



Emotional dynamics in restorative conferences

NATHAN HARRIS, LODE WALGRAVE AND JOHN
BRAITHWAITE

*University of Cambridge, UK,
Catholic University of Leuven, Belgium and
Australian National University, Australia*

Abstract

Restorative justice interventions, which focus upon repairing the harm caused by an offence, are consistent with the approach advocated by reintegrative shaming theory. However, some have argued that remorse and empathy play a more important role in restoration, and that a focus upon disapproval and the emotion of shame may be misguided. This article analyses theoretical distinctions between shame and guilt before discussing their role in restorative interventions. It is argued that emotions like empathy, remorse and guilt will spill over into feelings of shame, and that it is the resolution of these emotions that is critical for successful justice interventions.

Key Words

emotions • guilt • reintegration • restorative justice • shame
• shaming

More than a decade ago, one of us, John Braithwaite (1989), proposed a theory of reintegrative shaming. Reintegrative shaming was presented as an effective practice in preventing crime before the event, as well as in responding to crime after the event. It was distinguished from disintegrative shaming (stigmatization) which risks making crime problems worse. Reintegrative shaming communicates disapproval of an act while conferring

respect on the offender and reintegrating them back into their community of care; stigmatization is disrespectful, out-casting shaming, which treats the person as the problem. This theory highlights the importance of understanding the effects of social disapproval and implies that emotions like shame and guilt are of critical importance.

In the meantime, restorative justice has expanded into a widespread practice, a fruitful field of evaluative research and a challenging subject for theoretical reflection. This approach to justice, with its emphasis upon restorative mediation and conferencing, also places considerable importance on social processes that involve the disapproval of offending. In this context, where the primary intent is to repair the harm caused by an offence, there is a strong emphasis on forms of disapproval that are reintegrative rather than stigmatizing. Indeed, early observations of conferences suggested that they present an outstanding 'scene' of reintegrative shaming (Braithwaite and Mugford, 1994). However, the application of reintegrative shaming theory to these interventions raises a number of questions about the role that emotions play in such processes. While research suggests that conferences, like other types of justice, do provoke shame-related feelings (Harris, 2003), research that has considered the impact of these emotions suggests that 'shaming' must be seen as a complex dynamic (Walgrave and Aertsen, 1996; Maxwell and Morris, 1999; Harris, 2001). Shame-related emotions are not necessarily positive and in some cases can have a profoundly negative influence on outcomes. For some, this has raised the question of how central the concept of shaming should be to justice procedures, especially when repairing harm for victims, offenders and others is their primary goal, and whether emotions like empathy and remorse are more crucial (Karstedt, 2002; Maxwell and Morris, 2002; van Stokkom, 2002; Sherman, 2003). More broadly, it raises questions about the role shaming has in the sequence of emotions experienced. Under what conditions do these emotions emerge? Do they assist or prevent the reduction of injustice, the restoration of harm and the reintegration of offenders?

The relevance of emotions to theoretical criminology is increasingly recognized in current debates (de Haan and Loader, 2002; Karstedt, 2002; Sherman, 2003). In this article, we propose some hypotheses on the emotional and relational dynamics that occur in restorative conferencing. In order to do so, we first identify more precisely the different emotions, and then advance how we think they are important in the processes of disapproval and what kind of impact they may have on the process leading to restoration.

Conceptualizing shame and guilt

It is first necessary to consider the relationship between shame and guilt, as we will argue that it is the relationship between these emotions that is

critical to understanding the significance of social disapproval in criminal justice. Shame and guilt have been identified as central to social control and deviance by anthropologists (Mead, 1937; Benedict, 1946), psychologists (Lewis, 1971; Tangney, 1991), sociologists (Scheff and Retzinger, 1991) and criminologists (Braithwaite, 1989; Grasmick and Bursik, 1990). However, the literature also presents considerable diversity in how it characterizes these emotions, and how they should be distinguished. Two primary distinctions have been proposed (Harris, 2001). The first focuses on the source of the bad feelings: shame in this view occurs when one feels disapproval in the eyes of others (imagined or real disapproval); guilt occurs when one disapproves of one's own behaviour (disapproval by one's own conscience). The second distinction focuses on the object of the emotion: guilt is felt about an action one has undertaken or omitted, whereas shame is felt about the self as a whole.

Neither of these distinctions have received unequivocal support from empirical research. The relationship between shame and guilt has been directly addressed by several studies that ask participants to recall experiences of the emotion and then report its phenomenology (Wicker et al., 1983; Lindsay-Hartz, 1984; Wallbott and Scherer, 1995; Tangney et al., 1996). In these studies subjects report greater awareness of others (e.g. a greater desire to hide) when feeling shame but do not consistently associate it with greater negative evaluation by others. These same studies also find that subjects report no difference between shame and guilt in the degree of blame directed at the act or the self (the second distinction). Some support for this distinction is found in a study that employed a counterfactual thinking paradigm (Niedenthal et al., 1994), in which respondents identified a need to change the self more often than situational factors in shame situations, and vice versa in guilt situations. Nevertheless, support for a distinction between shame and guilt based upon the object of the emotion is somewhat equivocal.¹

A recent study (Harris, 2003) that used factor analysis to examine the structure of emotions felt by offenders in criminal justice cases also questions the importance of distinctions between shame and guilt. Subjects who had been observed as offenders in criminal justice cases were asked to rate the experience by indicating the degree to which they experienced characteristics commonly associated with the moral emotions (e.g. 'I felt bad in the court case because everyone knew about the offence I committed'). Analysis of the structure of their responses showed that characteristics identified by various conceptions of shame were not differentiated from characteristics associated with guilt. Thus, shame and guilt seemed to occur as a single response. This finding, in addition to the ambiguity of previous research, suggests that an important question is whether there is any need to differentiate between shame and guilt to understand the emotional impact of shaming in criminal justice cases. Are there two distinct emotions that result from distinct circumstances and result in different responses or are shame and guilt so intertwined in experience that

they are not usefully prised apart? While further empirical work is needed in order to explore these questions, here we will consider some theoretical challenges presented for criminal justice cases by distinguishing between shame and guilt in the two ways that have been described.

