

Restorative Justice and Reintegrative Shaming

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A Standard Story that Restorative Justice Works

Restorative justice defines a social movement of the past three decades. First I argue for a positive evidence-based vision of restorative justice. Then I problematize that vision. Restorative justice has scrambled the eggs of criminal justice to create a new omelet that some say is clearly defined, that consistently accomplishes modest statistically significant reductions of reoffending across large enough data sets, that is highly cost-effective, and that is emotionally intelligent justice (Sherman, 2003). Restorative justice is relational justice that conduces to emotional intelligence in how it serves the needs of victims in particular (Strang, 2002), but also offenders, their families, and their communities (Braithwaite, 2002). Restorative justice is also perceptually much fairer than conventional justice for all kinds of participants in justice processes and this contributes to effectiveness (Tyler, Sherman, Strang, Barnes, & Woods, 2007). One argument goes that all of this is true because restorative justice is a more evidence-based design with a more coherent theoretical foundation than alternatives. This also means that with strong standard-setting and training, the better restorative justice programs can deliver much more in all these ways than quick and dirty restorative justice by poorly trained people, of which there is a lot. Effect-sizes for restorative justice do improve more strongly than for other interventions when more hours of preparation and more restorative components are invested in them (Lipsey, 2009, pp. 141–142).

To complete the glass-half-full assessment, it can be argued that restorative justice has swept the globe in a short space of history. I know of no country in the world that does not have a significant commitment to restorative justice today; most started from no restorative footprint 25 years ago. In federal states like the United States, Canada, or Australia, there are no provinces without significant restorative justice programs and even few counties without one (Bazemore & Schiff, 2013). While one can make a credible case for all the claims of these opening paragraphs, I want to construe this as a path to restorative mediocrity.

We might do better to rescrumble such a beautifully settled omelet, iteratively ambiguating the definition of restorative justice, re-testing and questioning its evidence base, constantly redeveloping theoretical foundations, and iteratively resetting aims. There is virtue in restorative theory that is a source of constant reinvigoration of justice praxis. Responsible criminologists might consider re-focusing the field to prioritize responsiveness to the complexity of future crises. Can iterated rescrumbling of restorative justice deliver the innovative edge to criminology to make a worthy contribution to responding to the role of criminalities in security, environmental, and economic crises?

Should Restorative Justice Be Clearly Defined?

A fair criticism is that restorative justice advocates present a moving target to critics. Empirical or theoretical defects are defended by claiming critics use too narrowed a conception of restorative justice. Governmental restorative justice practitioners like to say the critique is false; there has been intergovernmental consensus for 20 years around the definition under the UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters.

The UN Basic Principles define a restorative justice program as any that uses a restorative process and:

“Restorative process” means any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator (United Nations, 2002).

A problem is that the UN definition is a thin consensus description that relates to restorative processes without reference to restorative values. My preference for a process definition is one that adapts Howard Zehr:

Restorative justice is a process where all stakeholders in an injustice have an opportunity to meet in a circle to discuss who has been harmed and the needs of stakeholders in order to reach agreement on what to do to heal the harms and meet those needs.

The restorative practice definition that Terry O'Connell¹ drew from Mark Vennen also has appeal:

Restorative Practice is a way of thinking and being, focused on creating safe spaces for real conversations that deepen relationships and build stronger more connected communities.

What I like about O'Connell's is that it is thicker in the sense of incorporating the values most widely endorsed as the essence of restorative justice: safety, healing, conversational justice and relational justice. Many believe that restorative justice should be distinguished from mediation by normative motivation with justice. Distinguishing restorative practices as a wider term than restorative justice then becomes unattractive. Justice for Braithwaite and Pettit (1990) is a practice evaluated in terms of its success in reducing domination (increasing freedom [as non-domination]). Restorative justice is a normative theory of wider application than only to criminal matters. Admittedly when a restorative conversation occurs in a classroom over children's failure to complete homework, describing this as restorative justice rather than as restorative practice might suggest too heavy a connotation, even though normatively one might want to evaluate the practice in terms of advancing justice.

Core values of conversational empowerment, relational justice, safety, and healing do not exhaust the values Braithwaite (2002, pp. 12–16) argued restorative justice should pursue. Long lists of restorative values offend devotees of parsimony. Yet the social movement for restorative justice creates an omelet open to improvement by new ingredients. If restorative justice is to be relevant to corporate crime that harms the environment, "restoring the environment" must be a restorative value. Braithwaite (2002) argues for commitment of restorative justice to restoring core human rights when they have been

violated. He defends his list of restorative values as values that have all attracted global consensus in the development of UN human rights instruments. In response, critics reasonably lament that restorative justice seeks to restore too many things. Yet this complaint is not laid at the door of courtroom justice: it is a form of justice charged with obligations to honor a great variety of basic rights.

Long lists of restorative values combined with a process definition of restorative justice implies that well-rounded evaluation is complex. With environmental crime it means evaluating not only whether compliance with environmental law has improved, but also whether the environment has been restored, whether victims such as fishers were empowered in the conversation and had their needs met, whether those charged enjoyed procedural fairness, whether the justice claims of indigenous peoples and of rivers were considered, not as objects but as flows of living systems with rights to exist.

This does not preclude normal social science that narrows a concept like restorative justice and its outcomes to something like crime prevention or enhanced feelings of victim safety for the purposes of accumulating an evidence base under a narrowed conception, to enable comparability of results. Restorative justice researchers have perhaps accomplished more of that focused evaluation work in the past 25 years than has been achieved in evaluating practices inside courtrooms in the past 100.

