

Revisiting reintegrative shaming

John Braithwaite's theory of reintegrative shaming has been influential in providing a rationale for some types of conferences. It formed the basis for the system of conferencing developed by the police in Wagga Wagga, in Canberra, in Thames Valley and in the Real Justice conferences in the United States and elsewhere. In the following article, Allison Morris raises some concerns about the continued reliance on this theory in the practice of conferencing.

Describing reintegrative shaming

In this section, I try to convey the gist of Braithwaite's theory of reintegrative shaming although it is difficult to summarise a book and numerous articles in a paragraph or two. There are five key areas.

The entwining of guilt and shame

Braithwaite sees shame and guilt as intimately entwined and suggests that, from the offender's perspective, they may be indistinguishable. This may be so. However, for me, the key issue is slightly different. It is: should conferences (or, more broadly, restorative justice processes) be set up to specifically induce either guilt or shame in offenders.

Defining shaming

Braithwaite defines shaming as 'all social processes of expressing disapproval which have the intention or effect of invoking remorse in the person being shamed and/or condemnation of others who become aware of the shaming'. What is important for Braithwaite then is 'disapproval' and 'remorse' rather than what is conventionally or popularly thought of as shame or shaming. By choosing the words 'shame' or 'shaming' to describe the mechanisms used for invoking remorse is, for me, more than a semantic quibble because it, in effect, also entwines shame and remorse. Also, it is apparent from this quote that Braithwaite is concerned with both the disapprover's intention *and* its effect on the recipient (the offender). Entwining intent and effect is also, for me, problematic. I return to both of these points later.

Distinguishing stigmatic shaming and reintegrative shaming

The distinction Braithwaite makes between stigmatic shaming and reintegrative shaming is crucial. Braithwaite is firmly opposed to stigmatic shaming and sees it as likely to be counter-productive. Reintegrative

shaming, on the other hand, is seen as likely to be effective in controlling crime. It means that the offence rather than the offender is condemned and the offender is reintegrated with rather than rejected by society. The problem here is the difficulty of putting this ideal of reintegrative shaming into practice.

The shame that matters

Braithwaite suggests that the shame which matters most is not the shame of judges or police officers but the shame of the people we most care about. The problem here again is the difficulty of putting this into practice. Many of the examples of conferencing which have relied most heavily on Braithwaite's theory have been managed through the police.

Effective delivery of shaming

Braithwaite sees communitarian societies as more able to deliver both more effective shaming and more reintegrative shaming. The problem here is that it is not clear that such conditions can readily be replicated in 21st century Western societies. Braithwaite acknowledges this. But we also need to explore whether or not it is possible to replicate such conditions within local communities, or even within communities of care.

Concerns about putting reintegrative shaming into practice

I mentioned earlier three examples of conferencing which are based on reintegrative shaming. All three have been (or are continuing to be) evaluated. A range of positive findings have emerged, especially in my comparisons between conferencing and courts. All rely heavily on police officers as facilitators. However, from the offenders' perspective, police officers are not necessarily neutral facilitators. Commenting generally on police-led conferences, Richard Young writes that shaming the offender as a person might occur if *participants* fail to maintain the crucial distinction between the doer and the deed demanded by Braithwaite's theory or if *offenders*, through having their behaviour shamed, come to feel that they are shameful people. Reintegrative shaming, as noted previously, demands that the offender -- the person to be shamed -- should respect the shamer or at least should acknowledge the legitimacy of the shamer's authority. There is some doubt that this exists vis a vis the police among those young people most likely to be part of a conference. Positive support for the police seems to decline with age and it is likely that this is

explained not only by an increase in young people's contact with the police as they grew older, but also by the nature of that contact. A surprisingly high proportion of young people report 'adversarial' contact with the police. Repeated contact with the police also has a significant negative effect on young people's perception of the police, especially if this is the only kind of contact which the young person had with them.

Concerns about reintegrative shaming

I focus here on four concerns commonly raised about reintegrative shaming: its failure to address structural issues, its cultural specificity, whether the key variable is the 'shamer's' intent or the actual effects of the shame on the 'shamed', and difficulties in measuring reintegrative shaming.

Individualising crime

Rob White argues that reintegrative shaming fails to acknowledge the structural causes of youth crime or to explain how and why only certain young people are identified as 'offenders' and subsequently processed through the youth justice system. It focuses instead on individual offenders and places responsibility for the 'choice' to offend squarely on them. However no matter how remorseful or shamed an offender might be, and no matter how welcoming the offender's communities of care might be in his or her return to the fold, if the structural causes of that offending remain untouched then reoffending seems likely. Reintegration into communities of care is insufficient if offenders (and their communities of care) remain marginalised and socially excluded. However, to be fair to Braithwaite, there is no youth justice system - irrespective of its philosophic base - which challenges the marginalisation and social exclusion. These have to be addressed through wider social, economic and educational policies.

