

SAMPLE

Beyond Harm

Toward Justice, Healing and Peace

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RELATIONAL APPROACHES

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With Lynelle

Preface

Many of us are looking for an alternative way of responding to the harms we have all experienced in life. We want an approach that will focus more on ‘making things right’, rather than merely causing even more suffering. We want to do what we can to repair the harm that was done, rather than remain ‘stuck’ in brokenness and hurt. We can’t change what happened, but we so much want to move beyond it.

This is not a new idea, of course. The search for this kind of alternative has ancient roots. In recent years, it has come to be embodied in a (still evolving) range of processes that fall under the umbrella of ‘restorative justice’. But how does this distinctive kind of ‘justice’ work? What does it mean for harm to be ‘repaired’? How do these processes enable people to change how they think and feel about what happened? What sort of ‘healing’ is possible? What are the risks and limitations? Why would anyone want to take part in this kind of facilitated process? Why not simply ‘go it alone’? And how were these processes designed? Why are they organised and structured as they are? Can they be improved? How can participants be assured that they are receiving the best possible service from a facilitator?

For largely practical reasons, these (and many other) important questions very often fall outside the usual ‘introduction to restorative justice’ that participants receive. The problem is that, as a result, people may not gain the maximum benefit possible from taking part; or they go into it without really understanding what they are doing or why they are feeling as they do. They may also have unrealistic expectations about what can be achieved; or they may feel pressured into doing or saying things that they are not yet comfortable with, and for good reason. They may never have experienced this kind of approach before, and so they may not realise when things are not working as well as they could be, or that there are a number of different ways in which they could reach the same goals.

Again, for similar reasons, the training that restorative justice facilitators undergo is often heavily weighted toward equipping them with practical skills and procedural knowledge. Comparatively little time is given to the theoretical foundations of restorative justice. The problem with this practice-based focus is that it can limit a facilitator's capacity to be creative, flexible and sensitive to context. Provided with little more than a set of pre-scripted procedures, they will be less able to adapt to the variation they will face when dealing with real people in real situations.¹ In other words, facilitators do not only need a 'road map from A to B', they also need to know the general 'lay of the land'. If the given 'road map' does not quite fit the needs of the participants, facilitators will then be able to suggest alternative routes to the same restorative destination.

Beyond Harm was written primarily to meet the 'real-world' need that both participants and facilitators may have for a deeper understanding of restorative justice.² I hope that it may also be of some use to readers who are, for whatever reason, interested in exploring what lies at the heart of restorative justice, and how it has the potential to help us move beyond the harms we have experienced and toward the kind of justice that can bring healing and a sense of peace.³

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PART 1.

Moral Repair

1. Introduction

1.1 A MORAL DILEMMA

Moral questions are usually thought to be about actions that have not yet taken place. When someone says that they are facing ‘a moral dilemma’, we usually take them to mean that they are considering several possible actions they could take at some point in the future. For instance, they might be wondering whether to go out to a restaurant or make a donation to help prevent the spread of malaria. So they ask themselves this kind of question:

‘What is the right thing to do?’

But what happens when the action is in the past? Suppose we have hurt someone, or we have been wronged in some way. Would it not make sense to ask this sort of question:

‘What is the right thing to do *now*?’¹

It might be thought that there is no ‘moral dilemma’ here, since there is only one choice available: the only thing we can do after a wrongdoing is face up to the fact that ‘what’s done is done’. It’s too late *now* for anyone to do the ‘right thing’. The ‘right thing’ would have been for the wrong never to have been committed in the first place. But the past cannot be changed. The wrong cannot be undone. So the only way of dealing with it is to leave it well alone, and get on with our lives.

But there is a well-known problem with this response: it doesn’t take into account the way in which the past can continue to affect us in the present—especially when it comes to wrongdoing. For many of us, we cannot just ‘move on’ and forget what has happened. It has left an indelible stain on our lives. It still hurts. The guilt over what we have done persists. It haunts our dreams. It taints our moments of happiness. The aching loss rises up in waves,

day after day. But these feelings of rage, or guilt, or grief are not ‘dead and buried’ in an unchangeable past. They are fully alive in the present. What this means is that something can be done about them. We can change how we feel *now* about what happened. We may not be able to undo the wrong that was done. But we can do something to address the harm that it *continues* to do in our lives.

So what are our options here? If the wrongdoing is a crime or a breach of some rule (in a school, workplace or prison, for instance), then there are institutional responses that can take place. For instance, they can establish the truth about who was responsible; and they can hold them to account in an authoritative, public manner. These are often important things that need to be done, and they can contribute in powerful ways to our healing. But they also tend to be very formal, involuntary, legalistic processes, usually led by third-parties or officials, rather than those directly involved. As a consequence, institutional processes can feel distant or abstract—far removed from the feelings and wishes of the individual people who were responsible for or affected by the wrongdoing. For that reason, they can be frustrating, demeaning, incomprehensible and can even cause additional harm.²

In other words, institutional processes may be important, and even necessary. But in terms of repairing the personal harm that people may continue to experience after a wrongdoing, they are rarely sufficient. What remains is the kind of ‘repair work’ that can only be carried out by those directly involved. For example: if we have *caused harm*, then we need to be honest and fully own up to what we have done. We need to apologise to those we have wronged and do what we can to make amends. If we have *been harmed*, then we may feel that it is important to find a way to make sure that our ‘voice’ is heard and validated. We may want to ensure that the truth comes out and that responsibility is placed where it is due. We may need to have a say in what would count as reparation or amends for what was taken from us or destroyed. We might even, at some point, feel that we want to meet with the one who has wronged us, to tell them how their actions have affected us. If what we hear is remorse and a real desire to do whatever they can to make amends, then there might come a time when we feel we can offer them forgiveness.

We might think that, in an ideal world, this kind of ‘repair work’ would be the right thing for everyone to do. But moral dilemmas often arise for us simply because our world is far from ideal. This is especially the case when it

comes to how each of us respond to wrongdoing. No one has lived our lives. They have not walked in our shoes. They have not suffered as we have. So no one is entitled to judge us if we feel unable to take this path at this moment in our lives. And there should be no illusions that this kind of repair work is ‘the easy way out’ or a ‘soft option’. It is one of the most challenging things that anyone can do. So people need to explore the alternatives, weigh up the risks and acknowledge their fears. There can be very good reasons for someone to decide that this option is not for them—at least not right now, not in their current situation.

Yet there will be some who come to the view that being directly involved in repairing the harm done by a wrongdoing is something that they not only can do, but also need to do. They might, for instance, believe that it reflects who they want to be and the kind of world in which they want to live. They may also come to see that it is an essential part of their journey toward healing and peace. And so, despite all the demands and the risks, they feel it is the right thing for them to do.

1.2 WHY USE RESTORATIVE JUSTICE?

In the following pages, I will be suggesting that the primary role of restorative justice is *to enable and support those who want to repair the harm caused by a wrongdoing* (which I will now call ‘moral repair’). But before doing so, it will be important to address an immediate problem for this view. The social practices involved in moral repair appear to be instinctive, a part of our natural make-up.³ Presumably then, we should all be experts. Moral repair should be as commonplace and straightforward as speaking our native language or laughing at a joke. Yet if this were so, why would we need anyone to help us? Would that not be like offering training wheels to a professional cyclist? There might be grounds for offering some help to children. Perhaps like the language instinct, a child’s natural disposition to engage in moral repair needs to be socially activated. But when an adult fails to offer a genuine apology for their wrongdoing, would that not be due to their own choice rather than a lack of ‘know-how’? So why do we need restorative justice?