Can we uncouple self-judgement from judgement by others?

We will start by examining the idea, as identified earlier, that the source of these emotions is distinct (Mead, 1937; Benedict, 1946; Gibbons, 1990). This proposes that for shame to occur the individual must become aware that others disapprove. In contrast, guilt results from the individual's realization that they have committed a transgression. This, of course, requires no-one else as it is dependent upon the individual's internalized beliefs. While studies show that, when asked about shame, subjects do report a greater awareness of others (Wicker et al., 1983), the more meaningful distinction implied is a difference in why one feels bad, that is, whether the negative judgement is coming from oneself or others.

When examined from the perspective of guilt, this distinction assumes that the emotion is the product of a set of moral values that operate, at least on a daily basis, independently from others' moral values. So the question here becomes, are internalized values not influenced by the shaming of others? A number of theoretical perspectives suggest that we should at least be sceptical of this. One is symbolic interactionism (Mead, 1934), which argues that the 'Self', the judgement human beings have about themselves, is developed through the judgement of significant others. The importance of others is also central to psychological understandings of human development, which assumes moral standards are learnt from various significant others. In both these perspectives we see how the self and values are acquired through those around us.

More significantly, however, several perspectives argue that others are central to the ongoing development of moral standards and everyday judgements. In a strong critique of the proposed distinction between shame and guilt, the philosopher Bernard Williams (1993) argues that it is impossible to separate one's moral beliefs from the social context one lives in. This is because individuals rely on others whose opinion they respect to help make sense of the world. This is critical because without any social support it is hard to be sure that one's views are valid. If an individual's belief is refuted by everybody else, it becomes difficult to distinguish between that person as 'a solitary bearer of true justice or a deluded crank' (Williams, 1993: 99). Therefore, it is important to understand how the opinions of others tend to constrain or shape the way we also think most of the time. In practice, it suggests for Williams that the disapproval or disagreement of those whose opinion we respect causes us to re-examine what we think, because we trust their opinion; we expect to agree with them because we have the same world view.

These observations are replicated and supported by research in the psychology of social influence. Social validation appears to be fundamental to even our most basic beliefs about how the world works (Tajfel, 1972; Moscovici, 1976; Hogg and Turner, 1987). Where there is conflict about what is true or right we rely on the opinions of those people who we see as having valid information. Social identity theory (Tajfel and Turner, 1979; Turner, 1991) argues that those who we trust to provide us with social validation are those who we see as similar to our self on relevant dimensions. For example, if we are thinking of our self as a European we will be more inclined to trust a European perspective on international affairs than an American one. In this view, our beliefs about the world are linked to the beliefs of others through social identities. A number of studies support these claims by showing that social influence is greater when it comes from others perceived to have the same relevant social identity (Mackie, 1986; Abrams et al., 1990). Social identity scholars conclude that the influence of other people, and particularly groups, should not be seen as merely coercive or constraining but as providing the individual with information about what is right.

This still leaves the possibility that 'shame' is a reaction to perceived social disapproval that is unrelated to the individual's own normative beliefs. For example, people are often confronted with situations in which they feel awkward because they know that they are seen, or could be seen, as different from everyone else or feel that others will disapprove of them. This might happen because of the clothes they are wearing, the political opinions they hold, etc. However, if these feelings go no further than discomfort for the way that one might be seen, and are not internalized in any way, they seem closer to conceptions of embarrassment than of shame. They have also generally been studied within this context (Edelmann, 1987; Crozier, 1990; Harré, 1990; Tangney et al., 1996). Various explanations of embarrassment suggest that it occurs either due to the fear of negative judgements by others, the loss of a coherent script for how to behave in a particular (unusual) situation or the belief that others have reason to think one is flawed even though one is not (Sabini et al., 2001).

If others' opinions, and particularly their disapproval, influences our internalized beliefs about what is right and wrong then it seems unlikely that 'guilt' can be conceptualized as a response to purely internalized judgements that are independent of one's social context, or that the shaming necessary in this account of 'shame' cannot not have any influence on the person's own judgement about their behaviour. Apart from suggesting that the proposed distinction is too simplistic, this has a number of implications that are of interest. The first is that social disapproval (shaming) is not necessarily experienced as constraining or threatening by the individual. Indeed, for social disapproval to result in feelings that what one has done is wrong (shame or guilt) it must have some validity in the eyes of the person being disapproved of. Of course disapproval will

sometimes result in no emotions and in others it might result in embarrassment or humiliation, either of which might represent a rejection of the disapproval. A second implication is that communication about what is right or wrong, may be critical to the successful resolution of justice interventions. This is because it is social validation based upon the views of respected others that assists the offender to interpret the situation.

Can we uncouple our actions from our self?

We will now turn our attention to the idea that the object of shame and guilt is different. It has been proposed that shame is an evaluation of the whole self, who one is, whereas guilt is an evaluation of the act, as distinguished from the self. So the question we want to ask is, can we feel bad for our actions without feeling bad about who we are? When I feel guilty, I assume responsibility for the action. Guilt feelings are composed of three elements: I did it, I knew that it was wrong or risky and I could have behaved otherwise. Such reasoning, however, would seem to suggest that the self as a whole is implicated. I can try to attribute the causes of my behaviour to someone else or to special circumstances that were out of my control (Weiner, 1986), but I will then avoid or reduce reasons for guilt as well as shame. Thus, we might consider that a person can genuinely accept responsibility only if they also accept that their behaviour has implications for who they are (Williams, 1993; Sabini and Silver, 1997).

Could someone who attacks and robs an elderly person feel bad about what he or she has done without also drawing implications for who he or she is? If identity explains the individual's beliefs and behaviours, as suggested by identity theorists (Turner and Onorato, 1999), then it is actually identity which provides the individual a framework in which to make sense of specific wrongdoing (Williams, 1993). Indeed, Sabini and Silver (1997) argue that 'guilt' would lack any real 'bite' without 'shame' because it is the connection between wrongdoing and the self that results in strong emotion. It may be argued that in many cases individuals rationalize or repress negative evaluation of the self, and hence avoid shame. Indeed, research into shame over a long period has shown that people do repress or divert the painful feelings associated with shame (Lewis, 1971; Scheff and Retzinger, 1991; Nathanson, 1992; Ahmed, 2001). However, this diversion of the shame feelings itself suggests that at some level the self is threatened and a response is needed to deal with this threat. An important conclusion from this research is that these forms of unacknowledged shame are usually detrimental to the person and their social relationships.