One reason that we should, nevertheless, be open to broadened conceptions of restorative justice is that all the conceptions of restorative justice discussed above have been overwhelmingly formulated by Western thinkers, some of whom have been influenced to some degree by indigenous justice practices in white settler societies. While this implies some Polynesian influence, it involves no Melanesian influence, and none from predominantly Muslim, Buddhist, Hindu, animist, or Confucian societies that comprise the majority of the world's population. All the states I know in these societies have some programs they think of as restorative justice that are shaped from local value framings quite different from the indigenous justice of white settler societies. And they have other local justice programs with local names that fit one or all of the above definitions of restorative justice, without being thought of as restorative justice in those societies. There are near-infinite hybrids of both kinds.

Much can be learnt from diverse justice hybrids that deliver freedom as non-domination or fail to. Consider the problem of domination by

patriarchal male elders in restorative justice programs. Nepal has a practice called the Kachahari (“street forum”) (Braithwaite 2015a). Citizens victimized by some injustice to which indigenous elders are failing to respond just stand at a special meeting place and start speaking about their grievance. Community members gather to listen; this eventually attracts community elders. Elders listen, then promise to investigate. A follow-up hearing is held with open participation convened by the elders. Victim control of the option of open public contestation makes it more difficult for powerful indigenous elders to protect their own relatives or interests or people who pay bribes. Contestation of criminal justice quite like the Kachahari may not exist anywhere else, yet in the West we do see ombudsmen, human rights commissions, gender equality commissions, and police complaints systems using restorative justice hybrids that bear some similarities to the Kachahari. Even garden variety Western restorative justice conferences can see mothers assert that “my son has taken responsibility for theft, but you, arresting constable, have not accepted responsibility for the crime of excessive force in arresting my son.”

Consider forgiveness as a restorative value. Western restorative justice advocates rarely tout forgiveness as an aim, even if they occasionally recount “nirvana stories” of forgiveness in circles. “Just as well,” critics say, because the data show that forgiveness occurs in only a small percentage of criminal cases. While some (often partial) degree of forgiveness occurred in far fewer than half Sherman et al.’s (1998) restorative justice conferences in Canberra, forgiveness was twice as likely in restorative conferences as in cases randomly assigned to court. In the violence experiment, 45% of those assigned to court said afterwards that they would harm their offender if they got a chance; this was so for only 9% of those randomly assigned to a restorative conference. Consistently, while practical full forgiveness is a minority response to Western restorative justice, the qualitative research of Braithwaite and Gohar (2014) on 100 restorative justice cases in the Pashtun lands of Pakistan concluded that cases where some significant level of forgiveness did not occur, even with homicide, were rare; fulsome forgiveness may occur in a majority of cases. This was consistent with the conclusions of Wardak and Braithwaite (2013) on restorative Pashtun jirgas in Afghanistan. Forgiveness was also widespread compared to the West with restorative justice in Bougainville (Braithwaite, Charlesworth, Reddy, & Dunn, 2010). In Bangladesh, the research program of Eliza Ahmed showed that forgiveness was a potent

factor in the prevention of bullying in schools and workplaces, more potent than reintegrative shaming (Ahmed & Braithwaite, 2005, 2006, 2011; Braithwaite, Ahmed, & Braithwaite, 2008).² Hence it is best to see disparagement of forgiveness “nirvana stories” as a Western denial trope directed against learning from the East that fails to understand the evidence that, even in the West, people who are forgiving have happier marriages, enjoy better-quality sleep, less stress, less chronic pain, and more gently pumping hearts, and live longer (for more fulsome discussion of these literatures, see Braithwaite, 2016b).

Few of the world’s justice practices that fit our opening definitions of restorative justice occur in the West, and little of the worldwide variegation of justice praxis is indigenous justice inside white settler societies. Yet the impression from the literature is quite the reverse. A great deal of the world’s restorative justice and its variegation occurs in one society, China, which also accounts for the longest tradition of what we today call restorative justice philosophy, and dozens of local indigenous justice traditions of minorities and their contestation by legalists. Millions of new cases each year went into mediation after both the criminal and civil mediation law reforms of 2012, which also drove massive volumes of domestic violence cases away from courts and into the 9.4 million People’s Mediation cases during 2013 (Braithwaite & Zhang, 2017). The West claims to be the birthplace of restorative justice, of “grandfathers” of the field, but it is a birthplace of definitions of restorative justice more than of innovative practices that fit those definitions.

Ambiguation and Ambition for Better Justice

So we should continue to be wary of extant definitions, including the UN consensus. If we want more innovative and transformative restorative justice, we can further ambiguate extant definitions (Levine, 1988). One reason we might do that is so restorative justice can help contribute solutions to the major crises that afflict our survivability as a species. This includes the climate emergency, ecocide led by humans that is likely to move from tens of thousands of species at the time of writing to extinction of a million species, genocide, and crimes against humanity from Rwanda to Cambodia to Colombia. Restorative justice research groups now lend their hands to the pumps, investing in programs of R&D on environmental restorative justice, security crises, and economic crises that are increasingly entangled with ecological collapse.

Crises concerning flows or absences of flows of water already escalate armed conflicts. One reason the Israel-Palestine conflict seems intractable is that Israel increasingly benefits from formerly Palestinian water resources ultimately under the control of Israel's defense forces. The best marker of whether a community in the West Bank or East Jerusalem is Jewish settler or Palestinian is that all the homes in a Palestinian community have water tanks on their roofs for weekly water purchases from Israel, while Jewish settler communities have piped water, no tanks. This injustice is an example of a root cause of violence with which restorative peace-building must engage. EcoPeace is an Israeli-Jordanian NGO with a brilliantly restorative strategy for transforming water from a conflict driver to a confidence-builder for peace. One idea is for a renewable energy swap from renewables-rich Jordan to renewables-poor Israel in return for a desalinated water swap from water-rich Israel to the devastated Jordan River. The hope is to enrich impoverished downstream Palestinians from the Jordan trickle-down, and enrich the lives of Christian pilgrims who follow the footsteps of John the Baptist into those tepid waters so in need of spiritually meaningful restoration. Restorative justice has been helpful at another hotspot of water resource injustice that has driven waves of violence in Iran (Hojabrosadati, Forsyth, & Braithwaite, 2019). The EcoPeace ambition is that renewables for water swaps can cascade to many Middle East countries that have fought past wars and threaten future wars.