As mentioned above, there are undoubtedly numerous cases in which people know what moral repair involves, but feel that, due to their circumstances, they are simply not in a position to take this path. And yet it is also likely that many people very much want moral repair, but genuinely

don't know how to go about it. Most of us have an intuitive sense of how to repair minor harms. We quickly offer an apology after carelessly bumping into a stranger on the train. This kind of repair-work is typically accepted without much thought or resistance. But which of us is a 'natural expert' on repairing the harm caused by the murder of a loved one, or the death of a parent due to medical negligence, or the historical genocide of indigenous people, or the betrayal of a marriage partner, or years of child abuse, or the loss of a limb caused by an unsafe workplace, or the stress and humiliation of bullying at work, or the brain injury of a child caused by a drunk driver? How many of us have a clear sense of what could bring about moral repair in such cases?

Worse still, we might have serious doubts about whether the usual processes of moral repair even apply. For instance, suppose your child has been killed by a drunken driver. How could being offered an apology make any (or enough) difference? What would you need from the individual who has wounded you and your loved ones in such an unspeakable way? What would you want them to do? How could you possibly forgive, when your rage and fight for justice are the very things that keep you going? Or again, suppose you were the drunk driver: the one responsible for bringing about such immense hurt. How could you ever come close to 'repairing' what you have done? How could you hope to make amends for a wrong that has affected so many, and in ways that are too horrifying to imagine? Even if you think that you ought to do *something* to communicate how profoundly remorseful you are, how can you be sure that you will not just make things worse?

Despite these obstacles, we might still feel that the work of moral repair could be what is missing. Nothing else seems to have brought us the peace or the kind of healing that we crave. Yet we scarcely know where to start. Nor can we simply brush aside our reservations and fears. So if we are to have any chance of moving forward, we will almost certainly need some guidance and support, as well as a 'tried and tested' process that we can work through.

There is a second kind of problem that arises for the view that moral repair doesn't (or shouldn't) need any assistance. Take the so-called 'minor' types of crimes. In such cases, the work of moral repair might feel less inconceivable, but there are a host of practical obstacles to overcome. Suppose a teenager is caught and charged with breaking into your house and stealing your precious valuables. How would you go about contacting them? The police are unlikely to hand out their phone number or address. Confronting them on the street outside the courthouse is probably not going to turn out well—at least if

moral repair is what you have in mind. Even if you somehow managed to arrange a private meeting with the teenager, how could you be sure they were motivated to work toward the goal of moral repair? Maybe they just want to persuade you to drop the charges. Their plan might be to manipulate you into thinking that *they* are the real victim. Or again, suppose you are the teenager in this case. How could you be sure that what you said in any such meeting would be 'heard' as a genuine effort to make things right? Would you not worry that the home-owners might have already made up their minds about what they think of you? Would they believe anything you say? Maybe they just want to find some legal ammunition they can use against you? All in all, what are the chances that this kind of 'do-it-yourself' meeting would be safe, let alone effective?

These are precisely the kind of obstacles to moral repair that have inspired the development of what is now called 'restorative justice'. In other words, restorative justice is a practical solution to the hurdles of 'know-how' and 'no-way' that can so easily prevent us from finding some measure of moral repair after a wrongdoing.

1.3 A QUALIFICATION

There is a qualification that needs to be made here. To say that restorative justice is a 'solution' is not to claim that it can *guarantee* a successful outcome. It is true that, under certain conditions, most people will behave and respond in fairly predictable ways. If that were not the case, using a structured process like restorative justice would make no difference. However, it would be a mistake to assume that we can simply 'trust the process', as if moral repair is akin to 'painting-by-numbers'. Following a 'how-to-paint' manual to the letter will not, on its own, produce a work of art. In the same way, even if a facilitator has a solid theoretical understanding of restorative justice, or strictly follows a best practice guide, it does not follow that the damaged moral relations they are working with will always be fully repaired. Human beings are far too messy and complex for that.

In other words, using a restorative justice process is not an 'all-or-nothing' affair. Even with the best designed and facilitated process, a wide spectrum of outcomes is possible—ranging from 'passable' to 'astonishing'. No one can guarantee, let alone predict, where people will end up. This can be, in part, due to circumstantial issues, such as timing or the availability of key people.

But what matters above all are the moral resources and character that each person brings to the process. The quality of restorative justice depends crucially upon whether everyone, including the facilitators, come together with ‘the right heart’. They need to bring hope, honesty, compassion, humility and ‘good faith’. And no amount of theory, good process design or facilitation skills can produce ‘the right heart’ in this sense. For this reason, a ‘passable’ state of moral repair may, in some cases, be the best outcome available, given the unique mix of circumstances and individuals involved.

In short, understanding how moral repair works and using a carefully designed process *will* make a difference to the quality of restorative justice. (There are too many examples in which people have been obstructed and frustrated by a poorly designed or facilitated process.) But it does not follow that ‘knowing-why’ and ‘knowing-how’ are, in and of themselves, sufficient.

2. Moral Harm

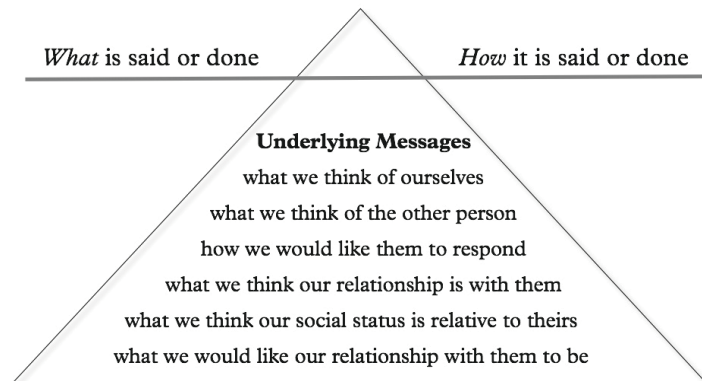
2.1 WHAT IS MORAL HARM?

The work of moral repair is not about healing physical wounds; nor is it about recovering material or financial losses, although these matters can enter into the process. Rather its primary focus is (what I will call) the ‘moral harm’¹ that has been caused. This kind of harm is frequently overlooked or dismissed. That is partly because moral wounds are invisible to the naked eye. A moral injury can be excruciatingly painful, but it does not literally bleed. It is not equivalent to a flooded home, a crushed limb or the death of a loved one. All of these can take place without anyone having been wronged. They could have occurred due to a genuine accident or an unforeseen natural disaster. Yet if moral harm is added to a physical or material loss, the suffering can be magnified beyond telling.² So what is this mysterious, intangible thing called ‘moral harm’? Why does it hurt so much?

