MAKING GOOD* (2001), p. 15.

<sup>2</sup> Hudson, *Diversity, Crime and Criminal Justice* (2007), pp. 158–175.

<sup>3</sup> Wikström, Treiber, *What drives persistent offending* (2009), p. 390.

<sup>4</sup> Durkheim, *THE RULES OF SOCIOLOGICAL METHOD* (1982); see also Maruna, *MAKING GOOD* (2001) and his notion of the ‘bogeyman’.

<sup>5</sup> Maruna, *MAKING GOOD* (2001).

<sup>6</sup> Kakutani, *As American As Second Acts And Apple Pie*. URL: <http://www.nytimes.com/2001/02/04/weekinreview/faith-base-as-american-as-second-acts-and-apple-pie.html?pagewanted=all>.

<sup>7</sup> Top 250, IMDb Charts, available at: <http://www.imdb.com/chart/top>.

<sup>8</sup> Maruna, *Redeeming Redemption as a Criminological Concept* (2009).

the maintenance of crime-free behaviour in the face of life's obstacles and frustrations."<sup>9</sup>

However the definition of desistance itself is not quite undisputed. As Maruna<sup>10</sup> explains, one may choose to focus on the moment and reasons for the cessation of the offending and thus seek for answers to the question 'why', or may alternatively choose to look at the process of refraining from offending and put more emphasis on the question 'how'. Another problem surrounding the desistance process is the notion of 'primary' and 'secondary' desistance – the former encompassing short-term intervals between crimes and the latter the process of 'real' change.<sup>11</sup> The mist surrounding the concept of desistance certainly does not allow for easy embankment on the discovery of the field.

## 2. Early research in desistance

Systematic explorations in desistance have until recently played a somewhat marginal role in criminology.<sup>12</sup> Most of the early findings have been built on longitudinal research of offenders and not with the specific intention of studying desistance. Instead, conclusions were drawn on the side with the main focus of research being on the reasons why and how people offend – the theories of desistance were thus implicitly encompassed by the more general theories on crime and criminality.<sup>13</sup> While understanding the process of getting involved in crime is central to criminological research, the answers unveiled by distinct theories might be less crucial for the process of desistance. The questions why people offend and why/how people stop offending might also not be very tightly connected as the two processes have very different implications.

The single phenomenon related to desistance that attracted the most interest is the famous 'age-crime curve' which illustrates how for the majority of juvenile offenders 'growing out of crime' is the most common path to desistance.<sup>14</sup> The groundbreaking research of Sheldon and Eleanor Glueck in fact induced them to determine that 'aging is the only factor which emerges as significant in the reformative process.'<sup>15</sup> However, the notion of aging was not explored in depth

<sup>9</sup> Maruna, MAKING GOOD (2001), p. 26. The Slovenian context typically uses the term "*rehabilitacija*", occasionally "*resocializacija*".

<sup>10</sup> *Ibidem*.

<sup>11</sup> Farrall, Calverly, UNDERSTANDING DESISTANCE FROM CRIME (2006), pp. 2-3.

<sup>12</sup> *Ibidem*, pp. 3-4.

<sup>13</sup> Wikström, Treiber, What drives persistent offending (2009).

<sup>14</sup> Maruna, MAKING GOOD (2001), p. 28.

<sup>15</sup> Glueck, Glueck, LATER CRIMINAL CAREERS (1937), p. 105.

and the many factors working in correlation with age (e.g. biological changes, life events, social changes, etc.) were neglected for a long period of time.

Nevertheless, with time researchers begun to add other factors to the discussion on the cease of offending. Clarke and Cornish, for example, in line with their general views on rational choice, introduced the notion of choice, i.e. the individual offender's wilful decision to change his or her behaviour.<sup>16</sup> Their idea was later on empirically tested and the various studies showed that the 'decision' to stop committing crime is indeed an important factor in the desistance process.<sup>17</sup>

Moffitt further developed a combination of biological and volitional ideas about criminality into a theory of desistance. She distinguished between two types of offenders – the 'adolescence-limited' ones and the 'life-course persistent' ones. The adolescence-limited offenders begins offending in early adolescent years and commonly cease offending in or right after their adolescent period. The life-course persistent offenders on the other hand begin offending even sooner and continue offending through the courses of their lives.<sup>18</sup> Her findings were partially confirmed by further research, especially with respect to 'adolescence-limited offenders', while the 'life-course persistent offenders' category proved to be much less homogenous and likely to require further sub-groupings.<sup>19</sup>

Recent theories on desistance have largely concentrated on just the final stage of the offending process and the period following the final act of offending. With that shift of focus they have distanced themselves from general theories of criminality and narrowed the field of study, allowing for more detailed research of general and specific characteristic of desisting offenders.<sup>20</sup> Nevertheless, even recent theories have still predominantly been built on the classic image of the offender – the white male hardened criminal; there is however growing research examining the differences and similarities between different offending groups, most notably the differences between male and female offenders.<sup>21</sup>

In the Slovenian context questions of desistance have unfailingly been linked to discussions about repeat offenders, three such studies were conducted at the

<sup>16</sup> Clarke, Cornish, *Modelling offender's decisions* (1985).

<sup>17</sup> McNeill *et al.*, *HOW AND WHY PEOPLE STOP OFFENDING* (2012).

<sup>18</sup> Moffitt 'Life-course persistent' and 'adolescent-limited' antisocial behaviour: A developmental taxonomy (1993).

