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Moral emotions in restorative justice conferences:

Managing shame, designing empathy

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Abstract

This article deals with the emotional dynamics of restorative conferences, focusing on the functions of shame, as enunciated in the theories of Moore, Scheff and Retzinger. According to these researchers, the restorative justice conferences aim to redirect aggressive emotions and elicit shame and other hurt-revealing emotions that can lead to empathy. These approaches are confronted with the views of the guilt-theorists Tangney and Baumeister who argue that guilt is related to empathy and reparation, whereas shame tends to provoke avoidance or rejection of responsibility. The view that guilt is the more moral emotion appears to turn Braithwaite's theory of reintegrative shaming upside down. In accordance with recent research results of the Braithwaite group, it is concluded that guilt is an important aspect of the restorative process. But guilt has limited affect resonance possibilities, misses the other-regarding aspects of remorse and does not seem to incite the offender to reconsider his or her identity. In conclusion, it is argued that (reintegrative) 'shaming' is a dubious concept.

Key Words

guilt • reintegrative shaming • remorse • restorative justice • shame

In his now classic study *Crime, Shame and Reintegration* (1989), John Braithwaite introduces the notion of reintegrative shaming in restorative justice conferences. During these conferences, friends, relatives and family of the offender and victim are brought together to confront the offender with the consequences of his or her act, and to discuss what should be done to put these right. In the process offenders are confronted with the misery they caused and come to understand that they transgressed the moral norms of the community. The added moral value of these conferences—compared with criminal proceedings—is that the offender is encouraged to apologize and take responsibility for their misbehaviour, and that the victim receives recognition. More specifically, Braithwaite claims that the proper use of shame might motivate offenders to seek reconnection with the community and that, following expressions of shame or repentance, the community welcomes back the previously unconcerned offender. In order for shaming to be reintegrative, however, a clear distinction needs to be made between an unacceptable act and the person who has committed that act. Shaming—expressing disapproval—should be directed at the act without degrading or stigmatizing the actor.

Until recently, when he and his colleagues published a book on shame management (Ahmed et al., 2001), Braithwaite seemed mainly interested in the social effects of this 'reintegrative shaming' process, such as prevention, crime control and rehabilitation of the offender. His point of view was basically sociological: the restorative meeting serves as a reintegration ceremony that stimulates the offender to act in accordance with prevailing norms. Braithwaite did not explain why shame causes individual behavioural change and why shame can be a disturbing phenomenon. He devoted relatively little attention to the interaction of shame with other emotions that convey suffering.

This article is concerned with the interplay of shame, guilt and related emotions in restorative justice conferences. Needless to say, there is considerable disagreement about defining shame, guilt and related emotions, and about understanding the sources that cause these emotions and the social contexts in which they occur. Like other emotions, shame and guilt are difficult to interpret. Neither of them can be construed as a one-dimensional concept. We have to consider families of emotions; a specific emotion can be closely connected with other emotion types. For instance, guilt can be connected to anger, to fear, to sadness and so on. These different meanings of guilt get easily entangled. This is true for guilt, but also for shame. Shame and guilt are closely related emotions in many respects. Both imply a negative evaluation and are of a painful nature, which arises from (or is related to) moral failures or transgressions. A person who feels guilt acknowledges that he or she made a specific error (a sense of shortcoming); when a person feels shame, it involves the entire being (a sense of inferiority). Shame is therefore a more severe attack on a person's self-image.

In this article I examine the—in many respects—radically different views on the sequences and dynamics of the emotions that unfold during restorative justice conferences. The questions to be addressed include: What problems are related to inducing shame and/or guilt, and in what way do they stimulate or hamper restoration? How are feelings of anger and indignation tempered and empathy and active responsibility promoted? To what extent is the expression of hurt-feelings (remorse, regret, sorrow) necessary in order to generate empathy and reconciliation?

I will first deal with the emotion dynamics of restorative conferences, focusing on the functions of shame as enunciated in the theories of Moore, Scheff and Retzinger. According to these researchers, the practice of restorative justice conferences aims to redirect aggressive emotions and elicit shame and other hurt-revealing emotions that can lead to empathy. I will formulate a number of problems connected with this approach, in particular the omission of guilt feelings, and confront these problems with the approach of guilt-theorists June Tangney and Roy Baumeister. According to Tangney, guilt is related to empathy and reparation, whereas shame tends towards avoidance or rejection of responsibility. This view—that guilt is the more moral emotion—seems to turn the theory of reintegrative shaming upside down. In accordance with recent research results of the Braithwaite group, it must be admitted that guilt is an important aspect of the restorative process. But I conclude that guilt has limited affect resonance possibilities, misses the other-regarding aspects of remorse and does not seem to incite the offender to reconsider his or her identity. As a result, remorse emerges as the emotion with the most reparative potentials. In the final section, I consider to what extent shame and shaming are necessary and conclude that 'reintegrative *shaming*' is a problematic concept.

Symbolic reparation: the role of shame

In 1996, Retzinger and Scheff published a profound article on the role of shame in restorative mediation based on observations of community conferences in Australia. They stress that the most significant information in these conferences is conveyed not with words but with facial expressions, gestures and physical posture. In doing so, they deploy some central concepts (symbolic versus material reparation) first introduced by David Moore, who—with Terry O'Connell—was the initiator of the Australian restorative conferences in Wagga Wagga. I will therefore start with a reconstruction of Moore's main ideas on shame and shaming.