2.2 UNDERLYING MESSAGES

One of the keys to unlocking the nature of moral harm is the concept of ‘underlying messages’.³ It is easy to assume that *what we communicate* is a simple matter of *what we say*. For example, we might, at first glance, assume that when someone says to us: ‘I’d love to meet you for lunch on Friday,’ then that is what they mean, no more and no less. But this is too simplistic. When someone agrees to meet us for lunch they might also be saying: ‘I enjoy your company’. In other words, when we do or say something, there are messages that lie beneath the surface. This is true even when we fail to act or speak. If someone does not take up our invitation to lunch they might be saying: ‘I don’t want that kind of relationship with you’.

Underlying messages are also conveyed by *how* we say or do something. We can say the same words sarcastically or respectfully—and, in doing so, communicate very different messages.



If we voiced our underlying messages out loud they would, in many cases, be socially inept, awkward, presumptuous or even highly offensive and hurtful (e.g. ‘Remember: you work for me’, ‘I find you quite attractive’, ‘Don’t think you can push me around’, ‘I don’t feel safe with you’, ‘I want you to like me’, ‘I’m your boss, not your friend’). So, to minimise the chances of conflict or embarrassment, we hide them under the surface of our actions and words.⁴

The fact that underlying messages are concealed in this way does not necessarily mean we want them to go unnoticed. Normally, we want the person on the receiving end to interpret our actions and words as we intended. But in many instances, the evidence we offer them will be far too ambiguous or sketchy. Sometimes we do this so that they will find it hard to accuse us of being deliberately offensive. But we often do or say things that are thoughtless, in the sense that we convey messages we don’t mean. In certain situations, a blank look, a terse email, not responding to a greeting, or a touch on the shoulder might be entirely harmless. But it’s not hard to imagine other contexts in which they would convey a hurtful or offensive message—whether intended or not.

When our actions or words have been misunderstood, we can try to remedy the situation by making the underlying message more explicit.⁵ So we use phrases like the following:

- ‘Sorry, I didn’t mean to suggest that _____.’
- ‘When I said _____, I meant _____.’
- ‘I only smiled at what you said because _____.’

One might argue that it is possible to communicate messages of disrespect directly or explicitly, without needing to use hidden or underlying messages. There are certainly expressions that seem to be patently clear and unambiguous (e.g. ‘you are nothing to me’). But even such overtly disrespectful messages still need to be interpreted. After all, they could mean very different things depending on what is also being communicated by the speaker’s tone of voice, their body language, and so on.⁶ But these additional non-verbal communications are exactly what we have been calling ‘underlying messages’. In other words, *every* communication comes with an underlying message that tells us how to interpret what is being said or done—especially in terms of how the other person sees us and what kind of relationship they want to have with us. Whether we like it or not, we cannot communicate without also sending an underlying message.⁷

So what, then, is the connection between underlying messages and moral harm? We have seen that underlying messages are usually about *what we think of others*. Our underlying messages provide others with evidence about how we see them. They are like a mirror in which other people can see themselves through our eyes.⁸ To harm someone else *morally* is to communicate that we think they are of less value or worth than ourselves, or even of no value at all. So we have wronged someone when we send the message that we see them as little more than an object. Rather than being our equal, we regard them as nothing more than a means to our ends. We see them as being useful for our own purposes, regardless of what they want or how they might feel.⁹ So the connection between underlying messages and moral harm could scarcely be stronger: they are the chief mechanism by which this kind of injury is inflicted.

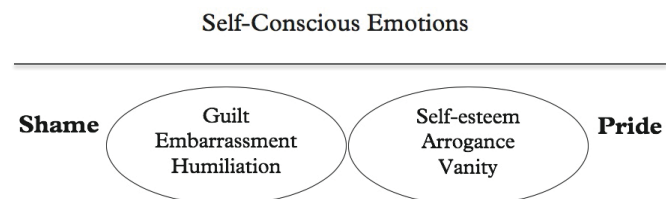
2.3 SELF-CONSCIOUS EMOTIONS

It would be a mistake, however, to think that underlying messages of disrespect are doing all the work. We care about these messages not simply because we think they are untrue or unfair, but because of how they make us *feel*. To explain, underlying messages typically trigger an emotional response. Like ordinary mirrors, we tend not to react to an image of ourselves in a cold, matter-of-fact way. When we see our reflections, we respond emotionally. What we feel will depend on whether we like what we see in the reflection. If an underlying message suggests that we are seen as attractive, highly skilled, intelligent, morally virtuous or high up on the social ladder, then we will feel a sense of pride or satisfaction in ourselves. If it suggests that we are seen as

flawed, defective, bad, incompetent, ugly, stupid, repulsive or inferior, then we will feel terrible about ourselves or ashamed.¹⁰ For example, suppose I pass on some ugly gossip about you to Jane. She smiles knowingly as I talk, and I see myself in Jane's eyes as someone who is self-confident and discerning. I feel good about myself, even a sense of pride. But suppose you then find out what I said to Jane and you confront me. I see the hurt and anger in your eyes. I grasp immediately what kind of person you must think I am. I see a malicious coward in the mirror you are holding up to me, and I feel terribly ashamed of myself.

The family of emotions that are typically elicited by underlying messages are called 'self-conscious emotions'. There are two features that distinguish these emotions: first, they are, as the name suggests, *what we feel about ourselves*; second, they arise *when we become aware of how we are seen in the eyes of others*.¹¹ We can classify the self-conscious emotions under two headings. Under the term *shame* are included all those emotions in which we feel bad about ourselves. Under the term *pride* are all those emotions in which we feel good about ourselves.

We can also distinguish self-conscious emotions from each other by how it is that they arise. For example, *embarrassment* is a kind of shame that arises when we realise (or imagine) that other people have seen us breaching a social convention or etiquette—such as sneezing without covering one's mouth.¹² *Guilt* involves feeling bad about ourselves when we find out (or imagine) that others know we have done something morally wrong.¹³ We feel *humiliation* when it seems to us that we have been insulted, disrespected, patronised, belittled, rejected or abandoned.¹⁴ Pride can include feelings of *self-esteem* that arise when we feel (or imagine) that another person is treating us with respect or recognises our accomplishments. *Arrogance* or *vanity* also involve feeling good about ourselves. But they arise when we believe that others are right to treat us with excessive admiration or deference.



Of the two primary self-conscious emotions, shame seems more likely than pride to relate to moral harm. But what is this connection? Why should we think that dealing with an emotion like shame might be relevant to repairing a moral harm? Should we not put our efforts into more objective concerns, like investigating a person's culpability, demanding reparation, or imposing punishment? To address this kind of question, we need to explore the role of shame in more depth.

2.4 SHAME

Shame signals a threat

Shame is one of the most painful emotions we can experience. But it is not a useless accessory, an accident of nature that we could well live without. The capacity to feel shame has a purpose. The pain it causes us serves an important function. Shame is very like fear in this respect. The primary role of fear is to signal a threat to our *physical self* (our sense of what our bodies look and feel like, how we want to be situated within our physical environment, etc.). Shame also signals a kind of threat. Each shame-inducing message is in some way a threat to our *social self* (who we think we are, how we want others to think of us and our connection to them).