<sup>19</sup> McNeill *et al.*, *HOW AND WHY PEOPLE STOP OFFENDING* (2012).

<sup>20</sup> Uggen, Kruttschnitt, *Crime in the Breaking* (1998), pp. 339-366.

<sup>21</sup> See Giordano *et al.*, *Gender, Crime, and Desistance* (2002); see also Bersani *et al.*, *Marriage and Desistance from Crime in the Netherlands* (2009); Rumgay, *Scripts for Safer Survival* (2004); Uggen, Kruttschnitt, *Crime in the Breaking* (1998).

Institute of Criminology.<sup>22</sup> However, most of the debate implicitly discussing desistance can be found in papers discussing ‘sociotherapy’ as a method conducive towards desistance, an issue on which we will focus later on.<sup>23</sup>

### 3. Four recent theories

Some of the recent theories on desistance have been more influential than others and I will briefly sketch their main parameters and then explore how successful they have been in taking account of different types of crimes and different offenders. The first three have been built on desisters’ narratives, while the last one presented is yet again a more general theory of criminality also well involved with the process of desistance. This methodological aspect influences the general applicability of the theories and the explanations for different populations of offenders.

#### 3.1. Sampson and Laub: age-graded theory of informal social control

Laub and Sampson<sup>24</sup> construct their theory on the basis of social bonds and their importance for the (non)offending of individuals. The theory, building on their previous work<sup>25</sup> contends that individuals offend when their bonds to society are weak or broken and their social capital (defined as their ‘investment’ in social relationships) is therefore not big enough to act as a deterrent. Social bonds are mainly formed in childhood and adolescence and then subsequently shape the individual’s decisions throughout their adulthood. They are, however, subject to change, they may weaken or reinforce themselves with time through changes in the life-structure (the turning points) of the individual. Once altered, the social bonds also influence the individual’s inclination to offend – when new social bonds are constructed or old ones are reinforced, the social capital of individuals is increased and so are its’ deterrent powers.<sup>26</sup>

Forming social bonds is thus crucial for Laub and Sampson’s theory of desistance; they identify several turning points that decrease (or eliminate) re-

<sup>22</sup> Vodopivec, Problemi povrata (1962); Vodopivec, Povratništvo v Sloveniji (1981); Brinc, Penološki vidiki povratništva obsojencev v Republiki Sloveniji (1991).

<sup>23</sup> See e.g. Petrovec, Muršič, Science fiction: Opening prison institutions (2011); Petrovec, Plesničar, The societal impact and role of imprisonment (2014).

<sup>24</sup> Laub, Sampson, SHARED BEGINNINGS, DIVERGENT LIVES (2003).

<sup>25</sup> Sampson, Laub, CRIME IN THE MAKING (1993).

<sup>26</sup> Laub, Sampson, SHARED BEGINNINGS, DIVERGENT LIVES (2003).

cidivism by reinforcing social bonds: marriage, military service, stable employment, reform school – the two main groups being marriage and career. Their updated theory does however allow for other factors that may importantly influence the process of desistance and they contend to encompass ‘human agency and choice, situational influences, routine activities, local culture, and historical contexts’.<sup>27</sup> While the theory may not meet all these expectations and has some weaknesses, mainly an underdeveloped concept of agency,<sup>28</sup> it nevertheless provides one of the first alternatives to the classic explanations of criminality (and desistance), rejecting the notion that certain childhood experiences and personal traits necessarily lead to adult offending.<sup>29</sup>

Laub and Sampson believe that their theory explains criminal and deviant behaviour (and the desistance from it) in general and reject the idea of grouping offenders into distinct categories arguing that such classifications ‘reify the idea of offender groups and ignore the instability of categorisations over time’.<sup>30</sup> Nevertheless, the characteristics of the sample providing the basis for their assumptions cannot be overlooked. The theory is based on the follow up study of a sample of juvenile offenders first studied by the Gluecks in the 1950s.<sup>31</sup> The offenders in the sample were born in poor inner-city slums of Boston in the time of the Great Depression, had experienced extreme poverty in their childhood and were predominantly children of foreign-born parents. Moreover, all of them were male, all were white and all were involved in juvenile delinquency (mostly petty crimes, theft, vandalism) and had been committed to reform school.<sup>32</sup>

The generalisation of conclusions made upon such a sample of offenders may be valid and the authors’ objection to categorisation as being instable over time seems rather persuasive.<sup>33</sup> On the other hand, by generalising the findings from this relatively narrow group of offenders to the general offending (and desisting) population, important nuances of the desistance process may be lost and as an outcome the theory as a whole may suffer a loss in validity. Most of the criticism on this point has been directed towards the issue of gender – outlining the different effects of specific “turning points” on women as compared to

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<sup>27</sup> *Ibidem*, p. 9.

<sup>28</sup> See e.g. Wikstrom, Treiber, What drives persistent offending (2009); Farrall, Calverley, UNDERSTANDING DESISTANCE FROM CRIME (2006).

<sup>29</sup> Laub, Sampson, SHARED BEGINNINGS, DIVERGENT LIVES (2003).

<sup>30</sup> *Ibidem*, p. 4

<sup>31</sup> Glueck, Glueck, UNRAVELING JUVENILE DELINQUENCY (1950).

<sup>32</sup> Phelps, Gurstenberg, Coldby, LOOKING AT LIVES (2002).