In the admittedly limited context that is being considered here, it seems unlikely that feelings of having done something seriously wrong ('guilt') will not be accompanied by feeling some level of negative evaluation about the self ('shame'), even if repressed. The extent of these feelings will no doubt depend upon the seriousness of the behaviour, ranging from perceptions of having poor judgement to feeling that the self is seriously flawed.

However, the important implication of this connection between shame and guilt is that any criminal justice intervention that seeks to have offenders understand that their behaviour is wrong will also result in feelings of shame. Other related emotions such as embarrassment or feelings of personal inadequacy (where the person feels bad about their self independently of any specific wrongdoing) may also have an important impact upon restorative processes. Having argued this, it is possible to outline some suggestions for how we think shame, guilt and other emotions might affect the dynamics of a restorative justice conference or circle.

Grouping the emotional dynamics of restorative justice conferencing

Reintegrative shaming theory seeks to compare social responses to crime, such as restorative conferences, on two dimensions: the degree to which they communicate disapproval of an offence and the degree to which they are able to do this reintegratively. The assumption of categorizing criminal justice interventions in this way is that they can all be seen as ‘shaming’ to some degree, because their very occurrence signifies disapproval of what has occurred. This is assumed to be true even if such processes do not intend to cause feelings of shame in offenders or even if they do not acknowledge emotion at all (e.g. court processes). The kinds of restorative conference discussed here, whether based upon the New Zealand (Morris and Maxwell, 1993) or Wagga Wagga models (Moore and Forsythe, 1995), do not aim to cause offenders to feel shame, and nor would we advocate this as an aim. However, a further assumption, which is more fully articulated in a revision of reintegrative shaming theory (Braithwaite and Braithwaite, 2001), is that these processes almost always have an impact upon the emotions that offenders feel (particularly the shame-related emotions) and that these emotions are often of great importance to how successfully such events are resolved.

A critique of reintegrative shaming theory is that it places too much emphasis upon the emotion of shame. A number of scholars have argued that remorse may be a more constructive emotion in triggering reparative responses (Maxwell and Morris, 2002; Morris, 2002; Taylor, 2002; van Stokkom, 2002). This position is supported by results from a research project that examined recidivism in a sample of offenders who had attended a restorative conference 10 years previously (Maxwell and Morris, 1999). This study found that, among other variables, not being made to feel bad about oneself during the conference and feelings of remorse, as measured through offender self-reports, predicted lower recidivism. While being made to feel bad about oneself might be interpreted as a measure of stigmatization (Maxwell and Morris, 1999), the remorse measure, though somewhat imprecise,² shares much with conceptions of guilt as an emotion. While guilt involves acknowledging responsibility and

the wrongness of one's behaviour, remorse is usually defined as involving 'deep regret and repentance for the wrong committed' (*Shorter Oxford English Dictionary*, 2002). Thus, remorse is described as extending beyond guilt to include feelings of sorrow and compassion for the victim and a desire to repair (or undo) what has occurred (Taylor, 2002), though guilt is also sometimes measured as including these characteristics (Tangney, 1991; Harris, 2003).

As will be discussed later, we also think that remorse, as well as empathy, is very important within restorative processes. However, our conclusion from the previous section is that it is difficult to quarantine emotion that is focused upon harm that has been done to others ('guilt' and 'remorse') from emotion focused upon the self ('shame'), even if we want to. There is some inevitability that negative evaluation of our behaviour and remorse for harming others will spill over into negative evaluation of our self. We also think that feelings of shame will often occur following apprehension for an offence due to the inevitable social strains caused by that event regardless of what criminal justice interventions do. Thus, it seems to us that the challenge for restorative practices is to understand the better and worse ways of managing that inevitable spillover. This is all the more important given the dangers that are apparent if those shame feelings are not managed constructively (Tangney, 1991; Nathanson, 1992; Retzinger and Scheff, 1996; Ahmed et al., 2001).

Obviously, the theory of reintegrative shaming suggests that stigmatization is the worst way of managing that shame. Orchestrated disapproval, even if only directed at the act, may be gravely at risk of being read as disapproval of the person and therefore stigmatizing. Talking through the bad consequences that have been suffered by people as a result of the crime may be less likely to be read as stigmatizing. Restorative justice provides a theory for why it is necessary to talk through consequences. Unless we do this, we will not know who and what has to be restored. Indeed, in the face of this approach, it might even be read as stigmatizing not to confront the offender with all the consequences of what they have done. That is, it is possible that offenders might interpret any sweeping of suffering under the carpet as something that is done because they are seen as insufficiently robust to cope with it. Confronting the shamefulness of these hurts is necessary to vindicate victims. Any failure to do so that is motivated by a desire to coddle the fragile sensibilities of offenders may be seen as a denial of victim vindication that amounts to a form of stigmatizing shaming for the offender who cannot face the music.

Vindication of victims in a restorative justice process is a particularly good way of helping offenders to acknowledge shame. Shame acknowledgement has a virtue that goes way beyond the avoidance of stigmatization. If we are right that shame is for most people inevitable once there is agreement that a person is guilty of a crime, then the issue is helping the offender to deal with this shame in a constructive way. The evidence is overwhelming that denying or displacing it are not the best ways of dealing

with it (Lewis, 1971; Scheff and Retzinger, 1991; Nathanson, 1992). Eliza Ahmed's work on school bullying suggests that acknowledging shame is a good way of discharging it. Ahmed (2001) found that shame acknowledgement is associated with reduced risks of being both a bully and a victim of bullying. In restorative justice processes, victim vindication is the path to discharging victim shame (Zehr, 2002) and, when it elicits remorse and apology from offenders, this also helps offenders to discharge their shame.

How do these emotional dynamics work?