Our survival and well-being depends not only upon achieving the *physical goals* of safety and nourishment, but also the *social goals* of connection ('getting along') and advancement ('getting ahead').¹⁵ What counts as a failure to 'get along' or 'get ahead' will depend almost entirely upon our surrounding culture or social context. For example, 200 years ago, no one would have felt guilty for driving a car over the speed limit. Hence, the kind of things that cause us to feel shame will, for the most part, be learnt or acquired from our social context, and so will differ across cultures or social groups. What is universal, however, is the fact that all (properly functioning) human beings experience shame when faced with a threat to their social self. This can be readily explained by the benefits of meeting the two social goals of 'getting along' and 'getting ahead'.¹⁶

The role of shame can also be explained by looking at how it reveals to us the way that things *ought* to be with respect to our social self. It may be helpful to use an analogy with our physical self. We are generally aware of our body and the state in which it happens to be. We are also aware of what it feels like

to be in a normal or healthy physical state. We have some grasp of how our body *ought* to work, of what it feels like when our body is functioning as it should. Pain alerts us to the fact that, in this respect, things are not how they *should* be. In other words, pain tells us that our physical self is under threat. Shame performs a similar function to pain, except that it affects our social self. We are, in general, aware of what we think about ourselves, other people and our connections with them. We are also conscious of who we *ought* to be, how others *should* treat us and what a *right* relationship with them would be like. For instance, we know that we are in a right relationship with another person when we are both experiencing (and communicating to each other) feelings of gratitude, respect, appreciation, and trust. Shame alerts us to the fact that something has gone wrong: it tells us that our social self is, in some way, under threat.¹⁷ As the words ‘ought’, ‘right’ and ‘should’ suggest, there will be some cases in which this threat has a moral quality. Indeed, the emotion of shame is the primary means by which we come to believe, even if mistakenly, that we have been wronged or that we have committed a wrong.¹⁸

Shame reveals what we value

We know that pain usually signifies a genuine physical problem. If we are uncertain, we can confirm the matter by going to the doctor. But on what grounds can we claim that our shame signifies that there is a genuine moral problem? How can we know for sure that our shame is telling us that we *ought not* to have done something, or that we *ought not* to have been treated in a certain way? Who would we consult to check that our emotions are tracking moral reality?

This is a complex philosophical question, and it is not easy to provide an answer—or at least not one that would be universally convincing. But we can say this much: the ‘in-built’ role of shame only makes sense if we assume that this emotion is capable of alerting us to the fact that we have committed or experienced a wrong. For instance, most of us can readily sense when we are treated with disrespect, derision or contempt. Even if there are cultural differences about *which* words or actions communicate disrespect, this kind of treatment is universally held to be profoundly threatening. But what is the source of disrespect? What is it that triggers this feeling that we have not been treated as we ought to have been? There appear to be two situations that cause this feeling. In both cases, someone has disregarded or refused to acknowledge something that we consider to be of value or worth. To

understand this in more depth, we need to distinguish between two kinds of value: acquired and inherent.¹⁹

1. *Acquired value*: We generally feel that others should give us due respect for our accomplishments, our talent or expertise, our property, intelligence, attractiveness, power, social status, virtues, and so on. There are scales, rankings or hierarchies that are used to measure where we stand on such matters, relative to other people. Many of us claim that we don’t pay much attention to these scales or rankings. We know how short-lived, random and superficial they often are. So we feel that it’s best not to put too much weight on how others ‘position’ us. Yet our emotions give us away. When someone tramples on our hard-won achievements, or mocks our chosen profession, it feels as if we’ve been robbed of something we have earned: a due measure of respect for what we have made of ourselves. It is rightfully ours, and so we experience its absence as a kind of injustice.²⁰ Alternatively, someone may look down on us or treat us unfairly simply because we are ‘beneath’ them on some particular scale or hierarchy. Either way, we can feel demeaned, humiliated or insulted as a consequence. This emotional response suggests that how others perceive or respond to our status, position or achievements matters to us. Shame provides us with a kind of social litmus test.²¹ It can alert us to the fact that we are not being valued or respected as we feel we ought to be; and so we can feel ‘wronged’ as a consequence.²²

2. *Inherent value*: There is another, very different kind of respect that can cause us to feel shame when it is withheld. This is the respect we feel we are owed *regardless* of our achievements, possessions, moral virtues or social status. We recognise just how important this type of respect is to us when we discover that certain people look down on us, discriminate against us or treat us as inferior *simply because of qualities that we can do nothing about*—such as our gender, ethnicity, age, disability, sexuality, and so on. It follows that the object of this second type of respect—what it is directed towards—must be something of value that is *intrinsic* to every human being. The only candidate here would appear to be *our humanity itself*. It is in virtue of being members of the human species that we have equal and inherent worth. This kind of value is our birthright. No one is exempt. It cannot be bestowed upon us by another human being or an institution. It is not something we can earn. It cannot be taken away or diminished. It cannot be increased or improved. No one has more of this kind of value than anyone else.²³

It might be questioned whether this egalitarian view of human worth can be justified. But there would be severe repercussions if we rejected it. This view underpins universally held principles of fairness and reciprocity. It is the foundation for the claim that we all share basic human rights.²⁴ It explains why we feel that things are not as they *ought* to be when other people treat us like an object, an inferior being, or a mere means to their ends. These feelings only make sense if we assume that every human being has intrinsic and equal worth or value. And this assumption can be a matter of life or death. Those who are considered less than fully human are far more likely to be subjected to the horrors of genocide, social exclusion, murder, slavery, sexual abuse, racism, and so on.²⁵ That is why being the target of this kind of disrespect feels life threatening in a way that is not dissimilar to suffering physical violence.²⁶ It is the feeling of shame—or, more exactly, humiliation—that alerts us to the fact that our intrinsic human worth has been violated, and that we have therefore been seriously wronged.

We may have no universally accepted answer to the question of where our intrinsic worth comes from or how it might be rationally justified.²⁷ But human beings seem to come with an in-built psychological mechanism that would not make sense without this assumption. That mechanism is the experience of shame.²⁸

How others see or treat our acquired value can inflict moral harm

It might be thought that we can only experience moral harm when our *inherent* value is directly threatened or undermined, as in the wrongs of racism, sexism, murder, slavery and the like. But why then do we feel ‘wronged’ when someone fails to acknowledge or respect our achievements, our property, or our status in a particular job or institution? Why do we react with anger and resentment when someone ‘looks down on us’ *merely* because they happen to be ‘above’ us in rank or status? We *say* that we believe all humans are of equal inherent worth. But do we in fact think that our worth or value depends entirely on our position in some scale or hierarchy? Or are we egalitarians only when it comes to certain areas of our lives (which we can’t do anything about—such as race, gender or sexuality), but non-egalitarians when it comes to every other aspect of our lives (where we have at least some control)?²⁹

This *could* be how we think about human worth. But not necessarily. There is another explanation for why we feel ‘wronged’. It may not be that we think our worth is determined by our acquired value. Instead, it might be

that someone is (mis)using our relative position on some particular scale or hierarchy as *evidence* that we have less worth as a human being, or even no worth at all. In other words, the value we have (or have not) acquired in life is exploited as a *reason* for challenging or threatening our inherent worth. To do so is, of course, completely unjustified. Indeed, this kind of threat is the very definition of ‘moral harm’. But we need more detail.