<sup>33</sup> Laub, Sampson, SHARED BEGINNINGS, DIVERGENT LIVES (2003).

men<sup>34</sup> – but other issues may be at least as important, most notably the question of minorities, the question of white-collar criminals, even the question of different historical context.<sup>35</sup>

### 3.2. *Giordano et al.: theory of cognitive transformation*

Giordano *et al.*<sup>36</sup> propose a new theory describing how desistance is influenced by four types of cognitive transformation, all of which relate to one another and work together to inspire and direct the behaviour of those undergoing such transformations. According to the theory, the first and perhaps most important stage of the desistance process involves a shift in the offender's 'basic openness to change', a precondition for all others transformations, but not sufficient in itself. This first stage needs to be followed by the second cognitive shift, the offender's 'exposure to a particular hook or set of hooks for change'. The 'hooks for change' (what Laub and Sampson might call turning points) are external occurrences (such as being offered a job), but what is essential to their function in desisting is the way in which they are perceived by the offender, who needs to appreciate them as viable options. The third stage of cognitive transformation is the envisioning and learning to appreciate 'an appealing and conventional "replacement self" that can supplant the marginal one that must be left behind'.<sup>37</sup> The offenders are therefore able to change their previous view of the self and build a new image to which they can relate. The final part of the desisting process ensues with the change in the viewing of deviant behaviour and lifestyle, which no longer present a desirable or viable option for the offender.

In contrast to Laub and Sampson's research, the theory of cognitive transformation was built on a sample of serious adolescent female delinquents and similarly situated males, including a reasonable proportion of minority respondents, and was moreover conducted in a very recent setting, therefore accounting for current socioeconomic developments. One of the main purposes of the authors was in fact to test whether turning points (as identified by Laub and Sampson), specifically marriage and steady jobs, influenced equally the desisting process of female and male offenders, and whether separate factors exist that would only

<sup>34</sup> Brody, Cauffman, *Understanding the Female Offender* (2006); Giordano, Cernkovich, Rudolph, *Gender, Crime, and Desistance* (2002); Uggen, Kruttschnitt, *Crime in the Breaking* (1998).

<sup>35</sup> Bersani, Laub, Nieuwebeerta, *Marriage and Desistance from Crime in the Netherlands* (2009).

<sup>36</sup> Giordano, Cernkovich, Rudolph, *Gender, Crime and Desistance* (2002), pp. 1000–1003.

<sup>37</sup> *Ibidem*, p. 1001.



influence female offenders. Furthermore, they attempted to take into account the broader context of race and ethnicity, and independently seek for mechanisms that would enhance the success of respective 'hooks'.<sup>38</sup>

As a result of their research, significant similarities were identified in the processes of desistance regardless of the offender's gender:

"[W]e observed that the repertoire of hooks for change men and women elaborate, the language they use, and the descriptions of the entire change process overlap to a considerable degree. These female and male respondents do have things in common: low educational achievement, dysfunctional family backgrounds, extreme poverty, bad companions, marginal and shifting housing arrangements, repeated contacts with criminal justice and mental health professionals/facilities, and exposure to an array of treatment modalities. Perhaps we should not be surprised, therefore, that their 'stories of change' draw from similar discourses and even develop common themes."<sup>39</sup>

Nonetheless, potential differences did reveal themselves, mainly through the offenders' self-narratives. Women were for instance more likely than men to assign more importance to 'religious transformations' and to describe the experience of having children as being a 'catalyst' for their change. Men on the other hand appreciated the experience of prison or treatment and assigned importance to the concept of family (children and wife) as a whole and not just their fatherhood.<sup>40</sup> Admitting those and other differences are important, the authors nevertheless believe that separating theories of desistance on the ground of gender (or any other ground) would be unproductive:

"[O]ur sample matured into adulthood during a time when both women and men were less constrained by tradition and faced less favourable economic prospects (considering their low levels of education and their prior criminal histories). Minorities (an important group to consider, given their overrepresentation in the criminal justice system) appeared to have faced even greater disadvantage. Precisely because traditional sources of social control and capital seemed to be in relatively short supply, it may be useful to conceptualize both female and male offenders as needing to be – to a greater extent than previous generations – the architects, or at least the general contractors of their own desistance."<sup>41</sup>

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<sup>38</sup> *Ibidem.*

<sup>39</sup> *Ibidem*, p. 1052.

<sup>40</sup> *Ibidem.*

<sup>41</sup> *Ibidem*, p. 1054.

### 3.3. *Maruna: narrative self-change*

Maruna's<sup>42</sup> explanations of the desistance process turn the discussion from the classical criminological orientation towards a more combined psychology-based discourse, focusing on offenders' self-narratives: the ways in which they rationalise the events in their lives and make sense of their choices. The main contention of his work is that in order to desist, ex-offenders need to "rebuild" their social identity: see themselves as essentially 'good' people who in the past happened to have done some 'bad' things. The 'redemption script', to which desisters adhere, moreover includes an overly optimistic belief in the control they have over their lives and a newly-discovered purpose of giving something back to society. Such exaggerations, rather odd at first sight, seem to be central to their desistance and this 'wilful cognitive distortion' enables them to move on from their past and 'make good' even in circumstances that work against them.<sup>43</sup> The 'condemnation script' on the other hand, shared by continuing offenders, encloses a 'sense of being doomed',<sup>44</sup> a depressing view of the past, present and future, in which the offender cannot find a way to exit the spiral of offending nor the will to seek for such a way.