Empathic resonance

Moore indicates that the participants, with a few exceptions, move through the same sequence of emotions during conferences. 'The general mood at the start of a conference is a mix of trepidation and indignation' (Moore, 1994: 211). This indignation dissipates as the offender apologizes and displays remorse. After this turning point, Moore suggests, the victim is keen to forgive. He stresses that most victims are far more concerned to achieve the symbolic reparation of a genuine apology than they are to receive material reparation for property loss. Normally the victim agrees with relative ease on the technicalities of material reparation. They prefer to appeal directly to the young person not to reoffend and receive a response they find convincing. Symbolic reparation offers a way to heal the emotional damage caused by the offence (Moore, 1993).

In the final stages of the conference there are clear signs of relief on the faces of the participants. What are the sources of the victim's relief? Moore mentions three factors. First, victims are relieved to see and feel how other people share their anger, their humiliation at having been demeaned by an offence. It tells them that they do not have to feel ashamed of being ashamed. Second, victim and offender achieve a sort of empathy. This makes the offender seem more normal, less malevolent. This process, stresses Moore, demonstrates that most conference participants learn by intuition rather than logic. Third, by the end of the conference, they have adopted intuitively an 'egalitarian and non-competitive view of intrinsic human worth' (Moore, 1994: 213). The image of the offender no longer corresponds with a brute or monster. The burden of feeling spite, malice and hatred towards the offender is lightened.

Occasionally, Moore continues, victims are not satisfied with the offender's apology. This is not because the victims are unforgiving or vengeful but because the apology is not considered genuine. In a setting where people's sensitivity to gestures is heightened, the regretful words contradict the defiant gestures. This defiant gaze is a disguise against chronic shame and often a mask of contempt. Instead of feeling consciously ashamed, the person experiencing chronic or bypassed shame experiences the affect of shame at a subconscious level. The offender thus adopts a defensive stance. But in offering a genuine apology, Moore says (1993; drawing upon Tavuchis, 1991), the offender must drop all defences, including the defence of being 'childlike' or otherwise lacking moral responsibility.

If shame is the key to understanding the dynamics of conferences, we require an explanation of how shame operates within persons. Moore refers to the affect system theory of experimental psychologist Silvan Tomkins and psychiatrist Donald Nathanson. In Nathanson's theory (1992, 1997) the affect of shame—one of the negative affects—modulates the positive affects (joy and interest) and may be triggered by any sudden impediment to the positive affects. In infants, shame can be observed as they are confronted with the limits of their abilities. Shame is used to recognize and define one's limits; it is a restraint and protects the self against potential physical and social dangers. However, Moore argues (following Nathanson), this protective mechanism can itself be dangerous. If shame is not counter-balanced by pride, a more general state of shame arises. The person experiencing this chronic shame feels weak, inattentive, defective, lacking in control, degraded and exposed.

But the conference process does not burden an offender with dangerous, bypassed or suppressed shame. The offender, Moore argues, normally experiences shame generated by conscience. Pangs of conscience form a type of shame that is less painful and normally not disorientating. As victims recount their pain and sorrow, and family members and close friends communicate their estrangement from the offender, he or she becomes aware of the 'lost trust' and feels ashamed. At the same time, the other participants respond with 'empathic resonance': they share an other's distress. The shame felt by friends and close relatives of the offender is, in part, a vicarious shame. It demonstrates their bonds with the offender. This explains the relative ease with which young offenders and their victims are 'pulled out of humiliation' in the setting of a restorative conference (Moore, 1994).

Moore contends that Nathanson's concept of 'empathic resonance' captures precisely the 'powerful experience of shared emotions' in community conferences. Offenders observe the distress of victims and begin to grasp their point of view, whereas victims observe helpless offenders, thereby lightening the burden of their anger (Moore, 1997). This sense of 'collective vulnerability', a physiological manifestation of collective 'deflation', marks the transition to a more positive stage, focused on future possibilities. The mutative force is empathy, not shame. Therefore the conference is designed as a lesson in empathy (Moore, 1996; McDonald and Moore, 2001).

Reframing indignation

According to Scheff and Retzinger (Scheff and Retzinger, 1991; Scheff, 1994), shame is a 'master emotion'. Shame is part of nearly all daily acts, comprising shyness, humiliation, modesty, inconvenience, discomfort, failure, rejection, insecurity and lack of confidence. Most other emotions, from aggression to compassion, derive from it. Shame is a sign of a severed or threatened social bond, but communication about shame can bring people closer together and heal that bond. Usually shame is masked, certainly in western culture. Shame quickly goes underground following an argument or an incident. Scheff and Retzinger argue that shame is also a highly reflexive emotion that can give rise to repeated and ongoing feedback loops: being ashamed of the fact that you are ashamed; or angry because you are ashamed. Shame–anger loops can continually recur and can also infect others, as illustrated by their interpretation of guilt as a shame–anger variant directed at the self. Resentment, on the other hand, is a shame–anger variant directed at others (Scheff and Retzinger, 1991).