Environmental crises can intersect with technological destabilization of the nuclear non-proliferation regime by some states acquiring millions of killer robots cheaply produced by 3D printing, or some cyber or other destabilizing technology of war, escalating to nuclear exchanges, most likely accidental ones. The insight is not new. Albert Einstein said 70 years ago: "I know not with what weapons World War III will be fought, but World War IV will be fought with sticks and stones."

An accidental nuclear exchange between Pakistan and India would not end all human civilizations in the way an escalated accidental exchange between the United States and Russia would (Ellsberg, 2017). But it is a higher probability risk because of decentralized devolution of authority to push the button to mutually vindictive militaries when the time to detect errors signaling incoming missiles is so short with nuclear warhead journeys across their shared border (Braithwaite & D'Costa, 2018). Such a nuclear weapons exchange would feed

catastrophically into climate crisis as fallout rises above the Himalayas to darken the rice basket of southern China, triggering mass famine there. In a maximal nuclear exchange between the U.S. and Russia or China, the entire planet would likely be frozen in a nuclear winter which would kill all human agriculture. Any kind of massive famine that impacts China would risk global financial crisis, as Chinese farmers and homeowners became unable to pay their debts to the biggest banks in the world (which are Chinese). In the conditions of the Asian century, financial crisis, ecological crisis, and security crisis are risks that are mutually entangled in ways that was not true of previous centuries, and in ways that did not threaten the extinction of our species. Like EcoPeace, we must apply our restorative imaginations to these challenges.

In an interconnected world, there have been good opportunities to deploy restorative justice in a cosmopolitan way in Australia to prevent economic crises in the United States, such as the crash of 2001 when major victims included Enron and the accounting firm Arthur Andersen (Braithwaite, 2013). As it happened, Australian regulators were early detectors of the crimes of Arthur Andersen. When national regulators detect a financial virus like this, they can be the early movers to global control of the virus, just as with actual viruses that cause new diseases like Ebola. Australia also had opportunities to prevent American catastrophes through restorative environmental justice. A restorative approach to the uncappable Timor Sea oil spill for 75 days could have prevented the Deepwater Horizon spill in the Gulf of Mexico that repeated this uncappability for 87 days a year later for the same reason as the Australian spill, at the hands of the same criminal contractor (Braithwaite, 2013). The positive side of globalizing tendencies for crises to cascade from one country to another is that when economic or environmental enforcement fails in one country, there are opportunities for enforcement to cascade from other, less captured, countries.

Hence, as we broaden the relevance of restorative justice to prevention of crimes that lead to economic crises, security crises, and environmental crises, we cannot narrow our conception of restorative justice to one attuned to street crimes. Criminology persists in paying only lip service to Sutherland's (1949) insights on white collar crime in that regard.

What Works? What's Just?

Meta-analyses, of which there have been many with restorative justice and shame as modalities of social control, do require moments of disambiguation concerning what restorative justice is. That does not preclude re-ambiguation for the purpose of theory development once a meta-analysis is completed (Levine, 1988). Literature assessments of sharply defined interventions are important not only to understand what works, but also to help professionals advise community decision-making in restorative circles that, for example, a decision to send a young offender to a scared straight program, or to wear an “I am a thief” T-shirt, is not a good idea, based on evidence.

It adds no value to rehash the Braithwaite (2002) literature review on these questions. It may not be the most sophisticated review, yet it remains the most comprehensively multidimensional one, within the normative spirit of not narrowing the outcomes that matter to reduced reoffending. It has been regularly updated in light of new meta-analyses (Braithwaite, 2016a); the next effort is 2020 for the *Annual Review of Law and Social Science*. Recent reviews of quite different kinds continue to report the same basic pattern of reoffending effects. Restorative justice conceived narrowly as an intervention to reduce crime is not the most potent prevention method in the literature. Every review reveals some studies with big effect sizes in crime reduction and others with zero and even negative effects, which in combination deliver modest but statistically significant crime reduction effects. This is true of meta-analysis with the most demanding methodological strictures for randomized controlled trials (Strang, Sherman, Mayo-Wilson, Woods, & Ariel, 2013) and equally true of meta-analyses with larger numbers of studies but less methodologically stringent inclusion criteria (Bonta, Jesseman, Ruge, & Cormier, 2006; Bouffard, Cooper, & Bergseth, 2017; Bradshaw, Roseborough, & Umbreit, 2006; Latimer, Dowden, & Muise, 2005; Wilson, Olaghere, & Kimbrell, 2017; Wong, Bouchard, Gravel, Bouchard, & Morselli, 2016). Braithwaite (2016a) argues that small statistically significant effects are even true of purportedly negative reviews like that of Weatherburn and Macadam (2013).

Moreover, for some of the evaluations with more serious and violent crime, effects are far from small. There are evaluations of long-term effects of brief restorative justice interventions with mostly felony offenders that halve or more than halve reoffending (e.g., Kennedy,

Tuliao, Flower, Tibbs, & McChargue, 2019). Mills, Barocas, Butter, and Ariel (in press) report a 53% reduction in new arrests and a 52% reduction in severity scores for reoffending (including for domestic violence) in a new randomized control trial of restorative justice in *Nature Human Behaviour*. The halving of reoffending occurred for cases randomly assigned to a restorative justice intervention (Peace Circles) combined with a Duluth-style Batterer Intervention Program, compared to cases randomized to the batterer intervention only, without the restorative hybridity. A study of traditional restorative justice that no criminological review has considered, perhaps because it has no control group, is Wiessner and Papu's (2012) study in *Science* of 501 tribal wars in Papua New Guinea. They were actually inter-clan wars that Westerners might consider gang wars. Clan war killings per 100,000 population fell from 91 in 2000 to 19 in 2011—still extremely violent—but continued to fall (Papu & Wiessner, 2018), at least for Enga Province, as clan war incidence steeply declined and became less deadly. This happened after a specialist peace-making branch of the Village Courts adopted a restorative justice philosophy to killings that favored compensation and reconciliation over prison 98% of the time.