There is nothing wrong with scales or rankings *per se*: they can have genuine utility. For instance, educational and employment rankings can make sure that people are matched to positions that best suit their particular talents, interests and skill-sets. (No one asks for a hospital orderly to perform open heart surgery on the grounds of ‘equal opportunity’). Again, a bit of competition can motivate us to reach beyond our perceived limitations. But scales and rankings can also be horribly mis-used if we see our position as evidence of our relative value or worth as a human being. There are two ways of doing this: First, we can appeal to our higher position on a particular scale as evidence for our ‘superiority’ over those who are below us on that scale. (“People on income support are low-life scroungers.”) Second, if we are lower than someone on one particular scale, we can still claim ‘superiority’ over them simply by (a) rejecting wholesale the value of *that* scale or ranking, whilst (b) appealing to the evidence of our higher position on a *different* scale or ranking. (“You may have loads of money, but who cares? You’re ugly and you have no friends.”)

And this is not simply about how we *see* others. This way of thinking can have a terribly harmful impact on the lives of others. One reason why we find scales and hierarchies so problematic is not simply that those at the ‘top’ so often *see* themselves as ‘superior’, although that is objectionable enough. It is that they tend to *treat* those ‘below’ them as having less worth, or even no worth at all. This can happen in several ways: First, those at the ‘top’ can treat those ‘below’ them as little more than tools for them to use and dispose of as they wish. In other words, the people ‘beneath’ them on this particular scale are not treated as ends in themselves, as persons with equal inherent worth. Instead, they are treated merely as a *means* of achieving the ends of those ‘above’ them. And that is the very definition of what it is to cause someone moral harm. Second, those at the ‘top’ of a scale can use their position to claim far more than they deserve, in comparison with those ‘below’ them. In other words, simply because of their ‘higher’ position in the hierarchy, they claim advantages for themselves that are objectively unfair. For instance, they give themselves wages that are far above anything that

could be warranted by their actual contribution. Or they use their position to hire their friends or lackeys, rather than people who are most qualified for the job. Or they think that their 'higher' position gives them the right to humiliate, embarrass, demean and bully those 'beneath' them. In each case, the people who engage in these behaviours are acting as if those who are 'lower' than them on a particular scale are *thereby* 'inferior', and so do not need to be shown the kind of respect that would be owed to someone of equal worth.

In short, moral harm can come to our door in a variety of ways. But it is *always* due to the fact that our equal and inherent worth has been threatened or challenged in some way. This can happen directly, through acts such as racism, violence or sexism; or it can happen more indirectly, when our relative position on some scale or hierarchy is (mis)used as evidence that we are of lesser worth than others. Either way, it is shame that alerts us to the fact that, in these situations, we are being wronged.

Shame explains why we care

We now have a partial answer to the question: 'What is moral harm and why does it hurt so much?' When someone wrongs us, they are sending us a particular kind of underlying message. They are saying that they see us as somehow inferior or even worthless. But we do not merely register this negative message about ourselves intellectually. It also *hurts*. We feel the impact of wrongdoing primarily because its underlying message causes us to experience the intense pain of shame. It is this emotional response that explains why we care so much about moral injuries—often far more than any physical, financial or material losses.³⁰

Likewise, if we have caused harm, we feel the weight of guilt primarily because of what our actions say about us. On the one hand, we care deeply about people honouring and respecting *our own* worth or value (whether acquired or intrinsic). Yet we have violated or withheld our recognition of the worth or value of *another* person. But then it follows that, in doing so, we have failed to treat them as we would want them to treat us. More accurately, we have not treated them as we feel we ought to be treated ourselves. We have not only been utterly selfish: we have wronged them. There may be some who can register this fact about themselves in a detached, purely intellectual way. But most of us will know we have wronged someone because we begin to suffer the anguish of a guilty conscience. Once again, we care about the fact that we have done something wrong primarily because the

underlying message of wrongdoing—what it says about the kind of person we are—causes us to experience shame.

So what can we do about moral harm? How should we respond? Is it possible to heal from these invisible wounds? What would it take to repair a moral injury? To answer these questions, there is yet more that we need to learn about shame. In particular, we need to explore the various automatic and habitual ways in which we react to shame. We will discover that the journey to moral repair cannot get off the ground without some of these shame-reactions. But it can also be obstructed, delayed and undermined by a range of other shame-reactions.

Endnotes

Preface

¹ Cf. “In every [restorative justice] conference, the emotional dynamics are different, due to the styles in which they are facilitated; the social positions, relationships, personalities and the roles of the participants (not only of the victim and the offender); the nature and circumstances of the offence and its consequences; and other favourable or unfavourable conditions.” Harris, N., Walgrave, L. and Braithwaite, J. (2004). Emotional Dynamics in Restorative Conferences. *Theoretical Criminology*, 8, 191-210: p. 199.

² This means that facilitators will need to supplement their understanding of the material in this book with whatever specialist knowledge, skills and practice materials might be relevant to the particular contexts in which they are working.

³ There are a number of (contested) ways in which the ‘mechanics’ of restorative justice can be explained. I have attempted to provide an account that is broadly consistent with empirical research and theoretical approaches that are widely accepted by restorative justice scholars and practitioners. To give some evidence of this, the endnotes provide references that affirm the same (or a ‘comparable’ = ‘cf.’) perspective. The model is also consistent with Section 3 of Brookes, D. (2009). *Restorative Justice and Work-Related Death: A Literature Review*. Melbourne, Victoria: Creative Ministries Network; and also with *Best Practice Standards for Restorative Justice Facilitators*. (2009). Victorian Association for Restorative Justice; *Best Practice Guidance for Restorative Practitioners and their Case Supervisors and Line Managers*. (2004). UK Home Office; or the 2008 Scottish adaptation of the original UK Guidance.

PART 1. Moral Repair

1. Introduction

¹ In suggesting that restorative justice (as I understand it) should be thought of as an answer to this kind of retrospective moral question, I am following Margaret Walker: “Moral philosophers following Immanuel Kant have often described ethics as answering the question: ‘What ought I to do?’ This seems to imply a set of choices on a fresh page. One of our recurrent ethical tasks, however, is better suggested by

the question ‘What ought I – or, better, we – to do *now*?’ after someone has blotted or torn the page by doing something wrong.” Walker, M. U. (2006b). *Moral Repair*. Cambridge: Cambridge University Press: p. 6. See also the distinction between prospective and retrospective responsibility in Brookes (2009): p. 12.

² For more detail, see Brookes (2009): p. 41ff.

³ See McCullough, M. (2008). *Beyond Revenge: The Evolution of the Forgiveness Instinct*. San Francisco, CA: Jossey-Bass: p. 19.

2. Moral Harm

¹ The terms ‘moral harm’ and ‘moral injury’ have been used in quite different senses to the way I am using them here. For instance, ‘moral harm’ has been used to refer to the harm that one does to oneself (or one’s moral character) by engaging in a wrongful act. See, e.g., Feinberg, J. (1987). *The Moral Limits of the Criminal Law, Volume I: Harm to Others*. Oxford: Oxford University Press. This kind of ‘self-harm’ is certainly *one aspect* of what I mean by ‘moral harm’. After all, if I have wronged another person, then at least part of what I am hoping, in offering them an apology, is that the wound I have inflicted on my own moral character will be repaired. But I mean much more than this when I use the term ‘moral harm’ in this book. For instance, I include the kind of harm that is experienced by those who have *suffered* a wrongdoing.