In their study of restorative conferences, Retzinger and Scheff (1996) point out that an appeal to guilt is necessary for the offender to take responsibility and offer material reparation (compensation or restorative services). An appeal to shame does not necessarily lead to willingness to offer reparation, but it is necessary in order to achieve symbolic reparation: reacceptance, or once again being able to see the other as a person. Material reparation is not sufficient for this, because paying money or delivering services does not necessarily signal regret, remorse or a reconsideration of behaviour. If agreements were merely made about material reparation then restorative forums would be only marginally better than traditional court practices. The moral added value of restorative mediation lies in the achievement of symbolic restoration (Retzinger and Scheff, 1996).[1]

Retzinger and Scheff argue that the expression of shame offers an opportunity to put oneself in the other's place, particularly if suffering and sorrow become visible. The shame of victims is generally hidden behind anger and indignation, but as soon as they express sorrow, anxiety or pain, feelings of shame come above the surface. The shame of the offender manifests itself in confrontation with the painful feelings of the victim and in an expression of regret or remorse. The transformation of emotions that mask suffering into emotions that reveal suffering, and in particular the inducement of shame, seems to be the key to successful conferences, because—in the words of Retzinger and Scheff (1996)—it makes identification, and therefore reacceptance, possible between the parties.

Moral indignation, according to Retzinger and Scheff, is the most visible emotion during the conferences. They call indignation 'helpless anger' because a person is often incapable of describing the enormity of another person's infringement. This inability to make clear to others the overwhelming violation to self is often accompanied by irritation, embitterment and sarcasm. When others show no understanding or speak insensitively about the charged event, it triggers shame–anger loops that frustrate further communication.

Behind the uncontrolled and repeated expressions of indignation lies a sense of unacknowledged shame. Retzinger and Scheff (1996) argue that this forms the largest obstacle to symbolic restoration, because it hinders social bonding and identification. On the other hand, if shame is acknowledged—together with other hidden emotions such as helplessness, sorrow and anxiety—the anger that is directed at the offender is of shorter duration and more manageable.

Retzinger and Scheff admit that a deliberate, direct and open appeal to the offender's sense of shame—for example, by alluding to his or her moral failure—can be counterproductive. It becomes an attack on the entire identity, one against which the offender will defend him/herself. Open allusions to a lack of moral integrity are purposeful attempts to induce shame. The problem with this is that it adds a gratuitous aspect to the moral appeal: heaping on shame in a setting that is automatically felt to be shaming (this is true not only for the offender but for all other participants, including the mediator). A direct appeal to shame engenders defensive reactions: the offender turns away, or responds with feelings of rancour. An indirect appeal to the failure of the offender therefore seems more appropriate.

Shame management means that anger is rechannelled in such a way that the underlying painful emotions are released.[2] A lively expression of painful emotions leads to recognition and identification. Painful emotions reveal the inner person: someone who is hurt and injured. This can cause the other party to become disconcerted and embarrassed and thus to identify him/herself with the pain, until a breakthrough of his/her defensive attitude is achieved. In many cases the offender spontaneously offers his or her excuses once the victim has explained the damage sustained and the mental suffering this entailed. The painful feelings of the victim resonate with the offender (see also Walgrave and Braithwaite, 1999).

Shame forces people to observe, empathize and get involved. The offender may show regret and remorse and—as part of a chain reaction—the beginnings of forgiveness can arise in the injured party.[3] Offering excuses and forgiveness constitute the 'core sequence' of the restorative meeting. Even if the emotional exchange is only very brief—perhaps only a few seconds—this exchange is the key to restoring the victim's peace of mind and to instilling a sense of reacceptance in the offender. Without this core sequence, Retzinger and Scheff (1996) state, agitation and tension remain, and the participants continue to feel dissatisfied. In most cases, such an exchange only occurs after the formal part of the conference, when the pressure is off and offender and victim can meet in a more private atmosphere.

Some problems and dilemmas

Moore, Scheff and Retzinger have adequately reconstructed the emotional dynamics that unfold during restorative conferences. These dynamics can be interpreted as a moral learning process: overcoming anger and indignation, expressing feelings of shame, empathizing with the vulnerable condition of the other party, and expressing regret (perhaps even granting forgiveness). The authors acknowledge the potential destructive effects of shaming, and try to identify the conditions under which an appeal to shame might be constructive. Moore, being somewhat of a protagonist, is eager to promote the positive effects of restorative justice conferences; he suggests, for instance, that at the end of the process forgiveness will present itself with certainty. Yet in Moore's theory it remains unclear how feelings of indignation can be overcome. Retzinger and Scheff's (1996) analysis is by contrast clear on that point: aggressive emotions need to be reframed into painful ones.

However, some aspects of their analysis can be questioned. First, it seems that Retzinger and Scheff interpret the core sequence in an idealistic way.

The authors concede that this sequence—the usually brief emotional signs of regret, remorse and forgiveness—is an 'ideal' outcome that is quite frequently not achieved. For instance, the offender may agree to make restitution, but not show any remorse; or the victim may show that he or she has regained his or her self-respect, without exhibiting empathy or solidarity.[4] Nonetheless, the authors suggest that during the core sequence the ties between the two parties can be fully restored. They describe this key phase as a process of social bonding. The objective of reacceptance in this sense seems questionable, although this may be different for partners and family members who wish to continue their lives together. For an offender and a victim who did not know one another prior to the commission of the offence, a kind of symbolic restoration—regaining respect and some confidence in humankind—seems sufficient. The term 'identification', which the authors use when the participants share each other's painful feelings, thus seems too strong. Rather, participants acknowledge each other's vulnerable state, leading to understanding but not identification.

Second, Retzinger and Scheff have little to say about guilt.[5] But guilt plays no minor role in the process of symbolic reparation. The authors neglect the fact that, by making accusations and expressing indignation, an appeal is made to the sense of guilt felt by the offender. Anger—'pure anger' as the authors recently call it (Retzinger and Scheff, forthcoming)—is a sign of the injustice done and forces the offender to feel responsible. A moral claim is expressed, so the discussion can centre on the question of guilt and responsibility.[6] Thus guilt seems to play a far more dominant role in the process of symbolic reparation then shame-analysts suppose.