Maruna's theory was developed within the *Liverpool Desistance Study*,<sup>45</sup> a qualitative exploration of the narratives of previous and existing offenders. The interview sample was built in a rather uncommon way, following a 'snowballing' idea – the former prisoners with whom first contact was made would introduce the research team to other prisoners and so on. The final sample consisted of 65 individuals (55 men and 10 women), of the type which would fit into the category of hardened criminals (arrested on average about two dozen times and imprisoned for several years). They were predominantly white, of similar demographic characteristics and had similar experiences with the criminal justice system, but were in no way a representative sample of the prisoners' or offenders' population. The authors of the study admit that the sample was 'extreme' in that it focused on the 'extreme cases of clearly persisting and clearly desisting ex-prisoners',<sup>46</sup> while omitting the majority of the 'gray middle ground', where offenders drifted from one extreme to the other. Such an approach may, according to the authors, be justifiable because it sheds light on the beginning and the end of the desisting process, the very phenomena that were of interest to

<sup>42</sup> Maruna, *MAKING GOOD* (2001).

<sup>43</sup> *Ibidem*, p. 9.

<sup>44</sup> *Ibidem*, p. 11.

<sup>45</sup> Maruna, Porter, Carvalho, *The Liverpool Desistance Study and Probation Practice* (2004).

<sup>46</sup> *Ibidem*, p. 223.

the study. However further research has shown that even for offenders in that middle ground their personal attitudes, the sense of being in control of their lives and the belief in being able to desist (characterised as ‘hope’) play a crucial role.<sup>47</sup>

The unusual route of snowballing the sample and the subsequent extreme pictures painted by the two groups of interviewees might however trigger important concerns regarding the generalisation of the conclusions. Furthermore, the types of crimes in which the interviewees were involved are once again limited predominantly to property and some violent offences, leaving out important categories such as e.g. white collar crimes and sexual offences.<sup>48</sup> The much smaller number of female offenders and the underrepresentation of ethnic minorities might also be put in question. Nevertheless, Maruna’s conclusions drawn from the study seem to at least partially overcome such objections. Unlike Laub and Sampson who principally seek for triggering events or turning points in the outside world (at least in their earlier line of work), Maruna focuses on the individuals’ intimate attitudes that contribute to their desistance. Focusing on the psychological determinants that shape the process of desistance and relating to recognized psychological theories of change that stress individual agency<sup>49</sup> his theory could ultimately be seen as potentially offering a rather general explanation of desistance.

### 3.4. *Wikström: situational action theory*

The most recent theory on desistance does rather ironically not focus solely on desistance, but is instead, much like in earlier desistance research, just part of a general theory of crime. Wikström’s starting assumption is that the law is a set of moral rules and subsequently acts of crimes represent breaches of moral rules defined by law. Thus, he contends ‘a theory of crime causation should [...] explain why individuals follow and breach moral rules’.<sup>50</sup> Furthermore, the theory offers a rather novel view of the dilemma on voluntaristic or deterministic conceptions of human behaviour, allowing for both when categorising human choices as either habitual (wilfully guided by the setting) or deliberate (explicitly wilful). The ‘choice’ is however only the second stage of the offending act, it has

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<sup>47</sup> Burnett, Maruna, So 'Prison Works', Does It? (2004).

<sup>48</sup> Terry, Book Review: Shadd Maruna – Making Good: How Ex-Convicts Reform and Rebuild their Lives (2002)

<sup>49</sup> *Ibidem*.

<sup>50</sup> Wikström, Treiber, What drives persistent offending (2009), p. 406.

to be preceded by a ‘perception of alternatives for action’, among which law-breaching options must be found. The two stages together form the ‘situational mechanism that links individual’s characteristics and experiences and the features of the setting in which they take part to their actions’.<sup>51</sup> The perception of crime as a viable alternative is crucial to the theory and it depends on the ‘moral correspondence, [defined as] the extent to which an individual’s moral values correspond with the moral rules defined by law’.<sup>52</sup> Two concepts are central – the ‘moral values which represent individual differences in adherence to [given] rules’ and ‘moral contexts [which] represent environmental differences in the behavioural significance of those rules’.<sup>53</sup> Changes or the lack of them in both moral values (combined with self-control) and the exposure to different moral contexts influence the stability and change in the individual’s involvement in crime and are thus key conceptions for the desistance process.

Wikström and Treiber’s exploration in the desisting (and offending) process is of a theoretical nature, there is no specific sample of offenders on which they would build the theory. Consequently, there is no specific type of offenders or type of crime that they would have in mind, quite contrary, they argue that

“the immediate process which moves an individual to break a moral rule is fundamentally the same regardless of the rule which is being broken or the action required to break it (e.g., cheating on a test, shoplifting, or corporate fraud).”<sup>54</sup>

Implicitly, the same seems true for desisting; the process by which offenders cease and refrain from desisting is shaped by the same parameters for all offenders and all offences: the interplay between morality and situational context.

### 3.5. *General or particular?*

The main conclusion that could be drawn from this overview of theories is not surprising: the more abstract the theory, the more universal it seems, and on the contrary, the more the theory tries to explain practical implications, the less crimes and offenders it seems to encompass. Wikström and Treiber propose a model of criminality which explains human behaviour in general and is thus able to encompass all the different dimensions that influence the desistance process, roughly classifying them into two categories: ‘internal’ and

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<sup>51</sup> *Ibidem*, p. 409.