Reviews of empirical literature continue to support stronger victim than reoffending benefits of a variety of kinds, from satisfaction to fear reduction to PTSD symptom reduction (Angel et al., 2014) to belief that the rights of all were respected (Braithwaite, 2002; Strang, 2002). The literature also supports a variety of benefits to the community, including some evidence based on the insights of Lawrence Sherman that restorative justice may improve the deterrent capabilities of the criminal justice system by sharpening its Sword of Damocles, while traditional criminal justice might blunt it (Braithwaite, 2018). Recent conceptions of restorative and responsive justice incorporate motivational interviewing as a central practice, which is itself the subject of a suite of meta-analyses affirming effectiveness (e.g., Hettema, Steele, & Miller, 2005; Lundahl, Kunz, Brownell, Tollefson, & Burke, 2010; Rubak, Sandbæk, Lauritzen, & Christensen, 2005).

That said about the balance of benefits and harms, in many cases victims are revictimized by restorative justice (Strang, 2002), as also happens in criminal trials. The best results for restorative justice are likely to be achieved when superior rights integration between restorative and courtroom justice is accomplished. That integration must be based on fine-grained learnings from the qualitative evidence on the circumstances where restorative and courtroom justice revictimize.

With reoffending evaluations, the relevant comparator for restorative justice is courtroom justice, not comparisons with diverse rehabilitation programs, as some are wont to do.

This is because the key to being theoretically open to building better ways of doing restorative justice is understanding how to craft restorative justice as an improved delivery vehicle for rehabilitative and preventive programs that work, and for rejecting counterproductive programs. This means a more deliberative, evidence-based delivery vehicle than plea bargains in lower-court production lines. It means a delivery vehicle whereby restorative justice delivers stronger offender, family, workplace, and community commitments to follow through with implementation of programs that work, and with monitoring and celebration of that completion. When restorative justice also manages to cascade “wounded healers” to help others avoid the kinds of harms they have suffered (Maruna, 2001), or to protect victims from the kinds of crimes they have committed, its potential for crime prevention may be to further cascade collective efficacy (Braithwaite, 2019). An example is the architecture of the 2016 Colombian peace agreement which provides a “restorative sanctions” approach for FARC and state military terrorists alike, which explicitly encourages 5–8 years of “restorative sanctions” such as clearing minefields that continue to maim children (Colombia Peace Agreement, 2016). Trials of many generals and colonels from both sides based on this innovative philosophy are entering the justice pipeline in 2019.

Restorative justice becomes less effective when done on the cheap with little time for each case (Lipsey, 2009). Regrettably, when state restorative justice scales up, time and quality scales down (Burford, Braithwaite, & Braithwaite, 2019). Pioneering restorative justice programs in England and Australia are examples of this. There is no excuse for it even in the face of fiscal crisis when Shapland et al. (2008) find a benefit-cost ratio of seven. Widening to indigenous justice circles in Australia and Canada, we can find particularly impressive savings and benefit-cost ratios (Daly & Barrett, 2014; Native Counselling Services of Alberta, 2001). Benefit-costs could be even more impressive if restorative justice could improve on its abysmal accomplishments in reducing imprisonment rates. A rare exception is the innovative Bangladesh restorative justice program that in combination with a paralegals program secured early release of over 8,000 adult prisoners (Braithwaite, 2015b).

Foundations in Reintegrative Shaming Theory?

Practitioners should use reintegrative shaming theory less in restorative justice facilitator training. When I say this, criminologists interpret it as backing away from reintegrative shaming theory. Not at all. I still think that when stigmatization happens in restorative conferences, they are more likely to fail, and when reintegrative practices bring offenders to feelings of remorse, they more likely succeed. But shame talk about an offender is not helpful in restorative conferences because it is better to put the problem in the center of the circle rather than the person who offends. It is better to focus on how to repair harm, repair relationships, and meet needs (Ahmed, Harris, Braithwaite, & Braithwaite, 2001; Braithwaite, 2002). Discussion of the needs of victims and the imperatives for repair naturally conduces to healthy shame management. To put it more bluntly, the worst way to accomplish shame acknowledgment is to be overly focused on shame, or worse to say “shame on you” or use shame sanctions (Ahmed et al., 2001).

The contribution of *Crime, Shame and Reintegration* (Braithwaite, 1989) is less important at the micro- than at the macro-sociological level. It is about the idea that societies where rape, financial crimes, environmental crimes, or war crimes are not shameful will have a lot of rape, financial crime, and vulnerability to ecocide/genocide. The theory has useful implications for what to do about this along preventive micro-macro pathways. Communicating disapproval in reintegrative rather than stigmatizing ways holds a key; shame management must avert both exclusion by others and exclusion from others by the self. The theory salvages labeling theory by suggesting that outcasting identities like thief or junkie are counterproductive. In contrast, it tends to be productive to label criminal conduct as criminal, as a bad deed done by an essentially good person, discussing why it caused harm and how this harm might be repaired.