Moore (1993) even goes so far as explicitly to criticize the role of guilt, doubting the educative effects of this emotion. Drawing upon Retzinger (1991) he says: the guilty self feels in control, intact. But in guilt each person can be (or feels like) an island. In contrast, shame feels disreputable; the self feels helpless, not in control. Moore suggests that a sense of guilt might be used to disguise or deny the more widespread influence of shame. In the offender, the struggle to keep control and maintain self-respect may drive regret and remorse below the emotional surface. In this way guilt is distilled from overt shame. The deeper, bypassed shame remains and may later emerge as rage (Moore, 1993).

Drawing upon philosopher Gabriele Taylor (1985), Moore states that guilt and regret seem not to be sufficient conditions for restoring respect. Both can be directed at the self: the person themselves occupies centre-stage. The guilty person, as Taylor says, is anxious and feels themselves the possible recipient of the actions of another. In short, Moore supposes that guilt leads to an emotional impasse and keeps moral learning processes at bay. The self may feel threatened or, just the reverse, may remain complacent and even proud (Moore, 1993). To what extent is this interpretation convincing?

Symbolic reparation: the role of guilt and remorse

Guilt, the more moral emotion?

Some guilt-researchers, especially the psychologists June Price Tangney and Roy Baumeister, take the opposite view, trying to legitimate guilt feelings and discredit shame feelings.[7] Baumeister stresses that guilt is mainly an interpersonal phenomenon, not necessarily or even primarily a result of a self-evaluation process. People feel guilty in response to the standards of others, and even feel guilty despite discrepancies between their standards and others' standards. Guilt arises from being able to consider the perspective of the other person with whom one is in conflict. Moreover, guilt seems to be born out of a positive concern over a valued relationship. People feel more guilty about offences against esteemed others, such as family members, relatives and friends. In contrast, shame is a more self-oriented emotion tending to focus on one's own distress (Leith and Baumeister, 1998; Baumeister et al., 2001).

Tangney agrees with these conclusions, but takes a more radical stance in criticizing shame. She points out that shamed persons frequently become angry and blame others for the shame-inducing event. In a shame experience, hostility is initially directed towards the self. But because people in the midst of this experience feel trapped and overwhelmed, they are often motivated to engage in all sorts of defensive manoeuvres. In sharp contrast, guilt motivates us in a more 'moral' direction. It keeps people constructively engaged and oriented towards corrective action. In guilt, the self remains relatively intact, unimpaired by shame-related global devaluations. What is at issue is not a bad, 'defective self' but bad 'defective behavior' (Tangney, 1995a, 1995b; Tangney et al., 2001).

In her own research, Tangney found that shame-proneness is correlated with anger arousal, suspiciousness, resentment, irritability, a tendency to blame others for negative events and indirect expressions of hostility. A positive correlation between guilt and anger is entirely due to the shared variance between shame and guilt. So proneness to 'shame-free' guilt is inversely related to externalization of blame and expressions of anger, hostility and resentment. Shame-free guilt fosters an acceptance of responsibility rather than a tendency to blame others for negative interpersonal events.

Tangney argues that proneness to shame is consistently and positively correlated with a broad range of symptoms that point at psychological maladjustment (e.g. depression, anxiety, obsessive-compulsive symptoms). Proneness to shame-free guilt is largely unrelated to these symptoms. This contradicts many clinical studies that make frequent reference to a maladaptive guilt, characterized by chronic self-blame and an obsessive rumination over some objectionable behaviour. But Tangney's solution for this problem is resolute: 'guilt takes a turn for the worse when it becomes fused with shame' (Tangney, 1995b: 1141). It is guilt 'with an overlay of shame' that is most likely to lead to interminable rumination or self-castigation.

Shame experiences are likely to set into motion counterfactual thinking involving the self (e.g. 'If only I weren't a such-and-such kind of person'). They entail mentally undoing some aspect of the self, and often result in identity-transformation. In contrast, guilt does not affect one's core identity. The self remains unified and intact. Because the behaviour, not the self, is the issue, people experiencing guilt are less self-focused, and more likely to examine the effect of their behaviour on others. Having transgressed, the person remains focused on the offending behaviour, and presumably on its consequences for the other person.

Tangney, like Baumeister, sees a positive link between guilt and empathy, defined as the vicarious sharing of another person's emotional experience. She also suggests that guilt and empathy follow a common developmental pathway (see also, Hoffman, 1998). Guilt is a special case of empathy, involving feelings of concern coupled with a sense of personal responsibility for having caused distress. Tangney concludes that in many respects guilt—not shame—is the more 'moral' emotion (Tangney et al., 2001: 293).

Shame, guilt and remorse

The theories of Moore and Nathanson (and to a lesser degree Scheff and Retzinger[8]) are in many aspects incompatible with those of Tangney and Baumeister. The first offer an affect resonance theory ('how do people influence each other by broadcasting affects?'), the second a theory of pro-social behaviour ('which affects have individual emotional capacities on acknowledging or helping others?'). Whereas shame theorists say that the western dominance of guilt wrongly neglects the social emotion shame and suppose that guilt is a part of the broader master emotion of shame, guilt theorists suggest that the 'ugly' emotion of shame is dangerous and without moral effects, and its social work can be replaced by guilt.

