

Against Polarizing Scene Setting

A Consequentialist, Democratic and Evidence-based
Approach to Crime Management

Christian Gade
Aarhus University
June 21, 2024
gade@cas.au.dk

About me

- Research about crime management
- Conflict management practitioner
- New projects with the Danish Prison and Probation Service (Kriminalforsorgen)



What I want to argue today

1. The polarizing scene setting between restorative justice and punishment is problematic.
2. We ought to adopt a consequentialist approach to crime management.
3. It ought to be democratically decided what counts as good consequences.
4. We should have an evidence-based approach to crime management.

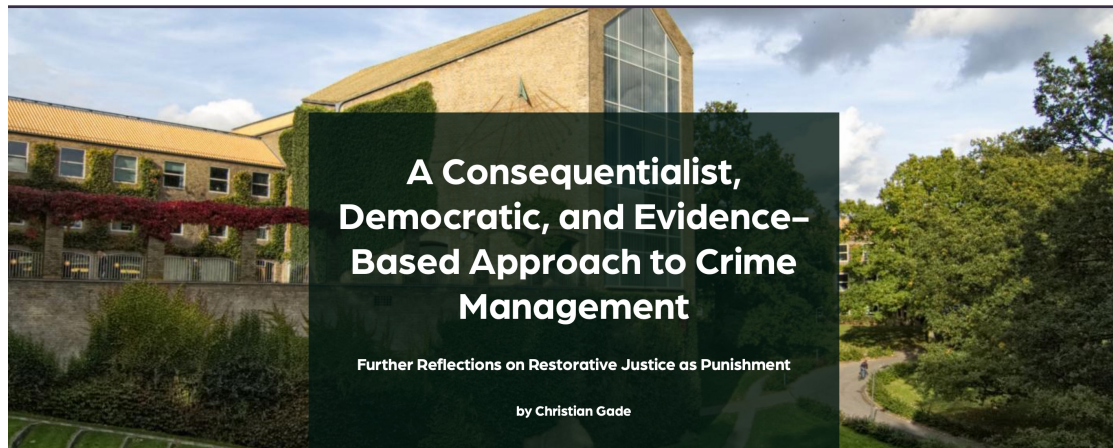
Inspiration for today's presentation



EUROPEAN
FORUM FOR
RESTORATIVE
JUSTICE

[Become a Member](#) [News](#) [Blog](#) [Press](#) [Search](#) [Contact us](#) [Login](#)

[ABOUT US](#) [WHAT WE DO](#) [EVENTS](#) [NEWS](#) [RESTORATIVE JUSTICE](#)



A Consequentialist, Democratic, and Evidence- Based Approach to Crime Management

Further Reflections on Restorative Justice as Punishment

by Christian Gade

Introduction

In the [October 2022 edition](#) of the EFRJ Newsletter, I [argued](#) for a reconceptualisation of restorative justice as a constructive form of punishment (Gade, 2022a). The aim was to promote the use of restorative justice to benefit victims, offenders, and society at large. My article was





1. The polarizing scene setting

- It has been common to present restorative justice in opposition to punishment (e.g., in the form of paradigm thinking claiming that restorative justice represents a different “worldview”).
- This polarizing scene setting is not sustainable empirically. Restorative justice is not a soft option (the personal meeting is often hard for offenders, and it provides a direct form of accountability).
- Recognizing that restorative justice, also in its current forms (and not only in the punitive restoration variation), is not a soft option is essential for public confidence in restorative justice.
- Avoiding the polarizing scene setting is important if we want to integrate restorative justice into current justice systems, for example in prisons.

2. A consequentialist approach

- Imagine if restorative justice did not have any positive consequences/effects... Should we then do restorative justice?
- I am a consequentialist, meaning that I believe we should do whatever has the best consequences.
- The realization of any kind of outcome preference may potentially be defined as a good consequence.
- A high level of compliance with a specific rule may, for example, be an outcome preference (things normally associated with other ethical traditions, like deontology or virtue ethics, can be formulated in consequentialist terms).
- I have a broad approach to consequentialism, not a narrow utilitarian one.

What are your outcome preferences in crime management?

Low recidivism?

Reconciliation?

Low economic cost?

High victim satisfaction?

Compliance with the lex talionis rule?

Decency?

Restoration of harm?

High public confidence?

Something else?



3. A democratic approach

- My position is that the outcome preferences ought to be democratically decided.
- We have different outcome preferences in the area of crime management. Being an ethical non-realist, I do not believe that your preferences are objectively more valid or invalid than mine. Your preferences are subjectively valid to you, just as mine are subjectively valid to me.
- From my perspective, the equality in our outcome preferences' validity calls for democratic equality in decision-making regarding public issues like crime management.
- My position: We ought to identify which outcome preferences have democratic support, and then implement the crime management mechanisms that do best in realizing these preferences.

4. An evidence-based approach

- We ought to gather the highest-quality comparative evidence to find out which crime management mechanisms (mediation, conferences, punitive restoration, prison, combined mechanisms, etc.) are likely to do best in reaching the democratically decided outcome preferences.
- Reasonable division of labor:
 - As democratically elected representatives of the population, it should be a primary concern of politicians to clarify outcome preferences in the area of crime management (what is it that we actually want to achieve?).
 - It should be a primary concern of researchers and practitioners to find out which methods do best in reaching these outcome preferences (this should not be a political task).



Christian Gade [Verify now](#)

Associate Professor of Human Security and Anthropology

Denmark · [Contact info](#)

[https://pure.au.dk/portal/en/persons/christian-bn-gade\(6b0ed4f5-2803-4192-a7ec-a4d20c625848\).html](https://pure.au.dk/portal/en/persons/christian-bn-gade(6b0ed4f5-2803-4192-a7ec-a4d20c625848).html)

1,213 followers · 500+ connections

 Aarhus University