It is common for literature reviews to proffer sharp conceptual distinctions between shame and guilt, when that literature is rife with quite different ways of conceptualizing shame and guilt and proneness to them. Even when psychologists bundle stigma and displaced shame (hypothesized here to increase crime) together with reintegrative and acknowledged shame (hypothesized to reduce it), Spruit, Schalkwijk, van Vugt, and Stam’s (2016) meta-analyses find rather similar, modest, statistically significant effects of both shame and guilt in reducing delinquency. As reintegrative shaming theory would predict when

reintegrative shame is so contaminated by stigmatizing shame, however, “guilt” effects are somewhat stronger. Of course reintegrative shaming theorizes these guilt effects as shame effects, as one variation of them. We must be wary of excessive psychologism in overblown distinctions between shame and guilt when even at the micro level, experience of guilt and shame tend to be very highly correlated.

This is partly because micro experience of guilt is constituted by macro practices of shaming. Hence, a man is less likely to experience guilt for rape if he lives in a society in which rape is rarely shamed, and domination of women, including sexual domination, can be a matter of narcissistic pride, as suggested through utterances of a certain president, for example. A more interdisciplinary imagination is required to grasp the possibilities for cultural transformation of healthy guilt about something like rape through transforming institutional structures of shamefulness and shaming. The social movement for restorative justice, the politics of the women’s movement, and the criminal justice system are all important institutions that can be constitutive of healthy or unhealthy shame-guilt about gender-based violence.

The family is of course another important institution that must be transformed to reintegratively shame violence by boys and prevent narcissistic pride about domination of girls. At the most micro level of family practices, patriarchal domination must be confronted at the moment of its genesis when big brother hits little sister in family conflicts of early childhood. Babies must be allowed to be beautiful narcissists; it is all about them because “joyful attunement and interactive repair” drives the endogenous release of the hormones that drive baby’s development (Burgo, 2018). But in their second year, unconditional reciprocal joy must give way to reciprocal joy contingent on meeting expectations. It is critical that babies be given unconditional approval whatever they do, however they frustrate us, up to the end of that first year. But Burgo (2018, Chapter 6) shows that during their second year toddlers gradually grasp the concept of parents and siblings as separate beings with needs of their own. From the second year, gentle, moderate doses of the justice of shame administered with love are imperative for healthy development.

In this, the message is that the male child is still special; his needs are important to parents; but other human beings are special as well. Unlike when he was a baby, if the child interrupts, tugs at mother to demand attention, now mother gently rebukes to the effect that she is

talking to Sara's mom right now, and will get to his demands after that. This is the shift from unconditional approval to conditioned responsiveness to gentle shame that teaches a patience and turn-taking critical to egocentrism aversion. When some patience and turn-taking is finally displayed, parental hugs and approval are the reintegrative shaming imperatives to terminate episodes of shaming with rituals that decertify and terminate shame. This works to prevent spirals into degradation rituals of stigmatization. Rude behavior is gently confronted without the lesson being that the child is a rude boy. Hence the idea of rudeness is learnt, the child takes pride in being a boy who is polite, and the parent is empowered with the reintegrative socialization weapon of being able to say, "You are better than that; you are normally such a polite boy." Later when the boy has power for violence that hurts when he snatches toys from his sister, parents are likewise able to say, "That's not like you; you are normally so kind to your sister." This is evidence-based child development, as Braithwaite (1989) documented.

Burgo (2018) interprets recent science as supporting the view that the capacity to experience shame is a universal, useful evolutionary accomplishment that evolved during the millennia when human social units were small. Reintegrative shaming theory insists, however, that the large-scale societies most humans live in today create more deeply structured risks of exclusion of those who are shamed. These structures of exclusion (such as prison, formal exclusion from universal schooling, cascaded social media, or mass media vilification) more systematically cut citizens off from opportunities for normal reintegration and growth than is likely in earlier small-scale settlements (where exclusion was real and deep, but informal, less structural, at least up to the point of execution or banishment).

The body of evidence in support of reintegrative shaming theory is modest but encouraging according to reviews by Harris (2006) and Braithwaite, Ahmed, and Braithwaite (2009). No value is added by rehashing these discussions of older tests of the theory. In some ways the earlier, more extended reviews in Ahmed et al. (2001) and Braithwaite (2002) are more important. Ahmed et al. (2001) drew from them a significant revision of the theory of reintegration in light of the evidence to that time, which we will see has strengthened since. The revision included 30 new propositions for further testing. It integrated the concepts of ethical identity, shame management, and pride management into the theory. The 1989 version of the theory had conceived

reintegrative shaming and stigmatization as polar opposites. Factor analytically, this often proved false. Stigmatization and reintegrative shaming could operate together; it was necessary to measure the extent to which both were in play in any situation. The 2001 review and revision set out new directions for empirical research on “the regulatory practice of shaming and the personal experience of the emotion of shame and its interpretation,” greatly influenced by the empirical work of Eliza Ahmed and Nathan Harris (Forsyth & Braithwaite, 2020). Ttofi and Farrington’s (2009) study of bullying in Cyprus was encouraging on the merits of the 2001 theory revisions. They found “useful” mixed support for the 1989 elements of the theory in a scenario study. But Ttofi and Farrington found stronger support for the 2001 revisions to the 1989 theory (especially the power of shame acknowledgment in explaining reduced bullying).

Braithwaite’s (2002) review began to apply the new insights in Ahmed et al. (2001) to restorative theory and practice alongside insights from more qualitative cross-cultural research. Harris’s ethical identity conception of shame became important in the deepening marriage of restorative justice to responsive regulatory theory as a practice in which actors with multiple selves are coaxed to put their best self forward, their underlying ethical identity that makes it sensible to view them as an essentially good person who has done a bad thing. These practices also help them deal with the “unresolved shame” that Nathan Harris found to be common in criminal justice encounters.