Tangney's theory is particularly at odds with Braithwaite's theory of reintegrative shaming. Tangney and her associates point out that offenders prone to feeling shame respond less appropriately to shameful events than guilt-prone persons (Tangney et al., 2001). While guilt-induction triggers responsibility, shame-induction is destructive. This suggests that it might be far better for offenders to feel guilt and not shame.

How then are we to interpret Tangney's analysis, and especially her 'shame-blame-game'? First, after studying Tangney's and Baumeister's texts, it must be stated that guilt probably plays a more dominant role in the process of symbolic reparation than shame-theorists admit. Guilt feelings serve as evidence that offenders care about victims, and this reaffirmation may be reassuring to the victim. Because guilt is in particular triggered in valued relationships, as Baumeister has established, the contribution of family members, relatives and friends is needed in restorative justice conferences. Moore's supposition that a concern with guilt does not encourage offenders to focus on the consequences of the offence for the victim, or on the consequences for the wider community of people, seems untenable.

But Tangney's analysis has some serious flaws. First, shame—although a painful and potentially dangerous emotion—is not necessarily a sign of psychological maladjustment, as Tangney would have us believe us (Tangney, 1995a, 1995b). Healthy people regularly experience relative short expressions of shame that are in no way disastrous. As Retzinger and Scheff (1996) argue, intense expressions of shame hold on only a few seconds. Tangney's critical analysis of shame to this extent seems overstated. Shame may indeed represent the 'darker side of moral affect' but the supposed effects—'luring us to hide and evade', 'shirk our responsibilities, err or cause harm' (Tangney, 1995b: 1138)—are not exclusively negative. Not all shame types tend to motivate non-constructive responses to anger. And, one may add, not all guilt types tend to motivate constructive responses.[9]

Second, Tangney neglects the affective resonance between persons, especially the repercussions of shame gestures on others. She limits her attention to possible effects of the guilty or shamed person on others, but not vice versa. She consequently fails to notice that signs of distress and helplessness trigger empathy in observers. It is true that shame focuses on the personal distress of the self, but signs of that distress can prompt empathy in observers. Without such signs, observers might believe the offender does not struggle with the consequences of his or her transgression. So is shame—rather than guilt—the more social emotion, one that can—unlike guilt—be experienced vicariously? After all, people associated with the offender feel ashamed, though they are in no way culpable.

It must be restated that the findings of Tangney (as well as Baumeister) are not related to the criminal offences dealt with in restorative conferences. She investigates the moral capabilities of guilt experiencing persons who hang onto a view of the self as being in control. Their studies seem convincing with respect to minor transgressions or transgressions that can be easily rationalized. In restorative justice conferences the situation is different. Not only are the incidents discussed in that setting more severe and far reaching, but offenders are confronted with relative strangers, and no longer exclusively surrounded with partners or friends who keep them hooked into believing that they can control the bad things that happen to them. They are forced to relinquish that belief and switch over to a negative self-evaluation, and enter the 'uncontrollability' of the shame domain.

Finally, Tangney seems to overstate the ethical benefits of guilt. She suggests that guilt feelings are likely to motivate apologies, remorse and reparation. Thus she says: 'In guilt, the object of concern is some specific action (or failure to act)'; 'in guilt, . . . there is remorse or regret over the "bad thing" that was done'; people in the midst of a guilt experience 'take responsibility for their actions' (1995a: 135). But these assumed connections—the connection between guilt and remorse, and between guilt and active responsibility (reparative action)—are far from evident.

Baumeister et al. (2001) challenge the notion that guilt necessarily involves a sense of personal responsibility. Guilt may generate resentment or other negative reactions, especially when offenders do not know their victims and tend to remove a sense of fellow feeling. If a person has caused distress to another, many other feelings besides responsibility are evoked. Some data seem to confirm Tangney's claim that regret, remorse and reparation are manifest reactions to guilt-producing events (Bybee et al., 1998). But it cannot be maintained that they are 'natural' reactions. Moreover, Tangney does not make clear distinctions between guilt, regret and remorse.

Remorse can be described as a feeling of compunction, or deep regret. According to Gabriele Taylor remorse is, unlike guilt, an other-regarding emotion rather than a self-regarding emotion. Since it does not encourage self-indulgence, she considers remorse a healthier emotion than guilt or regret. Remorse opens 'the way to redemption': it does not imply acceptance of what has been done as is the case with regret; one wants to undo the wrongdoing. Guilt and remorse share the sense that repayment is due. But the person feeling remorse will regard the repair work as an end in itself, whereas the person feeling guilty will see reparation rather as a means towards self-rehabilitation (Taylor, 1985, 1996).

Steven Tudor also describes remorse as an emotion that directs attention to the other having been wronged. In contrast, guilt attends primarily to transgressing an authority figure, accompanied with feelings akin to fear or a kind of anxious self-pity. Guilt feelings are directed to an 'outer world of anger and fear', whereas remorse is directed to an 'outer world of harm and wrong' (Tudor, 2001: 177). But—distancing himself from Taylor—he discerns that, alongside these other-regarding aspects, a remorseful person is suffering from a corrupted development of the self. Remorse points to self-alienation (and horror at one's deeds) and thus puts the self in question. Guilt, in contrast, is more directed at repairing the gaps in the self's defensive walls that keeps a deepened and lucid sense of oneself at bay (Tudor, 2001: ch. 7).[10]

In two respects remorse, shame and other hurt-revealing emotions are important. First, they are a 'proof' of sincerity. As Moore (1993) argues, the expression of a defenceless stance cannot be feigned. It prevents people playing with emotions. After all, apologizing may be a strategic ploy, one in which the offender does not have a true emotional involvement, made in order to ensure favourable restitution arrangements or avoid further problems with police or justice. It is therefore important to form a good picture of the physical signs of vulnerability (sorrow, remorse) as emitted by the offender. Second, the shame that is related to sadness, sorrow and remorse is needed to effect an identity struggle, a struggle to reconsider one's life. In particular, remorse indicates that the offender is rebuilding or intends to rebuild his or her self, to strengthen other, non-delinquent parts of the personality. Remorse involves a 'change of heart' and a change in future behaviour (Swinburne, 1989; Taylor, 1996).