<sup>52</sup> *Ibidem*.

<sup>53</sup> *Ibidem*, p. 417.

<sup>54</sup> *Ibidem*, p. 408.

‘environmental-level’ factors. Similarly, but focusing on just the ‘internal’ dimension of change, Maruna is interested in the subjective, psychological sphere of the individual and seeks to explain general psychological mechanisms that allow people to change in any, even the worst of environmental contexts. Giordano *et al.* on the other hand face more practical problems when trying to combine the internal, cognitive changes with the external world of opportunities (hooks) and thus test the universality of their contentions on the slippery ground of gender differences. Largely focusing on just the external dimension of change, the turning points, Laub and Sampson’s theory disregards the possible different implications of such turning points on different types of offenders, but because of this remains open to criticism.

#### **4. Conclusion: the value of general theories – and general approaches**

Leaving the relatively safe haven of abstractness and approaching more tangible implications is a thorny notion. Criminological theories in general have continually faced the problem of applicability, since ‘the real world’ is always able to produce exceptions, nuances and contradictions that any theory is simply not able to encompass without losing structure and coherence (e.g., the paradox of ‘crime amidst plenty’ for economic theories of crime, or the notion of emotionality within the context of rational choice theory). This may be one of the reasons why it is sometimes difficult to see the practical value of developing theories on why and how people desist. Furthermore,

“until recently, the desistance literature has tended to address ‘the wider social processes by which people themselves come to stop offending’ (S. Rex). Thus, it has not been necessarily or indeed primarily a literature about criminal justice interventions.”<sup>55</sup>

Nevertheless, theoretical explorations into desistance, more or less abstract, are indeed vital to our understanding of how people change, how they are able to overcome a lengthy period of offending and not only accept, but also enact a more conforming stance in the society they live in. Furthermore, understanding the ‘human processes and social contexts’<sup>56</sup> that shape such transitions has more than just theoretical implications; it is of the utmost importance for the very down-to-earth criminal justice system. The question of ‘how people change?’

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<sup>55</sup> McNeill, Batchelor, Burnett, Knox, 21ST CENTURY SOCIAL WORK (2005), p. 13.

<sup>56</sup> *Ibidem*, p. 13.

often, especially within criminal justice, reads more like ‘how can we make people change?’<sup>57</sup> and good answers to that question cannot be isolated from the underlying theories:

“Knowledge about such processes therefore becomes critical to our understandings not just of ‘what works’ in terms of interventions but also of *how and why* ex-offenders come to change their behaviours.”<sup>58</sup>

It is at this more practical level, however, that the differences between types of offending populations are most noticeable. While it is not difficult to see for example a similar array of cognitive changes that fuel desistance in either a man or a woman,<sup>59</sup> a white-collar criminal or a sex-offender, it is quite another thing to try and assist that process of transformation for each of those offenders in practice. This is thus the level at which we are supposed to pose not only the controversial question of ‘what works?’ but rather add more specific questions such as ‘for whom?’, ‘in what circumstances’, ‘in what respects’.<sup>60</sup>

Programmes, therapies and ‘pathways’, known from systems with a developed probation office and post-release care, are posited at this level, which is most equipped to deal with diversity. Evaluation and empirical research of such measures could test them not only in terms of general efficiency, but also in terms of ‘specific’ efficiency – how well they work for different offending populations and how they should be implemented to achieve the most.

Nevertheless, it would be erroneous to focus only on such practical issues, as has been predominantly done until recently, when

“there has been over-investment (both financially and intellectually) in a technocratic model of reducing reoffending that attaches too much importance in accredited programmes and packages, and underinvestment in models that see the process of ‘people changing’ as a complex social skill.”<sup>61</sup>

In order to be successful for any of the different offending populations those measures and programmes cannot be created in a vacuum or by random explorations. They need to be grounded in theory and reflect the general findings that have been discovered in more abstract settings. Moreover, this is precisely where the real value of desistance theories could be found: seeking for common ground in processes of change.

Albeit not directly linked with the recent theories on desistance, much less so as it predates them by several decades, an old Slovenian penological approach

<sup>57</sup> Hough, *Reducing reoffending* (2009).

<sup>58</sup> McNeill, Batchelor, Burnett, Knox, *21ST CENTURY SOCIAL WORK* (2005), p. 13.

<sup>59</sup> Giordano, Cernkovich, Rudolph, *Gender, Crime, and Desistance* (2002).

<sup>60</sup> Pawson, *The Evaluator's Tale* (2000), p. 67.