As discussed above, Ahmed found in a series of studies across three decades that while reintegrative shaming and shame acknowledgement can contribute to the control of bullying in schools and workplaces, forgiveness can have an even larger bullying reduction effect and pride management can be as important as shame management. Just as there is healthy and unhealthy shame, so there is healthy and unhealthy pride. Pride in accomplishing good things together with others nourishes us, promotes social solidarity and collective efficacy. On the other hand, the prideful belief that we are better than other people undermines collective efficacy. This is vaunting pride or narcissistic pride. Ahmed’s research program shows that unhealthy pride management is highly correlated with unhealthy shame management. Both explain high rates of school bullying and workplace bullying. Humble pride and reintegrative shame acknowledgement, in contrast, explain low rates of bullying. Complementing an analysis of shame management with pride management is just one of a number of adjustments to

the 1989 theory in Ahmed et al. (2001). Unhealthily low self-esteem now seems a less promising explanatory variable than distinguishing between healthy and unhealthy pride management. The empirical evidence for the basics of the original explanatory framework continues to be encouraging, as it does for restorative justice as a reintegrative strategy of crime control, as discussed in the initial sections of this chapter.

The most recent psychological research on shame and shaming, and meta-analyses on the effects of shame, confirm the core contention that stigmatizing shame is unhealthy for people and makes crime problems worse; reintegrative shaming that induces shame acknowledgement can help to reduce crime. Tangney et al. (2014) found in a longitudinal study of 476 jail inmates that shame that externalized blame onto others (what Ahmed et al., 2001 call “shame displacement”) increased recidivism, while shame that was “unimpeded by externalization of blame” (p. 799) reduced recidivism. Kwon’s (2016) essay in *Scientific American Mind* is an evocative discussion of these recent changes in the thinking of psychologists:

June Tangney and her colleagues found that among inmates who felt shame, those who did not seek to pin their wrongdoing on someone else were less likely to repeat a past offense than those who blamed a scapegoat.

In a meta-analysis of 71 shame studies . . . Leach and Cidam [2015] found that even when shame tarnishes a person’s social image, it can prompt constructive choices, provided the individual has an opportunity to make amends. According to Leach, because shame affects our self-evaluation, it is most damaging when there is nothing the person implicated can do to change the situation. But when we believe change is possible, it can be a strong motivator for good behaviour (p. 985).

The abstract for the two Leach and Cidam (2015, p. 983) meta-analyses on 90 and 42 samples expressed results this way:

Despite recent evidence that episodic shame can be linked to the constructive approach to failure (i.e. prosociality, self-improvement), the prevailing view is that shame is neither constructive nor approach-oriented. To integrate these opposing views, we conducted a theory-driven meta-analysis of 90 samples from the published literature.

As expected, shame had a positive link to constructive approach when failure or social image was more repairable. In contrast, shame had a negative link to constructive approach when failure was less repairable. A supplemental meta-analysis of 42 samples showed shame and guilt to have a similar positive link to constructive approach orientation when failure was more repairable, but not when it was less repairable.

The quality of the scholarly debate on reintegrative shaming theory has generally been nuanced, but inward-looking in some quarters. Some American legal scholars provocatively interpreted the theory as supporting “shaming penalties,” which it never did. Some psychologists have interpreted the valuable body of work led by June Tangney on shame *proneness* as capturing the idea of reintegrative shaming, which it does not. There is a deep definitional divide between these two bodies of work, but not a substantive divide on policy implications. Tangney in effect concludes that crime and other social problems requiring self-regulation can be effectively prevented by a kind of “reintegrative guilt” that is equivalent to “reintegrative shaming,” while what Tangney calls shaming and Braithwaite calls stigmatizing shaming makes things worse. Or as Tangney et al. (2014, p. 803) put it, guilt-inducing restorative justice interventions that avert shame externalization may be especially useful for crime prevention.

Some brilliant nuance can be found in recent research. Allpress, Brown, Giner-Sorolla, Deonna, and Teroni (2014) discovered in three studies that even though correlations between guilt and two kinds of shame were all extremely high, models that separated “image shame” from “moral shame” greatly improved fit to their data compared to models that combined these emotions into one measure. “Moral shame” was positively related to sympathy for a victim outgroup—Iraqi victims of British war crimes. “Image shame” was negatively related, and guilt had little relationship. Moral shame tracks Harris’s (Ahmed et al., 2001, Section II) ethical identity conception of shame—shame that affronts one’s value system to open a pathway to empathy for the victimized group and to motivate reparation. The ethical identity conception of reparation-inducing shame is the essence of the philosopher Bernard Williams’s (1993) conception of shame that draws on ancient Greek thought. Image shame is defensive concern about tarnished public image or face (close to what Harris labels “embarrassment-exposure” in his factor analyses, as is also experienced when our naked body is accidentally exposed).

Allpress, Barlow, Brown, and Louis (2010) showed strong predictive power of moral shame in explaining support for political action concerning Australia's apology for crimes against humanity regarding Aboriginal Australians. This predictive power of moral shame rendered (highly correlated) guilt an ineffective predictor of collective political action. However, Allpress et al. (2010, Study 2) found that guilt was relevant to explaining British support for compensation paid by Britain for mass atrocity crimes in Kenya, though again image shame was negatively correlated with support for compensation, while moral shame was positively associated. Similar patterns of results have been found in four further studies in Germany for German crimes against humanity, Britain for British war crimes, and Norway for Norwegian mistreatment of its Tater minority (Gausel, Leach, Vignoles, & Brown, 2012; Rees, Allpress, & Brown, 2013). We can read these studies as support for Harris's conclusion that an ethnical identity conception of shame holds a key to pathways to domination prevention. This is the emotion of shame experienced when the way we feel about ourselves as an ethical person is threatened by our actions.

It is challenging to test the theory of reintegrative shaming by comparing data from large numbers of countries, though Schaible and Hughes (2011) have attempted this. Using the World Values Survey, they found "considerable support for reintegrative shaming theory, showing variations in levels of homicide across nations to be significantly affected by communitarianism and informal stigma" (p. 123). Income inequality was an elephant in the room, however. The benefits in homicide reduction of the theory's communitarianism variable were "suppressing and being suppressed by" the large effects of inequality in increasing cross-national homicide (p. 122). A frontier for future macro-criminology may therefore be to integrate old ideas of inequality and crime and reintegrative shaming and crime.