Merging shame and guilt: the work of the Braithwaite research group

The preceding reflections indicate that it is difficult to analyse guilt apart from shame. These two emotions often overlap and people tend to experience them concomitantly. In restorative justice conferences they regularly co-occur, and we will not easily detect Tangney's 'shame-free guilt'. Although we depend on making conceptual distinctions, it seems promising to emphasize distinctions within emotions rather than between them.

That is the mission of Nathan Harris in his recent study based on interviews with 900 persons who were apprehended for drink-driving within the Australian RISE project (Reintegrative Shaming Experiments) (Harris, 2001). The participants were asked to respond to the degree to which they experienced certain feelings. While they were able conceptually to distinguish shame from guilt on a number of dimensions, the distinctions obviously do not reflect the way in which the emotions are experienced in the context in which wrongdoing has occurred. This suggests that the feelings associated with shame and guilt are not incompatible. It supports the analysis of Bernard Williams (1993) who argues that guilt and shame almost always occur together and are thus complementary rather than alternative responses (Harris, 2001: 124). Harris concludes that in the context of criminal offending the distinction between shame and guilt may not be as important as has been suggested for a long time.

Using factor analysis Harris constructed three types of shame-related emotions: Shame-Guilt, Unresolved Shame and Embarrassment-Exposure. The first type occurs as a result of the realization that one has acted contrary to an ethical norm in a manner that threatens one's identity. The offender has feelings of having done wrong, concern that others had been hurt, feeling ashamed of oneself and one's act, feeling anger at oneself, and experiences loss of honour among family and friends. This Shame-Guilt construct—that according to Harris might have been labelled Shame-Guilt-Remorse—is positively related to empathy and negatively related to anger/hostility (it thus shares some key features of Tangney's 'shame-free guilt'). The second type, Unresolved Shame, occurs when violating a norm is neither accepted nor rejected, and offenders think they are unfairly judged. It involves an ongoing inability to make sense of the shameful event and has similarities to the concept of bypassed or unacknowledged shame. Finally, feelings of Embarrassment-Exposure occur when one is exposed, or believes that one may be exposed, in public as unworthy. The offender's nakedness, or other features he or she does not want to display, is exposed.[11]

These distinctions between 'helpful' and 'harmful' types of shame have practical implications for the facilitation of conferences. First, Harris advises us to focus questions upon the consequences of the offence and the emotions arising from those consequences. This helps to divert attention from the offender's person, thus limiting stigmatization. The same counts for the reframing of angry, blaming outbursts into expressions of hurt. Second, shaming—the expression of disapproval—should primarily be done by persons the offender respects. It seems that disapproval expressed by significant others effectively produces remorse and empathy in offenders, even more than actually facing the victim. These findings, Harris states, suggest that conferences might also be used in cases where there is no victim or where victims are unwilling to attend.

Harris's theory implies a considerable correction of Braithwaite's original shame theory. Shame was from the very beginning under-theorized, the emotional dynamics of confrontations neglected. The relationships between shame and pride, shaming and praise, have not been considered fully enough, and the structure of shame appears much more complicated then was assumed. Harris's attempt to reorder the seemingly incomprehensible complexity in conceptions of shame (the social threat, personal failure and ethical conceptions) is ingenious and outstanding. As far as I know, this is the first overall study on shame that offers theoretical convergence and conceptual lucidity (although some operationalizations seem to lack precision). The study nevertheless contains some serious problems that mainly result from the 'shaming' terminology. Harris recognizes this and argues that the word 'shaming' should actually only be applied to what Braithwaite terms 'stigmatizing shaming'. He casually remarks that shaming is not really necessary for the acknowledging of shame feelings during the conferences. Shame will often occur, regardless of whether shaming occurs actively, formally or at all (Harris, 2001: 200).

Allison Morris is clear about the question of whether shaming is a de facto aspect of restorative justice conferences: 'There is certainly nothing in the processes or practices of family group conferences in New Zealand that is explicitly geared towards inducing or eliciting shame in the offender and I have not observed this happening' (Morris, 2002: 255; see also Young, 2001). The rationale of the New Zealand conferences is not to elicit or induce shame. On the contrary, the expectation is that the offender will accept responsibility and show remorse.

Morris and her colleague Maxwell found that young offenders feeling remorse and not feeling shamed were significantly related to not being reconvicted. Juveniles who remember being made to feel bad about themselves during conferences are more likely to reoffend (Maxwell and Morris, 1999).[12] The research did not show that disapproval (shaming) was necessarily the mechanism that invoked remorse. According to Morris, empathy, or understanding the effects of offending on victims, appears to be a more convincing trigger. Moreover, she emphasizes that the benchmark for reactions to offending must be their impact not their intent (Morris, 2002).