A number of scholars have already identified what is often referred to as 'the core emotional sequence' in conferencing (Moore, 1993; Retzinger and Scheff, 1996). Following on from our discussion of the relationship between various emotions and criminal justice interventions, we will now try to describe the way in which we think these emotions might occur in conferences. We are aware of the danger of giving a naively idealistic or overly rigid description of restorative processes. Conferences do not happen in a social vacuum. In every conference, the emotional dynamics are different, due to the styles in which they are facilitated; the social positions, relationships, personalities and the roles of the participants (not only of the victim and the offender); the nature and circumstances of the offence and its consequences; and other favourable or unfavourable conditions. All these factors may contribute to successful restoration, or to processes that provoke more bad feelings, more misunderstanding, more rage and humiliation and more stigmatization. Recent research suggests that conferences do manage emotional issues comparatively well, while also confirming that there is considerable variation between cases (Maxwell and Morris, 1993; Moore and Forsythe, 1995; Braithwaite, 2002; Hoyle et al., 2002; Strang, 2002; Daly, 2003).

The sequence presented here is to be seen as an ideal-typical³ theoretical construction of how the moral emotions already discussed may succeed each other as favoured by the intrinsic characteristics of a conference setting. We do not intend to suggest that the emotional dynamics described occur in a fixed order, as they will vary in any given conference and will often interweave during the course of a case.⁴ The sense of doing this is that it helps to orient theoretical thinking on what really happens in a conference, while transcending mono-factorial and static analyses of emotions in conferences. It also invites research to complement the quantitative evaluations through in-depth qualitative observations and descriptions of conferences.

Emotional starting points

We think that most offenders will at the beginning of the session feel at least embarrassment, as they are exposed as being non-conforming. They expect that disapproval of their behaviour will be central in the meeting,

and they fear that this will put them in an awkward position, to be subjected to a ritual in which they will experience powerlessness and even humiliation in front of others. This embarrassment is unpleasant and disempowering, and may provoke some kind of defiance at the beginning of the session (Sherman, 1993). Many offenders, however, already understand before the session that they have done wrong, and they will probably feel some shame and guilt. In many cases, it may originally be rather vague, because the kind of wrongfulness will be vague in their mind: they disappointed their parents, they committed a legally prohibited act, they caused trouble and/or harm. In many cases it will not yet be acknowledged shame-guilt. At the beginning of the restorative conference, offenders may simply hope to get away in the least uncomfortable way.

Often victims are dominated by emotions linked directly to their victimization: they have been subjected to an intrusion upon their dominion, which has caused several kinds of harm, and which was also humiliating. Victims often feel shame (and embarrassment) for the humiliation they have undergone (Strang, 2002; Zehr, 2002), but also want this suffering made right, because they know the intrusion was unjust. At the beginning of the session, they may hover between two ways of making things right: the retributive way, which would consist of inflicting an equal humiliation and suffering upon the offender, or the restorative way, which would be to diminish or compensate their own suffering caused by the offence.⁵

These emotional starting points can be important in determining the course of conferences. An unremorseful or defiant offender can immediately cause greater anger in the victim and others, which will sometimes lead to more moralizing or stigmatization being directed towards the offender. Where offenders clearly do not acknowledge responsibility this can also prevent victims from feeling able to express feelings of hurt or vulnerability which, as will be discussed later, may play an important role in developing empathy between the parties. In contrast, the presence of a remorseful offender who acknowledges their responsibility might immediately placate some of the victim's anger and lead to a more reconciliatory atmosphere. The victim's initial reaction will also have an important impact upon conferences. A very angry or moralizing victim can cause the offender to become more defiant rather than remorseful (Retzinger and Scheff, 1996). Factors such as these mean that conferences do not follow a simple pattern.

Communicating about harm to offenders

A central part of every conference is each person's account of how the offence has affected him- or herself and other people. Usually, the most important story is that of the direct victim. Confronted with the victim's suffering and the suffering of their own loved ones, offenders often, but not always, will be touched by compassion. Almost all humans, including offenders, feel a deeply rooted sense of empathy for other humans, and

especially compassion for other humans who are suffering. Empathy is the emotional root of solidarity, which is in turn a socio-ethical attitude. Its general existence is illustrated by the compassion we spontaneously feel when the media show the miserable situations of fugitives, victims of war, crimes or natural disasters. Some authors even advance ‘suffering’ as the possible ground for a new common moral minimum in our post-modern individualistic societies (Rorty, 1989) or consider ‘victimization’⁶ as the socio-ethical basis for criminal law (Boutellier, 2000). Not that empathy and compassion (as the emotion following out of empathy with those who suffer) are always activated. A propensity to feel empathy may be diminished through earlier experiences, and psychopathy may block it almost completely. The degree of empathy and compassion may also vary according to the situation. It may be selective according to the degree of identification, based, for example, on social status, gender, age, ethnicity and/or other variables. We nevertheless believe that most offenders will not ultimately be indifferent when confronted directly with the suffering of their victims, even if they are indifferent initially. Victims appear to be more than ‘an object with a handbag’ or some anonymous owner of a car, but a concrete human being with needs and feelings like the offenders themselves. Observation of conferences show that the victim’s story frequently puts offenders in an uneasy mood, and that the first words of apology are mumbled at that moment (‘sorry, I did not know that this would happen to you’ or ‘I did not want to hurt you so much’) (Vanfraechem, 2003). If the conference goes well, they now understand the suffering, and feel intuitively that this is a bad thing. But it is not only sadness or empathy they feel. They know that the suffering has been caused by their own behaviour and so remorse and shame-guilt emerge or become more concrete.

This process of simply talking about the hurt caused by an offence might be thought of as an ideal type of reintegrative shaming. However, the role that others play in reinforcing the conclusion that the offender’s behaviour was wrong can also be important. In some cases offenders will be impervious to victims’ stories and it is only through the effect of the story on the offender’s supporters, who do empathize with the victim, that the offender is affected. Even implicit acceptance by the offender’s supporters of the victim’s story can be important because their opinion is harder for the offender to ignore. As discussed earlier, much research suggests that our judgements are validated against the judgements of those people whom we trust and that an important function of shaming is to provide this kind of validation. Empathy may not always be enough because offenders might neutralize (Sykes and Matza, 1957) their own guilt, and hence remorse, in other ways (e.g. the injustice of society). Acceptance of the offender’s guilt by their supporters is the kind of subtle shaming that will often help offenders to take full responsibility for the offence. Where this type of shaming does not occur offenders are less likely to feel that they need openly to take responsibility and there is a risk of further conflict with the

victim, who is likely to become increasingly angry at this failure to vindicate their claim to having been wronged.