Again, the term ‘moral injury’ is often given a quite specific meaning, especially in the context of war. It refers to the kind of psychological harm that military personnel experience when they witness a moral atrocity or come to realise that they have themselves committed or are implicated in a wrongful act in the course of their service. This might include the post-hoc realization that the war in which they were engaged was itself morally unjustified. See, e.g., Nakashima, R. and Lettini, G. (2012). *Soul Repair: Recovering from Moral Injury After War*. Boston: Beacon Press. The term ‘moral injury’, as I use it in this book, does include this definition. For instance, someone might have committed a wrongful act, but only later come to *realise* that it was wrong—or that it was far worse, morally speaking, than they thought (e.g. after learning just how much suffering the action has caused from those directly affected). And in such an instance, the wrongdoer is likely to experience the kind of ‘psychological injury’ that can only be healed if they engage in the work of moral repair. Likewise, the term ‘moral injury’, as I use it, will include the kind of harm that is experienced by those who have *witnessed* a wrongful act or the *secondary* impact or trauma the act has had on other people. This is partly why, in any restorative justice process, there is a place for the friends and family of the person who was more ‘directly’ harmed—i.e. not merely to offer their support, but to experience some repair of the ‘moral injury’ they have ‘indirectly’ experienced themselves. In short, like ‘moral harm’, I use the term ‘moral injury’ to refer to *every* aspect of the harm that has been caused by a wrongful act.

² Cf. “One commonly thinks of a criminal victimization experience as involving the loss of personal property and/or bodily injury. Sometimes, even more important are the psychological losses, such as a feeling of a loss of control . . . or a sense of violation of the self. . . . Loss of identity and self-respect may also follow victimization. Feelings of loss, rejection by others, and humiliation are also common. Victims may experience erosion of trust and autonomy . . .” Frieze, I. H., Hymer, S. and Greenberg, M. S. (1987). Describing the Crime Victim: Psychological Reactions to Victimization. *Professional Psychology: Research and Practice*, 18, 4, 299–315: pp. 300–1.

³ Underlying messages are also called ‘meta-messages’ or ‘meta-communication’. See, e.g., Tyler, S. (1978). *Said and the Unsaid: Mind, Meaning and Culture*. New York, NY: Academic Press: p. 408. See also Thwaites, T., Davis L. and Mules, W. (1994). *Tools For Cultural Studies: An Introduction*. Melbourne, Victoria: Macmillan; and Grice’s maxims of cooperation and his concept of conversational implicature in Grice, P. (1975). Logic and conversation. In *Syntax and Semantics, Vol. 3, Speech Acts*. ed. P. Cole and J. Morgan. New York, NY: Academic Press: pp. 41–58.

⁴ Cf. “In face-to-face quarrels between persons, the sources of irrational conflict seem to be located, for the most part, in nonverbal elements, in the paralinguistic and kinesic features of discourse.” Scheff, T. (1994). *Bloody Revenge: Emotions, Nationalism, and War*. Oxford: Westview Press: p. 5.

⁵ Cf. Tyler (1978): p 408.

⁶ The following example is taken from research on the impact of non-verbal behaviour on romantic relationships: “Touch and proxemics also were reported to have [changed the way other participants thought about their relationships and to be the specific trigger for ending a relationship]: ‘My ex-boyfriend had been drinking when we started to get into an argument. We were at a party and all of a sudden he started *yelling* at me. I walked up to him to just hug him and tell him that this is stupid when he *pushed me against the wall and walked away*. *This behavior obviously changed our relationship for the worse* and when he did this to me I felt as though he didn’t give a care in the world about my feelings or hurting me’.” Manusov, V., Docan-Morgan, T. and Harvey, J. (2015). Nonverbal Firsts: When Nonverbal Cues Are the Impetus of Relational and Personal Change in Romantic Relationships. In *The Social Psychology of Nonverbal Communication*. ed. A. Kostic and D. Chadee. Palgrave Macmillan: pp. 165–66.

⁷ “[M]etacommunication is an act of communication, between two or more persons, that communicates something about either the communication itself, either the relationship between them, or both. . . . Since a message is always tied to a particular context, it implies a relationship dimension, thus, every message contains an implicit metacommunication about the relationship between the communicators that classifies or frames the message.” Mateus, S. (2017). Metacommunication as Second Order Communication. *KOME, An International Journal of Pure Communication Inquiry*, Vol. 5 Issue 1, 80–90: p. 88.

⁸ It may be that the underlying messages that we ‘hear’ from those around us are the primary means by which we develop our sense of self, our perception of who we are. See, e.g., “Numerous social theorists have established that an individual’s sense of self is strongly grounded in social relationships and social processes.” Parrott, W.

G. (2004). Appraisal, Emotion Words, and the Social Nature of Self-Conscious Emotions. *Psychological Inquiry*, 15, 136–138: p. 136. Again, the capacity to ‘grasp’ underlying messages is activated in our infancy, which may explain both their non-linguistic features and their function as ‘mirrors’ by which we find our sense of self or identity. Cf. “A child checks the facial expressions, body language, and tone of voice of people around her—particularly her parents—to determine what kind of person she is. The ones close to her become reflections of herself—her mirrors. If these mirrors are smiling, the child feels good about herself; if they are frowning, she may become frightened and not feel so good about herself.” Engle, B. (2006). *Healing your Emotional Self*. New York, NY: John Wiley & Sons: p. 81.

⁹ Cf. “[Someone] fails to treat me with respect if she makes no effort to hide her disinterest in, or contempt for, my feelings. When she treats me this way, she implies that my concerns, my feelings, my point of view do not matter, that is, that I have no intrinsic value, after all.” Buss, S. (1999). Appearing Respectful: The Moral Significance of Manners. *Ethics*, 109, 4, 795–826: p. 804; “One reason we so deeply resent moral injuries done to us is not simply that they hurt us in some tangible or sensible way; it is because such injuries are also messages—symbolic communications. They are ways a wrongdoer has of saying to us, ‘I count but you do not,’ ‘I can use you for my purposes,’ or ‘I am here up high and you are there down below.’ Intentional wrongdoing insults us and attempts (sometimes successfully) to degrade us—and thus it involves a kind of injury that is not merely tangible and sensible. It is moral injury, and we care about such injuries.” Murphy, J. G. (1988a). Forgiveness and Resentment. In J. G. Murphy and J. Hampton, *Forgiveness and Mercy*. New York, NY: Cambridge University Press: p. 25.

¹⁰ Cf. “[S]hame will not be experienced if the individual simply reflects on his or her own actions, however adverse his judgment, unless the perspective of the other is adopted.” Crozier, R. W. (1998). Self-Consciousness in Shame: The Role of the ‘Other’. *Journal for the Theory of Social Behaviour*, 28, 3, 273–86: p. 278.