<sup>61</sup> Hough, *Reducing reoffending* (2009).

seems to encompass their findings well and offer a general common ground. In fact, ‘sociotherapy’ as the practice is known and as it was implemented in the Slovenian system, was much in line with the general theories about what could motivate individual changes in offenders.<sup>62</sup>

The approach focused on the psychodynamic processes that occur within small groups and larger communities and reflected a number of external factors that could influence offenders’ behaviour once they leave the prison system. These external factors (family, friends, relatives, companies where prisoners were employed before they came to prison, etc.) were included in the so-called “after care” from the very moment prisoners began serving their sentences, a liaison which continued well beyond the time a prisoner’s release date was set.<sup>63</sup>

The basic tenet of sociotherapy was granting as much agency to the inmates as possible, by letting them decide on important aspects of their daily life in and out of prison. One such example was the issue of free leave, where generally generous amounts of free leaves were granted and decisions were left in the hands of inmates as a group – which resulted in very limited abuses, but substantial improvement of the morale in prison.<sup>64</sup> Such an approach calls for direct communication and fair dialogue. It is premised on the assumption that in order to help foster chances for change in offenders, it is necessary to step down from the position of absolute power and rather offer them (albeit controlled) opportunities to decide and take responsibility for decisions that affect their lives in prison.<sup>65</sup> Moreover it largely included a careful preparation of offenders for the time after their prison sentence and their return in their original social environment. ‘Therapy’ was focused on their families, from which many of their formative conflicts stemmed. It also focused on the prisoners’ working environments, with the aim of allowing them to be accepted back into their former places of work. Finally, it focused on each prisoner’s social environment as a representative part of a wider cross-section of public opinion.<sup>66</sup>

Such an approach may be seen as parallel to recent findings in desistance, esp. Maruna’s<sup>67</sup> and Giordano and his co-workers’<sup>68</sup> as it emphasises fostering

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<sup>62</sup> Petrovec, Plesničar, *The societal impact and role of imprisonment – an example from Slovenia* (2014), pp. 74–81.

<sup>63</sup> Petrovec, Muršič, *Science fiction: Opening prison institutions* (2011), p. 433.

<sup>64</sup> Petrovec, Plesničar, *The societal impact and role of imprisonment – an example from Slovenia* (2014), pp. 78–79.

<sup>65</sup> *Ibidem*.

<sup>66</sup> *Ibidem*, p. 81.

<sup>67</sup> Maruna, *MAKING GOOD* (2001).

<sup>68</sup> Giordano, Cernkovich, Rudolph, *Gender, Crime and Desistance* (2002).

agency in offenders and offering them an opportunity to ‘change the script’.<sup>69</sup> Focusing on outside ‘hooks’ such as family relations and working conditions also reminds of Laub and Sampson’s<sup>70</sup> theory and their notion of fostering desistance. Generally, therefore, it seems that sociotherapy as an approach might in fact be a viable option to support the desisting process from the very moment an offender is brought to prison.

There are, however, important drawbacks, mainly related to the previously praised general nature of the approach that seems so beneficial in a general context. In specific contexts, however, one might have some doubts about the effectiveness of the system for specific prison populations. One such exception are drug addicts, who offer a great challenge to a system that warrants offenders with more agency and decision-making powers as they, at least while still in the claws of their addiction, are incapable of making informed decisions.<sup>71</sup> Another such problematic group are delinquents with serious personal disorders, those that would fit the description of ‘hardened criminals’, who in practice seemed unresponsive to sociotherapeutic approaches.<sup>72</sup> Moreover, great changes have occurred in the prison system and society at large since the 1980 when the sociotherapeutic practice flourished in Slovenian prisons. Prisons are getting bigger, which makes it easier to manage them, but harder to help inmates and give them decision-making opportunities. Even more importantly, working opportunities in society at large have changed dramatically as we have left the socialist fiction of employment for all and entered the harsh capitalist reality of unemployment additionally fuelled by recent economic upheaval.<sup>73</sup>

Accordingly, while offering a great general practical platform for general theories of desistance, sociotherapy might not offer the unequivocal answer to all recent trouble with helping specific groups of offenders desist. This does, however, not diminish its value, especially its humanistic note, but also its success with the general prison population. It does, however, point towards the need for specific solutions for specific types of offenders that while grounded in general theories are able to address their specific needs.

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<sup>69</sup> Maruna, *MAKING GOOD* (2001), p. 11.

<sup>70</sup> Laub, Sampson, *SHARED BEGINNINGS, DIVERGENT LIVES* (2003).

<sup>71</sup> Martin *et al.*, *The long and winding road to desistance from crime for drug-involved offenders* (2011).

<sup>72</sup> Petrovec, Plesničar, *The societal impact and role of imprisonment – an example from Slovenia* (2014), p. 83.

<sup>73</sup> *Ibidem*.



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## **Zakaj ljudje prenehajo s kaznivimi dejanji? Sodobne teorije o rehabilitaciji in njihov pomen za praktične pristope k storilcem**

### *Povzetek*

Članek obravnava nekaj sodobnih teorij o prenehanju izvrševanja kaznivih dejanj, ki se ukvarjajo z vprašanji, zakaj in kako nekdanji storilci kaznivih dejanj presekajo s preteklim vedenjem in prenehajo izvrševati kazniva dejanja.

Sistematične raziskave na tem področju so bile do nedavnega razmeroma redke. Večina zgodnjih ugotovitev je izhajala iz splošnih kriminoloških teorij, in ne iz študij, ki bi se neposredno ukvarjale s prenehanjem izvrševanja kaznivih dejanj. Osnovno spoznanje, ki se povezuje z vprašanji teorij o prenehanju izvrševanja, je tako znana povezava med starostjo in pogostostjo izvrševanja kaznivih dejanj (t. i. age/crime curve), ki ponazarja, kako je najpogostejša pot do konformnega vedenja za večino mladoletnih prestopnikov odraščanje oziroma staranje. Vendar pa pojem staranja dolgo ni bil temeljito preučevan, ob strani pa so ostali tudi številni dejavniki, ki delujejo v povezavi s samo starostjo (npr. biološke spremembe, življenjski dogodki, družbene spremembe ipd.). Sčasoma so posamezni avtorji postali pozorni tudi nanje. Clarke in Cornish na primer sta v skladu s svojimi splošnimi pogledi na racionalno izbiro preučevala pojem odločitve – torej izbire posameznika, da spremeni svoje kriminalno vedenje. Moffittova pa je bila tista, ki je začela razlikovati med dvema vrstama kršiteljev – »mladostniškimi kršitelji« in »vseživljenjskimi kršitelji«.