At this stage, we add two observations: (1) the wrongfulness of the behaviour does not appear based on abstract moral or legal categories, but based on the emotional understanding of the harm caused. Moral wrongfulness discussed in emotional terms in the conference setting is a much more adequate ground for deliberation on possible solutions than abstract moralizing on legalism and social ethics. This is one of the major pluses of conferences in comparison to court sessions. (2) The importance of empathy and compassion has already been underlined (Harris, 2001; Maxwell and Morris, 2002). Our 'reconstruction' of restorative dynamics now positions empathy and compassion as important triggers of the emotional process. Empathy for victims' suffering causes the offender to recognize the hurt their behaviour caused and in turn is an important pathway to recognizing that it was wrong. Thus, it is often empathy that leads to the emotions of remorse, guilt and shame. As a consequence, it is crucial to activate the potential for compassion in the offender. This can happen only in a situation wherein the offender him- or herself experiences respect and empathy. This is one of the major strengths of good conferencing, in comparison with traditional court proceedings.

Taking responsibility and communicating remorse to victims

As noticed earlier, shame-guilt is a very unpleasant feeling, which one wants to be relieved of. Several ways are possible (Nathanson, 1997). For this article about what might happen emotionally in the conference setting, it is sufficient to distinguish roughly between two possibilities. Unpleasant shame-guilt may be repressed by denying the suffering, or responsibility for the suffering, which can lead to problematic unacknowledged shame (Retzinger and Scheff, 1996; Ahmed et al., 2001). But shame-guilt may also be accepted and resolved through acknowledgement and reparation. Again, good conferencing seems crucial to which of these occurs. If offenders experience support and 'gestures of reacceptance', they seem more likely to acknowledge shame (Harris, 2001). Instead of being defiant, the offender may take the risk of being in a weaker position and seek apology.

An apology can sometimes represent the turning point in victim-offender communication (Bottoms, 2003). In an apology, the offender recognizes guilt. He or she expresses an understanding of the wrongfulness of the norm transgression and of the intrusion into the victim's dominion. It confirms the offender's recognition of the victim as a bearer of rights. While recognizing guilt, the apologizing offender asks the victim to 'ex-cuse', literally to 'de-accuse', to undo him or her from guilt. The offender takes the vulnerable position by submitting to the victim's decision. The victim may refuse or accept the apology, possibly under certain conditions. The roles are reversed now. Whereas the offender exercised power over the

victim in the offence, it is now the victim who has the more decisive power. This is what Moore (1993) refers to as the offender placing him- or herself in a position of 'perfect defencelessness'. The willingness of the offender to undertake material actions to secure restoration underlines the truthfulness of the apology, and makes their recognition of the harm they have caused concrete.

In a successful sequence, most victims will probably feel restored in dignity and in citizenship. The intruder on their dominion recognizes that his or her behaviour was wrong and is willing to put in an effort to repair what can be repaired. Emotions of revenge in the victim can fade. Whereas revenge emotions are a drive to respond to humiliation by a counter-humiliation, there is less reason for this any more: the offender has in fact diminished the victim's humiliation through his or her apology, which was a kind of self-humiliation (Barton, 2000). The original emotions of revenge are hollowed out. Moreover, we must bear in mind that a conference does not consist of a dialogue between victim and offender only. The conference as a whole offers the victim a sense of vindication by the clear assertion that what happened to him or her was wrong and was not his or her fault. This has the possibility of changing the victim's perspective such that he or she can see the offender not only as the one who did wrong, but as someone who is now in a vulnerable position, who really feels painful remorse for what he or she has done, and seeks a chance to make up for it. This in turn opens up the possibility of the victim feeling some compassion for the offender. If this happens, the way to forgiveness and towards a constructive solution lies open.

Managing emotions of shame

The offender's public expressions of remorse and apology, and his or her offer to make reparation, may also lead to his or her own vindication. Respect for the offender can be expressed because he or she has had the courage to confront his or her responsibility and this might have been difficult. This is important because it demonstrates that despite the offence, important others are still willing to extend empathy and compassion. We are not arguing that this empathy and compassion will prevent remorse or guilt from spilling over to feeling ashamed of the kind of person one is. But the hope is that the offender will feel that all the vindication born of compassion from loved ones must mean that 'I am basically a good person'. That is, while defects in the self, in the ethical identity of the person, are revealed by the offence and its condemnation, these defects in a mostly good self can be repaired. Through their compassion supporters are saying 'you are not irredeemably bad and that is why we are standing beside you'. Braithwaite and Braithwaite (2001) have argued that this is also a crime prevention outcome we want out of restorative justice. It is a crime prevention disaster to convince a felon to give up on their ethical self. It is also a crime prevention disaster to convince a rapist that there is no

problem that he needs to address with his character. The restorative crime prevention objective here may be to convince the rapist that they need to work at repairing flaws in their character and that this is possible because they are essentially a good person despite their reprehensible behaviour.

Evidence for the importance of this half-way ideal can be found in Maruna's (2001) analysis of desistance in a sample of long-term offenders. Those who had desisted in his sample did not see themselves as having become new people, but as having discovered their 'real self'; a better self that had always existed but had been suppressed by circumstance. Rather than a complete transformation, this involved a new emphasis upon the positive characteristics of an evolving identity, which was no longer susceptible to the same mistakes as before. A key difference between those who had desisted and those who had not was an optimism about the possibilities of living a useful and fulfilling life.