Reintegrative shaming theory has the advantage over most criminological theories that it is designed to be as relevant to white-collar crime as to street crime. The theory has support on substantial samples of white-collar cases collected at the Australian National University. Makkai and Braithwaite (1994) found in a study of 410 organizations that nursing home inspection teams with a reintegrative shaming approach achieved considerably greater improvement in compliance with nursing home quality of care standards over a two-year follow-up than did inspectors with a stigmatizing approach to offenders (who worsened compliance), and compared to inspectors with a "tolerant" or

captured approach to offenders (who also worsened compliance). The effect size was large: the third of inspection teams with the highest reintegrative shaming scores achieved a 39% reduction in offending in the next two years, while those with the highest stigmatization scores achieved a 39% increase in offending. High levels of disapproval of poor treatment of nursing home residents combined with high levels of forgiveness and respect for offending managers performed best in protecting vulnerable elderly from crime. Consistent with the theory, when interdependence between inspectors and managers was stronger, reintegrative shaming effects on reduced offending were stronger. An attractive feature of this corporate offending data is much higher reliability and validity than for traditional crime data, with test-retest reliabilities ranging between 0.93 and 0.96 for measures of compliance with the law from separate inspection teams checking the same facility.

On a sample of 652 offenders of well above-average wealth punished for participation in serious evasion through tax shelters, Murphy and Harris (2007) found feelings of reintegration versus stigmatization experienced during their enforcement event explained reoffending in the way predicted by the theory. The theoretically relevant shame-related emotions mediated the effect of reintegration on reduced intentions for future tax offending. The relationship between shame acknowledgement and reoffending was mediated through a measure of remorse. Coricelli, Rusconi and Villeval (2014) also supported reintegrative shaming theory experimentally for tax evasion. Also relevant are studies of tax cheating, theft and drunk driving scenarios by Grasmick and Bursik (1990) that found strong evidence for shame's deterrent effect. Paternoster and Simpson (1996) and Simpson (1992) are among those who found the same result for intentions to commit corporate offences. On the broader connection between these consistent empirical results on white-collar crime and evidence on shame affecting other kinds of crime, Pratt et al.'s (2006, p. 371) meta-analysis on "deterrence theory and the importance of non-legal costs" is a noteworthy contribution.

Rebellion, Piquero, Piquero, and Tibbetts (2010) found that anticipated shaming mediated dominant micro-level criminological theories, in particular differential association, learning, control, strain, and deterrence theories. Anticipated shaming had a stronger direct effect than variables grounded in these older theories that reintegrative shaming theory sought to integrate. The dominant theories have largely indirect effects mediated by anticipated shaming. The Rebellion et al. (2010)

result followed in the footsteps of earlier studies finding that much (Piquero & Tibbetts, 1996) or all (Tibbetts & Myers, 1999) of the relationship between low self-control and intentions to offend was accounted for by anticipated shame, and in the footsteps of Botchkovar's (2005) finding that shaming mediated strain theory effects. Such mediating effects of anticipated shame are particularly strong for females (Blackwell & Eschholz, 2002; Tibbetts & Herz, 1996), supporting Braithwaite's (1989, pp. 92–94) claim that the theory of reintegrative shaming partially helps to explain lower crime rates among women and girls. Anticipated shame is higher among females and more strongly dampens other drivers of offending for females (Rebillion et al., 2010, p. 903).

This is the most wide-ranging attempt to synthesize empirically the promise of reintegrative shaming theory for theoretical integration:

Our analyses suggest not only that anticipated shaming bears a stronger independent relation to criminal intent than do other critical variables from mainstream criminological theory, but also that anticipated shaming may provide a critical link among such theories as differential association theory, self-control theory, and strain theory. Notwithstanding the fervent argument of some that such theories are built upon fundamentally incompatible assumptions, our results support the notion that variables derived from them are associated with crime partly via the common mechanism of the anticipated shaming in a prospective offender. In particular, self-control is associated with greater anticipated shaming, deviant peers is associated with lower anticipated shaming, higher perceived certainty is associated with greater anticipated shaming, and, perhaps most interestingly, experimentally manipulated levels of strain appear to desensitize respondents to the prospect that they might be shamed (Rebillion et al., 2010, p. 995).

These conclusions are all consistent with Braithwaite's ambition to integrate these key elements of control, differential association, deterrence, and Mertonian opportunity theory. Today, collective efficacy should be added (Braithwaite, 2019; Sampson, Raudenbush, & Earls, 1997). Consider Rebellion et al.'s (2010, p. 996) finding that "anticipated shaming may play a central role in explaining the relationship between sex and crime, thus raising the likely scenario that while the same general theoretical process may hold across sex, there are

important gender differences in covariates of interest.” The finding suggests that criminology might comprehend why women may be more responsive to reintegrative shaming, better at shame acknowledgement, apology, and reparation, and less vulnerable to narcissistic pride that motivates crime. It is reasonably unlikely that the first female U.S. president will be a role model who publicly discusses forceful grabbing of men’s penises. Braithwaite’s (1989, p. 74) original theory, while overly essentializing the “female role,” continues to have a kernel of appeal:

Through frequently being an instrument of reintegrative shaming, one is more likely to be susceptible to reintegration when one is shamed oneself. The female role, which is partly about doing reintegration in families, renders its exponents more committed to the view that being reintegrated is desirable, should one find oneself at risk of becoming an outcast.