Novejše teorije se bolj osredotočajo na trenutek odločitve o prenehanju kršitev in na obdobje po storitvi zadnjega kaznivega dejanja. S premikom fokusa se tako oddaljujejo od splošnih kriminoloških teorij in ožijo polje preučevanja, kar omogoča podrobnejše raziskovanje splošnih in specifičnih značilnosti prenehanja izvrševanja kaznivih dejanj. A tudi novejše teorije ostajajo omejene v tem, da se ukvarjajo pretežno s »klasičnimi storilci«, tj. s podobo »zakrknjenega« belega moškega kriminalca, čeprav se pojavlja tudi vse več študij, ki preučujejo razlike in podobnosti med različnimi skupinami kršiteljev, predvsem razlike med ženskimi in moškimi prestopniki.

Prva izmed podrobneje predstavljenih teorij je teorija družbenega nadzora, ki sta jo na podlagi longitudinalne študije predstavila Laub in Sampson. Teorija temelji na pomenu posameznikovih socialnih vezi za (ne)izvrševanje kaznivih dejanj. Laub in Sampson menita, da posamezniki izvršujejo kazniva dejanja takrat, ko so njihove vezi z družbo šibke ali pretrgane in je njihov socialni kapital (opredeljen kot »naložbe« v družbene odnose) premajhen, da bi deloval

preventivno. Družbene vezi se večinoma ustvarijo v otroštvu in adolescenci in nato oblikujejo posameznikove odločitve tudi v odrasli dobi. Kljub takšni dolgoročni naravi so podvržene spreminjanju, saj se lahko okrepijo ali ošibijo glede na posameznikovo življenjsko pot in odločilne prelomnice v njegovem življenju (*turning points*). Takšni dogodki lahko prek krepitve socialnih vezi in posameznikovega socialnega kapitala vplivajo tudi na njegovo nagnjenje k izvrševanju kaznivih dejanj in ga preprečijo. Med bolj značilne »prelomnice«, ki s krepitvijo socialnih vezi zmanjšujejo posameznikovo nagnjenje k kriminaliteti, Laub in Sampson uvrščata: poroko, služenje vojaškega roka, stabilno zaposlitev, šolanje (v popravni domovih), pri čemer sta odločilni poroka in zaposlitev. V nadaljnjem razvijanju teorije sta nabor dejavnikov, ki vplivajo na posameznika pri odločitvi o kriminalnem udejstvovanju, razširila tako, da zajamejo možnost odločitve in izbiri, situacijske vplive, rutinske dejavnosti in zgodovinski okvir.

Drugo predstavljeno teorijo je izdelal Giordano s sodelavci. Njen cilj je opredeliti, kako na izvrševanje kaznivih dejanj vplivajo štiri oblike kognitivnih sprememb, ki delujejo v odvisnosti druga od druge ter skupaj navdihujejo in usmerjajo posameznikov prehod k bolj konformnemu vedenju. Prva in morda najpomembnejša faza procesa spreminjanja vključuje premik v storilčevi »osnovni odprtosti za spremembe«. Ta je predpogoj za vse druge spremembe, vendar sama na sebi ne zadošča, slediti mora namreč še druga kognitivna sprememba – »izpostavljenost posameznika 'trnkomi' (angl. *hooks*) za spremembe«. Med trнке spadajo zunanji dejavniki (kot npr. ponudba za zaposlitev), za njihovo učinkovanje na posameznika pa je bistven način, na katerega jih dojema storilec – ta jih mora dojeti kot realne možnosti. Tretja faza kognitivne preobrazbe je novo dojetanje samega sebe – storilec je sposoben spremeniti svoje dosedanje dojetanje samega sebe in zgraditi novo (konformno) podobo, s katero se poistoveti. Zadnji, četrti del procesa kognitivnega spreminjanja pomeni spremenjen pogled na dosedanje deviantno vedenje in način življenja, ki ni več zaželena ali izvedljiva možnost za nekdanjega storilca. Giordano in sodelavci so teorijo zgradili na osnovi študije vzorca mladostnih prestopnic in prestopnikov, ki so kot mladoletniki izvrševali huda kazniva dejanja. Medtem ko so vzorec Lauba in Sampsona sestavljali starejši moški iz obdobja polpretekle zgodovine, je teorija kognitivne transformacije sodobna in upošteva tudi sodobne družbene razmere. Eden od namenov avtorjev je bil prav preizkusiti, ali življenjske prelomnice Lauba in Sampsona, še posebej poroka in stabilna zaposlitev, še vplivajo na delinkventnost in ali enako vplivajo na ženske in moške storilce. Poleg tega so skušali upoštevati širši kontekst rase in narodnosti in neodvisno poiskati mehanizme, ki bi povečali uspešnost posameznih »trnkov«.