Compassion and empathy are the vehicles for communicating the politics of hope in restorative justice—that those of us who commit the most evil of deeds have a socially responsible, compassionate self in addition to the exploitative self that guided the hand that committed this wrong. Compassion is the response that assists the worst of us to put our best self forward. It helps us to build out from whatever ethical strengths continue to be defined as part of our self. There is a temporal sequence here that is the same as that which applies to building from strength in family and other relationships. First the family must not deny, blame others or resort to other techniques for neutralizing (Sykes and Matza, 1957) responsibility. But once shame is collectively acknowledged, a family can then more readily move on to building out from all the positives that exist in their family life—the caring, the empathy, the practical help and support (Cullen, 1994). Similarly, with care for the individual self: acknowledge shame first, then use the empathy and compassion so liberated from others as a resource to help your socially responsible, caring self take charge.

Conclusion

A major value of restorative justice in comparison to traditional criminal justice is that it addresses the emotional dimensions of the crime and its control (Sherman, 2003). However, a good understanding of the emotional dynamics in restorative justice, and indeed any form of justice, will require much more research. Developing this understanding of the different roles that emotions play in such processes seems necessary to understanding the impact they have on the future lives of offenders, victims and their communities. We consider shame-guilt a central issue because adequate responses to crime, even if they do not intend to, have an impact upon the way offenders see themselves. For interventions to be successful, and in particular restorative, it seems necessary to understand the process by which offenders manage these feeling of shame and come to enact a

positive, law-abiding self. To try to show how this might occur we have outlined a tentative ideal-typical sketch of the emotional dynamics that might be expected in a restorative justice conference. Reality is, of course, much more complicated. There are differences and nuances in each conference, depending on the nature of the crime and of those with a stake in its aftermath, and on many specific circumstances and conditions.

Our sketch points to a number of theoretical and practical elements to bear in mind when we discuss what happens in a conference. One of these is that empathy is an important gateway for offenders truly to understand the harm caused by an offence, which in turn is important for genuine remorse and a willingness to repair the harm done. Some level of empathy may also be necessary for victims if they are to forgive offenders and if reconciliation is to occur. The context that this occurs in may also be critical if these ambitious ideals for justice interventions are to be achieved. Respectful and reintegrative processes enable offenders to feel empathy. Such processes are less likely to be perceived as a threat to the offender, and enhance the possibility of them acknowledging and resolving feelings of shame that will occur.

If, as we have stated, emotions in a conference cannot be reduced to a single set, but are to be seen in a complex sequential dynamic, this has important implications for research, and for research methodology. So far, mostly process outcomes have been measured, seeking answers to questions such as ‘has there been shame, remorse, guilt, empathy?’ But if the sequence of emotions is so important, the process itself will have to be studied. They cannot be measured before or after the conference, but must be observed during the conference. Participant observation, including qualitative observations are needed to complement the quantitative data. Maybe it is time for a second-generation research approach to restorative conferences.

Notes

The authors wish to thank the reviewers for their comments on a previous version of the article. Nathan Harris is also grateful for a fellowship from the Katholieke Universiteit Leuven, which he held during the initial drafting of this article.

- 1 Distinguishing between condemnation of the self and the act has proved a useful predictor of the disposition to feel empathy and anger in the field of personality measurement (Tangney, 1991; Tangney et al., 1992). However, these studies assume a specific definition of shame- and guilt-proneness rather than providing a direct test of their differences.
- 2 The scale is made up of questions regarding the young person’s attendance at a family group conference approximately six years earlier and included items measuring ‘the young person remembering the conference, completed tasks

- agreed to, feeling sorry for what s/he had done and feeling that s/he had made good the damage done' (Maxwell and Morris, 2002: 282).
- 3 'Ideal-typical' in the Weberian sense (1949), that is, an abstraction in view of bringing an order to the complexity of reality.
 - 4 Just one example of variation that does occur are the differences between conferences based upon the New Zealand and Wagga Wagga models. It seems possible that differences in the order of who speaks in a conference, for example, will affect the order in which the emotional sequences described will occur.
 - 5 The suggested opposition between retributivism and restoration is contested by several scholars (Daly, 2000; Duff, 2002). We believe, however, that both are intrinsically different as stated briefly here (see, for example, Walgrave, 2003).
 - 6 The neologism 'victimization' is used by Boutellier to indicate the cultural trend to put the fact of being victimized in the focus of moral concern.

References

- Abrams, D., M. Wetherell, S. Cochrane, M.A. Hogg and J.C. Turner (1990) 'Knowing What to Think by Knowing Who You Are: Self-Categorization and the Nature of Norm Formation, Conformity and Group Polarization', *British Journal of Social Psychology* 29(2): 97–119.
- Ahmed, E. (2001) 'Part III. Shame Management: Regulating Bullying', in E. Ahmed, N. Harris, J. Braithwaite and V. Braithwaite (eds) *Shame Management through Reintegration*, pp. 209–311. Melbourne: Cambridge University Press.
- Ahmed, E., N. Harris, J. Braithwaite and V. Braithwaite (2001) *Shame Management through Reintegration*. Melbourne: Cambridge University Press.
- Barton, C. (2000) 'Empowerment and Retribution in Criminal Justice', in H. Strang and J. Braithwaite (eds) *Restorative Justice: Philosophy to Practice*, pp. 55–76. Aldershot: Ashgate.
- Benedict, R. (1946) *The Chrysanthemum and the Sword: Patterns of Japanese Culture*. Boston, MA: Houghton Mifflin.
- Bottoms, A.E. (2003) 'Some Sociological Reflections on Restorative Justice', in A. von Hirsch, J.V. Roberts, A.E. Bottoms, K. Roach and M. Schiff (eds) *Restorative Justice and Criminal Justice. Competing or Reconcilable Paradigms?*, pp. 79–113. Oxford: Hart.
- Boutellier, H. (2000) *Crime and Morality. The Significance of Criminal Justice in Post-Modern Culture*. Dordrecht & Boston, MA: Kluwer Academic Publishers.
- Braithwaite, J. (1989) *Crime, Shame and Reintegration*. Cambridge, UK: Cambridge University Press.
- Braithwaite, J. (2002) *Restorative Justice and Responsive Regulation*. New York: Oxford University Press.