The brute criminological fact persists that, in families, men are more prone to administer justice with their hands and fists, while women are more consistently attracted to family justice administered with love. Hence our conclusionary hope may be a less realistic hope for men, especially those who are organizational criminals, than for women more graced with humble pride:

Processes that help people acknowledge Shame-Guilt they have over matters of right and wrong can strengthen their bonds with those they love, indeed strengthen shared identities based on love. Loving identities in turn help to shape ethical identities, a citizenry with a morally decent sense of shame. We hope in the difficult business of learning how to do this better than we have in the past, people are also learning how to be democratic citizens (Ahmed et al., 2001, p. 69).

One limitation of the breakthrough in Rebellon et al.’s empirical work is that it does not synthesize the idea of reintegration and shame acknowledgement as drivers of anticipated shame that account for its mainstream theory effects. Rebellon et al. do not integrate the idea of stigmatization and shame displacement as a shunt that shuts down the plural trainlines of criminological theory. An integration strength of reintegrative shaming theory is that this shunt also integrates a strategic relevance of labeling theory. Rebellon et al. wonderfully deploy

their data to show how mistaken are those who see these influential criminological theories as based on “fundamentally incompatible assumptions.” A key move of reintegrative shaming theory is to supply the seemingly “colliding locomotives of criminological theory” with this shunt:

The partitioning of shaming into reintegrative and stigmatizing shaming is a shunt that connects these diverging theoretical tracks. Through integrating old theoretical ingredients in a new way, the theory does better at accounting for established facts than can any of these traditions separately. Moreover, we can do better compared with adding together their separate (contradictory!) elements as partial explanations within an atheoretical multi-factor model. The top left of [the model] incorporates the key variables of control theory; the far right—opportunity theory; the middle and bottom right—subcultural theory; the bottom, particularly the bottom left—learning theory; the right side of the middle box—labeling theory. With one crucial exception (reintegrative shaming), there is therefore no originality in the elements of this theory, simply originality of synthesis. Through the effect of interdependency in reducing crime, we can capture the explanatory successes of control theory in accounting for primary deviance. Through shunting stigmatization away from other forms of shaming (as that sort of shaming which triggers subcultural participation) we proffer a more promising approach to the explanation of secondary deviance (Braithwaite, 1989, p. 107).

Conclusion

While restorative justice is not mainly about reintegrative shaming theory and vice versa, the focus on their intersection is simply because this author has been obsessed with it. The two theories under consideration, indeed all such general theories, will be wrong most of the time when they aspire to general relevance to all types of predatory crime. Error-proneness is endemic with theories that apply to crimes of the powerful and crimes of the powerless, to organizational and individual crimes and crimes of small groups of individuals, to crimes by women and against women, property, violent, and environmental crimes.

Even so, the evidence does suggest that restorative justice and reintegrative shaming theories are not totally and always wrong. They can explain significant portions of the variance in dependent variables of great import across that wide spectrum of types of crime. They can

help sensitize practical people to ask good questions on what to do about a crime problem. They are well designed to connect and mutually enrich explanatory theory to normative theory (republican political theory about how to increase freedom, reduce the amount of domination in the world) (Braithwaite & Pettit, 1990). This normative connection helps us humbly see shaming is a dangerous game that can do good or ill. Any general theory tells only one explanatory story in a world where many explanatory stories have relevance. Contextual stories have most relevance in most contexts.

For all their limits, there is potential in these theories for helping us imagine big solutions to our biggest crime problems. Narrowed criminological imaginations are not fit for crafting solutions to the growing complexity of entanglement of criminality with the likelihood of extinction in the next century or two. Normatively, to aim nuclear weapons at a society that can wipe out all its citizens is planning to commit the crime of genocide, by definition. This criminal shamelessness of a whole society is not the better society urged after the terror bombing of the civilians of Shanghai by Japan in 1937, and Guernica by the European fascists, when Franklin Roosevelt said the following in 1939:

The ruthless bombing from the air of civilians in unfortified centers of population during the course of the hostilities . . . has sickened the hearts of civilized men and women . . . I am therefore directing this urgent appeal to every Government which may be engaged in hostilities publicly to affirm its determination that its armed forces shall in no event, and under no circumstances, undertake the bombardment from the air of civilian populations or of unfortified cities, upon the understanding that these same rules of warfare will be scrupulously observed by all of their opponents (Ellsberg, 2017, Chapter 14).

Within a short space of years great powers had capitulated to precisely the war crime FDR urged the world to shame. Its genocidal logic was normalized, just as *expansion* of white settler societies over not just part of the indigenous lands of the Americas, Australia, South Africa, but extermination of indigenous control over *all* of it was normalized. The whites still do not see the land they own as stolen, nor their privilege as built on genocide. Reconciliation that listens and empowers indigenous peoples, that listens to survivors of Hiroshima and

Nagasaki, constitutes restorative methods that start to challenge normalized genocide.

The West capitulated to believing that future genocide from the air was OK, even if it intentionally caused more systematic death and devastation than Hitler's genocide, so long as it would be done by democracy's missiles. Wall Street and the City of London capitulated to the ideology of the greed of corporate crime as good so long as it made America or England great again. Australia's new coal and fracking sites capitulated to carbon as good if it made Australia rich, even at the cost of ecocide. Australians normalized ecocidal ways of being. Vaunting pride of bearing arms, dominating the earth and its economies can be contrasted with the humble pride of FDR's vision of how to defend against domination. Criminological theory is useful when it builds a strategy to constitute the shamefulness of ecocide, genocide, and corporate crimes that trigger global crises. That is the test it must pass if there is a future.

Notes

- 1 Thanks to Terry O'Connell for an oral presentation and Powerpoint that includes this definition.
- 2 This highlights broader dangers in relying on literatures in meta-analyses that over-sample Western, particularly U.S., data in studies of emotion effects in criminal processes. Shame also works very differently in Eastern than in Western societies, and even within the West, the meta-analysis of Spruit et al. (2016) shows that shame effects on delinquency reduction are significantly higher in European than in U.S. studies, while significant on both continents.

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