Tretja teorija, avtor katere je Shadd Maruna, razpravo o prenehanju izvrševanja kaznivih dejanj preusmerja na polje psihološko obarvanega diskurza, ki se osredotoča na osebne izpovedi prestopnikov: načine, na katere so racionalizirali dogodke v svojem življenju in osmislili svoje izbire. Glavna teza Marunove teorije je, da je za prenehanje z delinkventnim življenjem nujno, da posameznik na novo zgradi svojo socialno identiteto: samega sebe mora dojeti kot v bistvu »dobrega« človeka, ki je v preteklosti naredil nekaj »slabih« stvari. Ta »scenarij odrešitve« pogosto vsebuje tudi pretirano optimistično prepričanje o nadzoru nad lastnim življenjem ter na novo odkrito željo prispevati za skupno dobro. Prav pretiravanje se zdi bistveno za vztrajanje pri konformnem ravnanju, saj takšno »namerno kognitivno izkrivljanje« posamezniku omogoča, da se premakne iz svoje preteklosti in izkaže tudi, ko so okoliščine na videz proti njemu. »Scenarij pogube«, značilen za večkratne povratnike, nasprotno posameznika navda z občutkom, da je pogubljen, vsebuje pesimističen pogled na preteklost, sedanost in prihodnost ter storilcu onemogoča, da bi videl izhod iz spirale delinkventnosti, kaj šele zbral voljo za tako pot. Marunova teorija izhaja iz obsežne kvalitativne raziskave Liverpool Desistance Studies, ki je temeljila na osebnih izpovedih storilcev. Ti ne pomenijo reprezentativnega vzorca nekdanjih zapornikov, saj je bil vzorec postavljen s tehniko snežne kepe (en zapornik je priporočil pogovor z drugim itd.). Avtorji študije prosto priznavajo, da gre za okrnjen vzorec, ki zajema predvsem ekstremne primere jasnega preseka s kriminalno preteklostjo, večina storilcev pa navadno niha med obdobji kriminalnega in konformnega ravnanja. Kljub temu so nadaljnje raziskave pokazale, da so tudi za povprečne povratnike ključni prav lastni odnos, občutek obvladovanja lastnega življenja in vera (upanje) v zmožnost drugačnega ravnanja v prihodnje.

Zadnja obravnavana teorija se, drugače od prejšnjih, osredotoča na širše klasično kriminološko vprašanje o razlogih za kriminalno in nekriminalno vedenje. Wikströmova osnovna predpostavka je, da je zakon skupek moralnih pravil in da zato kazniva dejanja pomenijo kršitev moralnih pravil, kot jih določa zakon. V skladu s tem bi morala splošna teorija o vzrokih za kriminaliteto pojasniti, zakaj posamezniki spoštujejo ali kršijo moralna pravila. Teorija ponuja tudi nov pogled na razhajanje med svobodnim ali determinističnim pojmovanjem človekovega vedenja: sprejema oboje, saj človekova ravnanja uvršča bodisi med navade (usmerjeno s strani okoliščin) bodisi med namerne odločitve (izrecno namerno ravnanje). V vsakem primeru pa je odločitev (izbira) šele druga faza kršiteljevega ravnanja, pred njo mora obstajati »dojemanje alternativ za ukrepanje«, med katerimi posameznik zazna tudi kriminalno ravnanje. Obe fazi skupaj tvorita situacijski mehanizem, ki posameznikove lastnosti in izkušnje povezuje z značilnostmi okoliščin, v katerih ta deluje. Dojemanje kriminalnega ravnanja

kot sprejemljive možnosti je ključnega pomena za Wikströmovo teorijo, to pa je odvisno od »moralnega ujemanja«, ki pove, koliko se posameznikove moralne vrednote ujemajo z moralnimi pravili, ki jih določa zakon. Dva pojma sta pri tem osrednja: moralne vrednote, katerih posledica so razlike med posamezniki v spoštovanju pravil, ter moralni konteksti, ki pomenijo zunanje (okoljske) razlike v dojetanju pomena teh pravil. Spremembe ali njihova odsotnost tako na ravni moralnih vrednot kot tudi na ravni izpostavljenosti različnim moralnim kontekstom vplivajo na stabilnost in spremembo posameznikove vpletenosti v kazniva ravnanja in so zato ključni koncepti za prenehanje izvrševanja kaznivih dejanj.

Za navedene teorije je na abstraktni ravni sicer manj pomembno, kako univerzalne so, torej kako široko jih je mogoče uporabiti na zaporski populaciji. Veliko bolj pomembno je vprašanje njihove splošnosti na praktični ravni, saj na njih temeljijo posamezne politike in rešitve, ki jih v konkretnih primerih sprejemajo zaporske institucije. Vsaj deloma je mogoče te sodobne teorije povezati tudi z usmeritvijo slovenske penološke stroke pred sodobnimi represivnejšimi trendi. Socioterapija je v veliki meri temeljila prav na posameznikovi možnosti samostojne izbire, sprejemanja pomembnih odločitev, ki imajo posledice v sedanjosti in prihodnosti. Tako je že v zaporu storilcu omogočala redefinicijo samega sebe in s tem izpolnila predpogoj za dolgoročne spremembe. Seveda se je ob tem treba zavedati njenih omejitev in nekaterih sprememb v sodobnosti, vendar pa bi veljalo temeljito razmisliti, ali za spodbujanje pozitivnih sprememb v življenju zapornikov ne bi bila potrebna vrnitev k njenim izhodiščem.