- Braithwaite, J. and V. Braithwaite (2001) 'Part I. Shame, Shame Management and Regulation', in E. Ahmed, N. Harris, J. Braithwaite and V. Braithwaite (eds) *Shame Management through Reintegration*, pp. 1–69. Melbourne: University of Cambridge Press.
- Braithwaite, J. and S. Muford (1994) 'Conditions of Successful Reintegration Ceremonies: Dealing with Juvenile Offenders', *British Journal of Criminology* 34(2): 139–71.
- Crozier, W.R. (1990) 'Social Psychological Perspectives on Shyness, Embarrassment and Shame', in W.R. Crozier (ed.) *Shyness and Embarrassment: Perspectives from Social Psychology*, pp. 19–58. Cambridge: Cambridge University Press.
- Cullen, F.T. (1994) 'Social Support as an Organizing Concept for Criminology: Presidential Address to the Academy of Criminal Justice Sciences', *Justice Quarterly* 11(4): 527–59.
- Daly, K. (2000) 'Revisiting the Relationship between Retributive and Restorative Justice', in H. Strang and J. Braithwaite (eds) *Restorative Justice: Philosophy to Practice*, pp. 33–54. Aldershot: Ashgate.
- Daly, K. (2003) 'Mind the Gap: Restorative Justice in Theory and Practice', in A. von Hirsch, J.V. Roberts, A.E. Bottoms, K. Roach and M. Schiff (eds) *Restorative Justice and Criminal Justice. Competing or Reconcilable Paradigms?*, pp. 61–78. Oxford: Hart.
- De Haan, W. and I. Loader (2002) 'On the Emotions of Crime, Punishment and Social Control', *Theoretical Criminology* 6(3): 243–54.
- Duff, A. (2002) 'Restorative Punishment and Punitive Restoration', in L. Walgrave (ed.) *Restorative Justice and the Law*, pp. 82–100. Cullompton, UK: Willan Publishing.
- Edelmann, R.J. (1987) *The Psychology of Embarrassment*. Chichester, UK: John Wiley & Sons.
- Gibbons, F.X. (1990) 'The Impact of focus of Attention and Affect on Social Behaviour', in W.R. Crozier (ed.) *Shyness and Embarrassment: Perspectives from Social Psychology*, pp. 119–43. Cambridge: Cambridge University Press.
- Grasmick, H.G. and R.J. Bursik (1990) 'Conscience, Significant Others, and Rational Choice: Extending the Deterrence Model', *Law and Society Review* 24(3): 837–61.
- Harré, R. (1990) 'Embarrassment: A Conceptual Analysis', in W.R. Crozier (ed.) *Shyness and Embarrassment: Perspectives from Social Psychology*, pp. 181–204. Cambridge: Cambridge University Press.
- Harris, N. (2001) 'Part II. Shaming and Shame: Regulating Drink Driving', in E. Ahmed, N. Harris, J. Braithwaite and V. Braithwaite (eds) *Shame Management through Reintegration*, pp. 71–207. Melbourne: Cambridge University Press.
- Harris, N. (2003) 'Reassessing the Dimensionality of the Moral Emotions', *British Journal of Psychology* 94(4): 457–73.
- Hogg, M.A. and J.C. Turner (1987) 'Social Identity and Conformity: A Theory of Referent Information Influence', in W. Doise and S. Moscovici (eds)

- Current Issues in European Social Psychology*, vol. 2, pp. 139–82. Cambridge, UK: Cambridge University Press.
- Hoyle, C., R. Young and R. Hill (2002) *Proceed with Caution: An Evaluation of the Thames Valley Police Initiative in Restorative Cautioning*. York: Joseph Rowntree Foundation.
- Karstedt, S. (2002) 'Emotions and Criminal Justice', *Theoretical Criminology* 6(3): 299–317.
- Lewis, H.B. (1971) *Shame and Guilt in Neurosis*. New York: International Universities Press.
- Lindsay-Hartz, J. (1984) 'Contrasting Experiences of Shame and Guilt', *American Behavioral Scientist* 27(6): 689–704.
- Mackie, D.M. (1986) 'Social Identification Effects in Group Polarization', *Journal of Personality and Social Psychology* 50(4): 720–8.
- Maruna, S. (2001) *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*. Washington, DC: American Psychological Association.
- Maxwell, G. and A. Morris (1993) *Family, Victims and Culture: Youth Justice in New Zealand*. Wellington: Social Policy Agency and Institute of Criminology, Victoria University of Wellington.
- Maxwell, G. and A. Morris (1999) *Reducing Reoffending*. Wellington: Institute of Criminology, Victoria University.
- Maxwell, G. and A. Morris (2002) 'The Role of Shame, Guilt, and Remorse in Restorative Justice Processes for Young People', in E. Weitekamp and H.-J. Kerner (eds) *Restorative Justice: Theoretical Foundations*, pp. 267–84. Cullompton, UK: Willan Publishing.
- Mead, G.H. (1934) *Mind, Self and Society* (1st edn). Chicago, IL: University of Chicago Press.
- Mead, M. (1937) *Cooperation and Competition among Primitive Peoples*. New York: McGraw-Hill.
- Moore, D.B. (1993) 'Shame, Forgiveness and Juvenile Justice', *Criminal Justice Ethics* 12(1): 3–25.
- Moore, D. and L. Forsythe (1995) *A New Approach to Juvenile Justice: An Evaluation of Family Conferencing in Wagga Wagga*. Wagga Wagga: Juvenile Justice, the Centre for Rural Research.
- Morris, A. (2002) 'Shame, Guilt and Remorse: Experiences from Family Group Conferences in New Zealand', in I. Weijers and A. Duff (eds) *Punishing Juveniles: Principles and Critique*, pp. 157–78. Oxford: Hart Publishing.
- Morris, A. and G. Maxwell (1993) 'Juvenile Justice in New Zealand: A New Paradigm', *Australian and New Zealand Journal of Criminology* 26: 72–90.
- Moscovici, S. (1976) *Social Influence and Social Change*. London: Academic Press.
- Nathanson, D.L. (1992) *Shame and Pride: Affect, Sex and the Birth of the Self*. New York: W.W. Norton & Company.
- Nathanson, D.L. (1997) 'Affect Theory and the Compass of Shame', in M.R. Lansky (ed.) *The Widening Scope of Shame*, pp. 339–54. Hillsdale, NJ: The Analytic Press.