¹¹ Cf. “Self-conscious emotions are highly social in nature. Their social nature stems from the social nature of the self and from the social nature of the situations that elicit them.” Parrott (2004): p. 136; “Self-conscious emotions arise only from the perception that something about the self may have implications for important social goals.” Baldwin, M. W. and Baccus, J. R. (2004). Maintaining a Focus on the Social Goals Underlying Self-Conscious Emotions. *Psychological Inquiry*, 15, 2, 139–144: p. 140; “[T]he self-conscious emotions are characterized by a shift in perspective where the individual views his or her own behaviour as if through the eyes of another.” Crozier (1998): p. 277; “Self-conscious emotions differ from basic emotions [like fear, joy and sadness] because they require self-awareness and self-representations Importantly, by self-representations, we do not mean simply the cognitive contents of the personal self, but also relational, social, and collective self-representations. We are social creatures, so our self-representations reflect how we see ourselves vis-a-vis close others (e.g., as a romantic partner), social groups (e.g., as a professor), and broader cultural collectives (e.g., as a woman, as an American).” Tracy, J. L. and Robins, R. W. (2007). The Self in Self-Conscious Emotions: A Cognitive Appraisal Approach. In *The Self-Conscious Emotions: Theory and Research*. ed. Tracy, J. L., Robins, R. W. and Tangney, J. P. NY and London: The Guilford Press: pp. 5–6.

¹² Cf. “[E]mbarrassment can occur only when attentional focus is directed toward the *public self*, activating corresponding public self-representations. . . . Importantly, activation of the public self does not require a public context. Rather, the public self is always present because it reflects the way we see ourselves through the (real or imagined) eyes of others.” Tracy and Robins (2007): p. 14. For a list of sources that suggest a similar account of how embarrassment generally follows from (a) “a minor breach of codes of manners or loss of poise”, (b) “faux pas and social transgressions”, (c) “violations of social conventions” and (d) minor, specific breaches of norms”, see Crozier, W. R. (2014). Differentiating Shame from Embarrassment. *Emotion Review*, 6(3), 269–276: p. 271. It should be noted that Crozier’s review of the relevant literature found considerable disagreement about how, or to what extent, the terms ‘embarrassment’ and ‘shame’ are or should be distinguished. In my view, embarrassment is a species of shame. See also Appendix 1.

¹³ Since shame is often distinguished from guilt, an explanation for defining guilt as a species of shame is given in Appendix 1. The account of restorative justice presented here does not depend on whether this definition of guilt is accepted, however. Readers who prefer to define guilt as distinct from shame can simply take my use of the word ‘shame’ (to encompass guilt) as a term of art for the purposes of this book.

¹⁴ “[S]evere physical discipline, emotional abuse, neglect and abandonment . . . all send the message that the child is worthless, unacceptable, and bad. These acts also convey the message that the adult will treat you any way he or she wants because you are a worthless commodity.” Engle (2006): p. 56.

¹⁵ Cf. “In primitive times, when one member [of a clan] offended another, it was essential that some mechanism for reconciling the injury was present. . . . No one could survive totally alone, and the group could not afford to lose any member.” Flanigan, B. (1992). *Forgiving the Unforgivable*. New York, NY: MacMillan: p. 8.

¹⁶ Cf. “Emotions are assumed to have evolved through natural selection to facilitate survival and reproductive goals. It is easy to understand how a basic emotion might promote survival goals—for example, fear may cause an individual to run away from a predator, thereby enhancing his or her chances for survival in the face of threat. In contrast, we believe that self-conscious emotions evolved primarily to promote the attainment of specifically *social* goals, such as the maintenance of enhancement of status, or the prevention of group rejection. . . . Consistent with this account, self-conscious emotions seem to be present only in humans and other species (e.g., great apes) with highly complex and frequently shifting social hierarchies.” Tracy and Robins (2007): p. 6.

¹⁷ Cf. “[T]he reason failures or transgressions elicit negative affect is because they signal the possibility of social exclusion, a threat to the ‘need to belong’ that evolution has designed into our nature as social animals. . . . When people evaluate themselves as inadequate or unworthy the expectation that others might have a similarly critical reaction resulting in social exclusion or loss of status is implicitly triggered, which implicates core, hardwired social motives. Research supports this formulation. For example, the things that make people feel bad about themselves tend to be precisely those things they feel would make important others reject them or derogate them.” Baldwin and Baccus (2004): p. 139, 141.

¹⁸ Cf. “Far from being rare or unusual, [the emotions of gratitude, respect, elevation, appreciation, and trust] are ubiquitous but generally fly below the radar of consciousness and are rarely noticed, evident for example in conventional displays of politeness and good manners. . . . [But] the ABSENCE of an expected display of politeness is noticed and responded to with remarkable strength and negativity as a sign of disrespect.” Buck, R. and Miller, M. (2015). Beyond Facial Expression: Spatial Distance as a Factor in the Communication of Discrete Emotions. In *The Social Psychology of Nonverbal Communication*. ed. A. Kostic and D. Chadee. Palgrave Macmillan: pp. 187-88.

¹⁹ The distinction between (a) what it is to respect a person’s ‘inherent value’ and (b) respecting their ‘acquired value’ corresponds very closely to a distinction made by Stephen Darwall between (a) “recognition respect” and (b) “appraisal respect”. As he puts it: “all persons are entitled to [recognition] respect just by virtue of their being persons and . . . deserving of more or less [appraisal] respect by virtue of their personal characteristics.” Darwall, S. L. (1977). Two Kinds of Respect. *Ethics*, Vol. 88, No. 1 (Oct.), 36-49: p. 46.

²⁰ “[A]n insult, and presumably any disrespectful act, is experienced as unjust because it deprives people of something that they believe is rightfully theirs. When they are denied the respect to which they believe they are entitled, people feel as unjustly treated as when they are denied the material resources to which they believe they are entitled.” Miller (2001): p. 533.

²¹ “[S]hame, guilt, embarrassment, and pride function as an emotional moral barometer, providing immediate and salient feedback on our social and moral acceptability.” Tangney, J. P., Stuewig, J. and Mashek, D. J. (2007b). What’s Moral about the Self-Conscious Emotions? In Tracy, Robins and Tangney (2007): p. 22.

²² “From our perspective, self-conscious emotions are experienced when a person’s identity is threatened or elevated . . . as long as the eliciting event is relevant to the aspirations and ideals (as well as the fears) of the self. In fact, social evaluations will not elicit self-conscious emotions if the evaluated individual does not make the corresponding self-evaluative appraisals. For example, the public praise of others will not produce pride in individuals who discount the evaluations (e.g., if they have low self-esteem . . .), and negative evaluations will not produce shame if they pertain to non-self-relevant domains, as James (1890) noted: ‘I, who for the time have staked my all on being a psychologist, am mortified if others know much more psychology than I. But I am contented to wallow in the grossest ignorance of Greek’ (p. 310).” Tracy and Robins, 2007: p. 11.

²³ “[Egalitarian] theories of worth . . . insist that [human worth] does not and cannot diminish no matter what we do (so that even a wrongdoer is held to be valuable, and deserving of our respect).” Hampton, J. (1997). The Wisdom of the Egoist: The Moral and Political Implications of Valuing the Self. *Social Philosophy and Policy*, 14, 21-51: p. 28; “Our intrinsic worth is not tied to our level of performance on some moral scale, nor does it fluctuate with the character of our choices and attitudes.” Holmgren, M. R. (1993). Forgiveness and the Intrinsic Value of Persons. *American Philosophical Quarterly*, 30, 4, 341-52: p. 349; “Instead of seeing yourself as an empty

vessel who is filled up, drop by drop, with your achievements, you need to begin to recognize your intrinsic worth as a human being.” Engle (2006): p. 134.