The Braithwaite group makes clear that shame management, helping wrongdoers to acknowledge and discharge shame and other vulnerable emotions, is of great importance. Shame feelings should not, as Tangney suggests, be avoided if that is at all possible. Scheff's studies suggest that sweeping shame under the carpet is very unhealthy. But shame feelings seem not able to contribute to reparation and reacceptance. Other moral emotions are better equipped to do that. Remorse seems to be the emotion with the most reparative potentials. Nevertheless, this does not mean that remorse must always be constructive. All moral emotions discussed here may be distorted, wrongly directed and quite irrational. That depends on the participants' emotional intelligence, their sensibility and view of the situation.

Many questions remain on the emotion dynamics research agenda, but these might be more usefully directed to emotions that generate reparative responses. Although many researchers come to contrasting conclusions (over whether shame or guilt is 'the more moral emotion'), shame and guilt—their entanglement, effects and management—are relatively well analysed and documented. A focus on the following points may now be more relevant: How are sorrow and regret related to remorse? Is remorse actually less self-directed than shame and guilt? In what respects are remorse, the act of apology and assuming responsibility for one's actions related? Which moral capacities and intentions are needed to experience these reparative responses? In what social contexts and cases, and in which sorts of conversation, are they evoked?

Shame and shaming in modern times

Restorative justice conferences are demanding and the moral pressure on offenders is high. Many authors state that restorative justice meetings will be experienced as more unsettling and threatening than criminal proceedings in which the position of the offender is protected by legal guarantees (Polk, 1994; Walgrave, 2000). Victims often have to be more open about their life than they really want. Shame and shaming are felt as humiliating. But is shaming in such contexts really necessary? By way of conclusion to this article I will give some provisional answers to this complex question.

One must agree with critics that restorative conferences are the scene of an emotional collision that is highly unfamiliar to people nowadays. Retzinger and Scheff (1996) admit that the confrontations entail unusual affective conditions: offenders are asked to give up their defensive stances and to deliver themselves to the mercy of their victims. In the West, people learn early to retain their autonomy and to repress weakness and dependence. According to Weijers (2001) the combination of a victim–offender confrontation and a family consultation places a heavy emotional and moral burden on the shoulders of the participants. For the offender, the weight of the confrontation is doubled, while the victim is drawn into family discussions and a family history (thus increasing the pressure on him or her to show solidarity and move towards reconciliation). In a liberal culture, people are seldom or never addressed on their acts or their negligence in such a 'confusing' setting. It seems not to be possible to respond to misbehaviour with discretion. In fact, the object seems to be 'seeking incalculable involvement with the personal identity of the offender' (Weijers, 2001: 118; see also Weijers, 2000).[13]

Still, there is a good deal to be said against these objections. First, Weijers does not make clear why 'responding to the person' is always an obstacle to a moral learning process. This reminds us of Tangney's aim of keeping the offender's identity intact. However, the often-painful confrontation intends to set into motion a process of identity rebuilding in the offender. There is—it is true—no guarantee that this transformation will be done in the approved manner. Second, we must ask ourselves whether the idea in western liberal culture of retaining autonomy and rejecting the involvement of others is not in fact more confusing. Juveniles expect to be spoken to in moral terms at home and at school if they violate norms. Gradually, however, they are taught that this approach is paternalistic and therefore suspect. Autonomy thus becomes a word that invokes power ('don't bother me'), or else serves as a means of evading responsibility.

Against this background, Braithwaite's revaluation of morality to regulate criminal behaviour might be welcomed. A decent society cannot afford to ignore harm or injustice. It needs citizens to censure brutal and exploitative actions. In Braithwaite's words: we need to mobilize shame against wrongs.[14]

Whereas in 1989 Braithwaite referred to his book on reintegrative shaming as 'a decidedly Victorian analysis of crime', today he tries to encompass shame and shaming within a more progressive vision. Shaming and 'promoting the just acknowledging of shame' should be practised by social movements, who, Braithwaite and Braithwaite (2001) argue, are key agents in criticizing forms of exploitation that have traditionally been shielded from shame.

It is nevertheless doubtful whether the old Victorian ideal of shaming can retain a place on the postmodern policy agenda. Braithwaite and Braithwaite recognize that shaming is not well suited to situations where a verbal confrontation is heaped on persons who have already admitted wrong. But they add, 'where indirect methods of eliciting confession, remorse, apology and recompense fail, direct verbal confrontation with disapproval of the act (while approving of the person) will be necessary' (Braithwaite and Braithwaite, 2001: 45). Here Braithwaite sounds like an orthodox reformer. To be sure, disapproving may have its proper role in preventing harmful actions, but not in the deliberative setting of restorative conferences. In that setting—one that generates shame by itself—planned shaming efforts seem to be abusive: addressing others from a superior position, often displaying a self-righteous anger. Overtly disapproving of the acts of other people blocks communication and risks generating counter-disapproval (see Walgrave and Aertsen, 1996; Masters, 1998). Braithwaite admits this 'rejecting-the-rejecter' effect and pleads for a broader definition of shaming: simply discussing the consequences of wrongdoing is also counted as a shaming form. But this is no adequate definition at all.

Braithwaite remains half-heartedly loyal to the concept of 'reintegrative shaming'.[15] He admits that shaming is a dangerous game. But, as Morris states (2002), one wishes he had termed his theory 'reintegrative remorse'. For the time being, restorative practices are needlessly burdened with an old-fashioned, dubious idea.