Culture and shame

Braithwaite promotes shame and shaming as cultural universals. Harry Blagg, on the other hand, challenges the relevance of reintegrative shaming specifically for Aboriginals in Australia. He doubts that the many displaced Aboriginals in Australia live within the kind of community required for reintegrative shaming to 'work.' Aboriginals in Australia, he suggests, tend to have loose affiliations rather than tightly knit group membership. Braithwaite disputes these claims and writes that one does not have to spend long with Aboriginal people to see examples of disapproving of particular acts while treating those who commit them with great respect. I cannot comment on this

one way or the other, but I suppose the issue then becomes whether or not this can be replicated within the dominant culture where many Aboriginals already have low status. Blagg also raises questions about how Aboriginals, whose pattern of experience has been harassment on the street by the police and discrimination in every-day life by the dominant culture, can realistically be expected to see the processes of shaming as resulting in reintegration within communities.

Intent or effect?

Both reintegrative and stigmatic shaming require an audience; the difference with respect to reintegrative shaming is that the audience must include individuals whom the 'shamed' respects and values and who take steps to reintegrate the offender. Presumably, however, it is the individual being shamed and not the shamer who will determine whether or not the shaming is actually reintegrative: the shunter cannot determine the effect. Despite our good intentions, therefore, the shaming we intend to be reintegrative might be taken by the offender to be stigmatic. The benchmark for action must be their impact, not their intent.

Difficulties in measuring reintegrative shaming

There have been a number of attempts to measure reintegrative shaming. The most systematic attempt to do so was in the Canberra experiment bearing that name: RISE. Harris and Burton report on the observational and other measures used there and concluded that reintegrative shaming could be 'observed reliably'. This is not really the issue though. The important question is whether or not the measures used to indicate reintegrative shaming actually measured it. I remain unconvinced and it seems circular to me to simply ask 'how much reintegrative shaming was expressed.' Even if two observers, trained in a particular way, agree about what they are looking for or at, it does not necessarily mean that reintegrative shaming took place either from the offenders' or victims' perspective or, indeed, at all.

A series of question was also asked of offenders aimed at measuring reintegrative shaming and stigmatic shaming. Though, overall, they found that there was more reintegrative shaming in conferences than in courts and that there was more stigmatic shaming in courts than in conferences, there were, in fact, few significant differences between the court and conference samples on the 12 items used to measure reintegrative shaming or on the six items used to measure stigmatic shaming.

Conclusion

Interpreting what this means is not straightforward. First, it might mean that the claim that conferences are likely to reintegratively shame, and that courts are likely to stigmatically shame is too simplistic: both conferences and courts can shame reintegratively and stigmatically. Second, it might mean that offenders do not respond differently to reintegrative or stigmatic shaming and that despite different intentions the shaming had the same effect. To repeat a point made in the previous section: the benchmark for actions must be their impact, not their intent. Third, it might mean that we are not yet able to tease out in our questions the subtleties of reintegrative and stigmatic shaming.

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Maxwell and Morris examined the reconvictions of young offenders who had participated in conferences in 1990/91 and reinterviewed as many of these young offenders and/or their parents) as possible. Similar proportions of young offenders - over a quarter - were not reconvicted at all over this period and were persistently reconvicted. A number of different types of statistical analysis were carried out to discover what distinguished those persistently reconvicted from those not reconvicted.

Young offenders and their parents were specifically asked a number of questions about the family group conference they participated in and what had happened in the intervening years. A number of important findings emerged. First, not being made to feel a bad person or a bad parent (not feeling shamed) was significantly related to not being reconvicted; second, the young person feeling remorse or the parents feeling that their son or daughter was sorry for what they had done was significantly related to not being reconvicted; and, third, feeling good about oneself and that life had gone well was also significantly related to not being reconvicted. These young offenders had jobs and positive relationships with a partner.

Collectively, these findings do provide some support for Braithwaite's notion of reintegrative shaming: he stressed the importance of invoking remorse and rejected stigmatic shaming. However, the research does *not* show that disapproval (shaming) was necessarily the mechanism which invoked the remorse. Another way of interpreting these data is that *empathy* or understanding the effects of offending on victims was the trigger. If this interpretation is right, the practice and policy implications are very different from a continuing emphasis on shaming (disapproval).

I have suggested that it is premature to use reintegrative shaming as a guide for developing policy and practice. Maxwell and Morris (1999) did confirm the constructive potential of remorse and the destructive potential of stigmatic shaming. However, they were not able to say what *triggered* remorse. It is certainly possible that it is empathy which triggers remorse, and not shaming (disapproval). If this is so, it would mean that the emphasis in conferencing (or in other restorative justice processes) should be not on processes of shaming (disapproval) but on processes which focus on the consequences of offending for others (for families and communities as well as for victims). In the meantime, the use of the words 'shame' and 'shaming' in the development and refinement of reintegrative shaming is best avoided. They are too readily and easily misunderstood and it is not that difficult in practice to slip from the intent of reintegrative shaming to the practice of stigmatic shaming or for intended reintegrative shaming to be perceived as stigmatic.

Article originally appeared in the Criminology Aotearoa/New Zealand. A Newsletter from the Institute of Criminology, Victoria University of Wellington. September 2001, No. 16. Used by permission.