- Niedenthal, P.M., J.P. Tangney and I. Gavanski (1994) “‘If Only I Weren’t” versus “If Only I Hadn’t””: Distinguishing Shame and Guilt in Counterfactual Thinking’, *Journal of Personality and Social Psychology* 67(4): 585–95.
- Retzinger, S.M. and T.J. Scheff (1996) ‘Strategy for Community Conferences: Emotions and Social Bonds’, in B. Galaway and J. Hudson (eds) *Restorative Justice: International Perspectives*, pp. 315–36. Monsey, NY: Criminal Justice Press.
- Rorty, R. (1989) *Contingency, Irony and Solidarity*. Cambridge: Cambridge University Press.
- Sabini, J. and M. Silver (1997) ‘In Defense of Shame: Shame in the Context of Guilt and Embarrassment’, *Journal for the Theory of Social Behavior* 27(1): 1–15.
- Sabini, J., B. Garvey and A.L. Hall (2001) ‘Shame and Embarrassment Revisited’, *Personality and Social Psychology Bulletin* 27(1): 104–17.
- Scheff, T.J. and S.M. Retzinger (1991) *Emotions and Violence: Shame and Rage in Destructive Conflicts*. Lexington, MA: Lexington Books/D.C. Heath & Company.
- Sherman, L. (1993) ‘Defiance, Deterrence and Irrelevance: A Theory of the Criminal Sanction’, *Journal of Research in Crime and Delinquency* 30(4): 445–73.
- Sherman, L. (2003) ‘Reason for Emotion: Reinventing Justice with Theories, Innovations and Research—the American Society of Criminology 2002 Presidential Address’, *Criminology* 41(1): 1–37.
- Strang, H. (2002) *Repair or Revenge: Victims and Restorative Justice*. Oxford: Clarendon Press.
- Sykes, G. and D. Matza (1957) ‘Techniques of Neutralization: A Theory of Delinquency’, *American Sociological Review* 22(6): 664–73.
- Tajfel, H. (1972) ‘La Categorisation Sociale’, in S. Moscovichi (ed.) *Introduction a la Psychologie Sociale*, pp. 272–302. Paris: Larousse.
- Tajfel, H. and J.C. Turner (1979) ‘An Integrative Theory of Intergroup Conflict’, in W.G. Austin and S. Worchel (eds) *The Social Psychology of Intergroup Relations*, pp. 33–48. Monterey: Brooks/Cole.
- Tangney, J.P. (1991) ‘Moral Affect: The Good, the Bad, and the Ugly’, *Journal of Personality and Social Psychology* 61(4): 598–607.
- Tangney, J.P., R.S. Miller, L. Flicker and D.H. Barlow (1996) ‘Are Shame, Guilt, and Embarrassment Distinct Emotions?’, *Journal of Personality and Social Psychology* 70(6): 1256–69.
- Tangney, J.P., P. Wagner, C. Fletcher and R. Gramzow (1992) ‘Shamed into Anger? The Relation of Shame and Guilt to Anger and Self-Reported Aggression’, *Journal of Personality and Social Psychology* 62(4): 669–75.
- Taylor, G. (2002) ‘Guilt, Shame and Shaming’, in I. Weijers and A. Duff (eds) *Punishing Juveniles: Principle and Critique*, pp. 179–92. Oxford: Hart Publishing.
- Turner, J.C. (1991) *Social Influence*. Pacific Grove, CA: Brooks/Cole Publishing Co.

- Turner, J.C. and R.S. Onorato (1999) 'Social Identity, Personality, and the Self-Concept: A Self-Categorizing Perspective', in T.R. Tyler (ed.) *The Psychology of the Social Self: Applied Social Research*, pp. 11–46. Mahwah, NJ: Lawrence Erlbaum Associates.
- Vanfraechem, I. (2003) *Hergo in Vlaanderen. Een Onderzoeksrapport (FGC in Flanders. A Report of Research)*. Leuven: K.U. Leuven, Onderzoeksgroep Jeugdcriminologie.
- Van Stokkom, B. (2002) 'Moral Emotions in Restorative Justice Conferences: Managing Shame, Designing Empathy', *Theoretical Criminology* 6(3): 339–60.
- Walgrave, L. (2003) 'Imposing Restoration Instead of Inflicting Pain', in A. von Hirsch, J.V. Roberts, A.E. Bottoms, K. Roach and M. Schiff (eds) *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?*, pp. 61–78. Oxford: Hart.
- Walgrave, L. and I. Aertsen (1996) 'Reintegrative Shaming and Restorative Justice: Interchangeable, Complementary or Different?', *European Journal on Criminal Policy and Research* 4(4): 6785.
- Wallbott, H.G. and K.R. Scherer (1995) 'Cultural Determinants in Experiencing Shame and Guilt', in J.P. Tangney and K.W. Fischer (eds) *Self Conscious Emotions: The Psychology of Shame, Guilt, Embarrassment, and Pride*, pp. 465–87. New York: Guilford Press.
- Weber, M. (1949) *Methodology of Social Sciences*. New York: Free Press.
- Weiner, B. (1986) *An Attributional Theory of Motivation and Emotion*. New York: Springer-Verlag.
- Wicker, F.W., G.C. Payne and R.D. Morgan (1983) 'Participant Descriptions of Guilt and Shame', *Motivation and Emotion* 7(1): 25–39.
- Williams, B. (1993) *Shame and Necessity*. Berkeley, CA: University of California Press.
- Zehr, H. (2002) 'Journey to Belonging', in E.G.M. Weitekamp and H.-J. Kerner (eds) *Restorative Justice: Theoretical Foundations*, pp. 21–31. Cullompton, UK: Willan Publishing.

NATHAN HARRIS is a lecturer at the Institute of Criminology, University of Cambridge.

LODE WALGRAVE is Professor of Criminology at the Catholic University of Leuven in Belgium, and Chair of the International Network for Research in Restorative Justice for Juveniles.

JOHN BRAITHWAITE is a professor in the Research School of Social Sciences at the Australian National University.