Notes

1. Mediation practices have shown that victims who take part attach much greater value to the communicative aspects (being heard and being treated with respect) than to material compensation (Braithwaite and Mugford, 1994; Walgrave, 2000).
2. For these reasons Retzinger and Scheff (1996, forthcoming) are opposed to a passive mediator. Mediators must be active and help clients to acknowledge their 'hurt'. Recognizing and managing the dynamics of shame is of crucial importance to this. In particular, a mediator must reinterpret repeated expressions of indignation and the accompanying accusations and reproaches into wishes or interests, so that the vulnerable emotions behind them—such as sorrow and anxiety—come to the surface.
3. Tudor distinguishes different stages of forgiveness, 'between an initial forgiving openness, in which one accepts the beginning of the work of redemption of the wrongdoer, and the concluding act of forgiveness, which accepts that the work is at an end' (Tudor, 2001: 208). In his view forgiveness is a developing process rather than an act.
4. Guilt, regret and remorse do not, in addition, demand the physical presence of victims, whereas forgiveness does not demand the physical presence of the offender. These emotions can also take place in silence, without confrontation, as inner processes.
5. This is also true of their most important theoretical publications (Scheff and Retzinger, 1991; Scheff, 1994).
6. Guilt can even be used as an instrumental technique (Baumeister, 1998). People may be tempted to exaggerate or misrepresent their suffering or distress in order to increase the guilt feelings of the other. Inducing guilt is an alternative to exerting power that does not rely on direct coercion or controlling the other's outcomes. 'Guilt is thus one of the quintessential weapons of the weak' (Baumeister, 1998: 128). According to Baumeister this may have considerable costs. First, offenders may keep their resentment more or less to themselves, indeed often complying overtly with the wishes of the reproaching victim. Second, 'metaguilt' can arise: feeling guilty over making others feel guilty.
7. It should be noted that their research context mainly concerns self-report studies among students; it is not related to the emotion dynamics in conferences.

8. The theories of Scheff and Retzinger and Tangney have a number of common aspects. Both are largely influenced by the psychoanalytic work of Helen Lewis (1971).
9. Harder (1995) criticizes Tangney's attempt to define shame principally as maladaptive and guilt as adaptive and unrelated to forms of psychopathology. Moreover, as Harris (2001) states, Tangney's concept of shame-proneness is a personality trait, which is a very different matter than actually feeling the emotion of shame.
10. At the same time Tudor criticizes Bernard Williams' claim that shame is best placed in 'rebuilding' the self. Surely, shame embodies conceptions of what one is and of how one is related to others. But the repair-kit of shame is limited to the ego-ideal and is insufficiently attentive to the relationship of indebtedness to the wronged other. Thus—Taylor and Tudor agree—compared with remorse, both shame and guilt are passive and self-centred moral emotions.
11. Harris found that Shame-Guilt was higher in restorative justice conferences and that Unresolved Shame and Embarrassment-Exposure were higher in court cases. He also found restorative conference cases to be more reintegrative than court cases. However—following the observational scale—there were few significant differences between court and conference samples concerning stigmatic shaming.
12. In Maxwell and Morris's study (1999) remorse was measured by the participants remembering the conference, feeling sorry for what they had done, expressing that they were sorry, feeling that they had repaired the damage they had caused and completing the outcomes of the conference. Other studies also emphasize the positive role of remorse. Offenders showing remorse (and taking responsibility) get more positive judgements from victims (Daly, 2001; and from cautioning officers, Young and Goold, 1999). Leibrich found that 'private remorse' is the most healthy form of shame. Former offenders mentioned this kind of shame most commonly as a reason for going straight (Leibrich, 1996; also Maruna, 2001). Proeve et al. (1999) found mixed evidence for the association between contrition and decreased recidivism. Bagaric and Kumar (2001), attempting to discredit remorse in legal settings, hastily reinterpret these findings as 'no evidence'.
13. Young and Goold (1999) report that, in order to impress upon offenders how serious their behaviour was, what were often fairly minor offences tended to be 'talked up'. The harm caused was exaggerated, as were the possible penal consequences of such behaviour for the offenders. Although offenders were told they had been 'out-of-character' and made a 'stupid mistake', they were treated as if requiring stern deterrent messages. According to Johnstone (2002) restorative justice proponents tend to underestimate the dangers of creating bitter feelings and humiliation.
14. Braithwaite is probably correct when he claims that corporate environmental criminals and men who assault their wives are more vulnerable to shame today than they were 40 years ago (Braithwaite, 1993). Whereas

television talk shows provide evidence of declining shame concerning sexual taboos, desire, envy and acquisition (revealing sanctionable facts about oneself is even rewarded), shame feelings concerning pain, illness, violence, humiliation and neglect seem to rise (which runs parallel with the growing influence of social movements protecting women, children, patients, etc.) (Clarke, 1997; Van Stokkom, 1997). So it seems inaccurate to state that in modern individualistic societies the potential to feel shame has evaporated, as some critics of Braithwaite's communitarianism claim. We are not living in a post-shame society (Barbalet, 1998).

15. These critical remarks are not meant to discredit the reintegration-part of 'reintegrative shaming'. Gestures of reacceptance and other ways to support offenders (invitations; helping to find work), seem highly important for regaining self-respect and taking responsibility. Without these reintegrative signs remorse and passive feelings of responsibility run the risk of remaining a 'halfway house of an ethical idea' (Braithwaite and Braithwaite, 2001: 9) and are not followed up with active repairing works and developing a positive identity.

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