²⁴ “[T]he equality of human worth [is the] justification, or ground, of equal human rights.” Vlastos, G. (1969). Human Worth, Merit, and Equality. In *Moral Concepts*, ed. J. Feinberg. Oxford University Press: p. 149. “All human beings are born free and equal in dignity and rights”. *The Universal Declaration of Human Rights*. 1948: Article 1.

²⁵ “[T]hink of the Jews of Europe in the hideous Nazi period, herded into cattle trucks and carried away to be gassed or worked to death, or machine-gunned into pits they had been forced to dig. Think of their teeth and hair and spectacles piled up for recycling, think of the emaciated and bewildered barely alive prisoners found by Allied soldiers in concentration camps in 1945. These were the bleak and desperate circumstances that prompted the adoption of the Universal Declaration of Human Rights three years later, a fact evidently forgotten by those in comfortable academic studies who employ the casuistries of their trade to prove that the concept of human rights is empty.” Grayling, A. C. (2007). *Towards the Light: The Story of the Struggles for Liberty and Rights That Made the Modern West*. Great Britain: Bloomsbury Publishing: p. 12. See also: “It can be argued further against skeptics that a world with equal rights is a *more just* world, a way of organizing society for which we would all opt if we were designing our institutions afresh in ignorance of the roles we might one day have to play in them. It is also a *less dangerous* world generally, and one with a *more elevated and civilized* tone. If none of this convinces the skeptic, we should turn our backs on him to examine more important problems.” Feinberg, J. (1973). *Social Philosophy*. Englewood Cliffs, New Jersey: Prentice-Hall: p. 94.

²⁶ “Most of us tend to care about what others (at least *some* others, some significant group whose good opinion we value) think about us—how much they think we matter. Our self-respect is *social* in at least this sense, and it is simply part of the human condition that we are weak and vulnerable in these ways. And thus when we are treated with contempt by others it attacks us in profound and deeply threatening ways.” Murphy (1988a): p. 25; “[B]ehind the feeling of shame stands not the fear of hatred, but the fear of *contempt* which, on an even deeper level of the unconscious, spells fear of *abandonment*, the death by emotional starvation.” Piers, G. (1953). Shame and Guilt: Part I. *Shame and Guilt: A Psychoanalytic Study*. ed. G. Piers and M. B. Singer. Springfield, Il.: Charles C. Thomas: p. 16.

²⁷ It may be, as Feinberg suggests, that ‘human worth’ is not a property or quality of human persons, but rather the “attitude of respect” that we take toward the “humanity” in each person. “That attitude”, he thinks, “follows naturally from regarding everyone from the ‘human point of view’”—that is, to see the world from another person’s point of view, to sense what it might be like to put ourselves in their shoes. But this attitude of respect “is not grounded on anything more ultimate than itself, and it is not demonstrably justifiable.” Feinberg (1973): p. 94.

²⁸ “[Shame] requires self-regard as its essential backdrop. It is only because one expects oneself to have worth or even perfection in some respect that one will shrink from or cover the evidence of one’s nonworth or imperfection.” Nussbaum, M. C. (2004). *Hiding from Humanity: Shame, Disgust and the Law*. Princeton, NJ: Princeton University Press: p. 184.

²⁹ Cf. “[B]ecause certain forms of anger—which can be generated only if the agent holds a hierarchical (and indeed competitive) theory of human worth—are very common, it may be that many of us are only paying lip service to the egalitarian theories of worth which we tend to commend as appropriate foundations for our moral theorizing.” Hampton, J. (1988a). *Forgiveness, Resentment and Hatred*. In J. G. Murphy and J. Hampton, *Forgiveness and Mercy*. New York, NY: Cambridge University Press: p. 49.

³⁰ E.g. “[T]he indignation with which people respond to unfavorable outcomes (e.g. lower than expected salary offers) often reflects the fact that their prestige or status has been threatened more than the fact that their purchasing power has been diminished.” Miller, D. T. (2001). Disrespect and the experience of injustice. *Annual Review of Psychology*, 52, 527-53: p. 530.

3. The Shame Experience

¹ Cf. “Analyses of the ‘passions’ (as the derivation of the word suggests) typically make them out to be entities with respect to which we are passive so that we cannot be held responsible for them.” Hampton (1988a): p. 79.

² Shame can also arise in anticipation of a likely shame-trigger, not merely as a consequence. For obvious reasons, the anticipatory function is more relevant to how we arrive at moral decisions (“What ought I to do in this situation?”), as distinct from how we respond to moral failures (“What ought I to do *now*?”)—the latter being the focus of restorative justice, and therefore this book. Cf. “People can *anticipate* their likely emotional reactions (e.g., guilt vs. pride/self-approval) as they consider behavioral alternatives. Thus, the ‘self-conscious’ moral emotions can exert a strong influence on moral choice and behavior by providing critical feedback regarding both anticipated behavior (feedback in the form of *anticipatory* shame, guilt or pride) and actual behavior (feedback in the form of *consequential* shame, guilt, or pride).” Tangney, Stuewig and Mashe (2007b): p. 22.

³ “[E]motions produce changes in parts of our brain that mobilize us to deal with what has set off the emotion, as well as changes in our autonomic nervous system, which regulates our heart rate, breathing, sweating, and many other bodily changes, preparing us for different actions. Emotions send out signals, changes in our expressions, face, voice, and bodily posture. We don’t choose these changes; they simply happen.” Ekman, P. (2003). *Emotions Revealed: Understanding Faces and Feelings*. Great Britain: Weidenfeld & Nicolson: p. 20.

⁴ “[E]mpirical studies have shown that shame and embarrassment can be communicated via a combination of facial actions, postural changes (e.g. head movements down), and gaze activity. . . . [These] nonverbal display of self-conscious emotions . . . lasted about 5 sec, and their actions occur in a coherent, coordinated pattern, similar to other evolved signals. . . . Furthermore, there is evidence that these displays are universally recognized. In particular, participants from rural India and the United States reliably identified displays of embarrassment and shame from

photographs at above-chance levels.” Beer, J. S. and Keltner, D. (2004). What Is Unique about Self-Conscious Emotions? *Psychological Inquiry*, 15, 2, 126-129: p. 126. Cf. [R]esearchers have failed to identify distinct expressions for any self-conscious emotion. They have, however, found distinct expressions that include bodily posture or head movement combined with facial expression for embarrassment, pride, and shame. . . . Furthermore, recent research conducted among isolated tribal villagers in Burkina Faso suggests that at least two of these expressions—pride and shame—may be universally recognised.” Tracy and Robins (2007): p. 7. This research was published in Tracy, J. L. and Robins, R. W. (2008). The nonverbal expression of pride: Evidence for cross-cultural recognition. *Journal of Personality and Social Psychology*, 94, 3, 516 –530.

⁵ An excess of shame memories can lead to shame-prone personalities, that is, where shame becomes a dominant factor in a person’s life. “Shame-[prone] people suffer from extremely low self-esteem, feelings of worthlessness, and self-hatred. . . . They were often taught that they were worthless or bad by hearing adults say such things to them as ‘You are in my way’, ‘I wish you were never born’, or ‘You’ll never amount to anything’.” Engle (2006): p. 56.

⁶ This reaction becomes more likely when the original shame has not yet been acknowledged and released. “Emotions that go unexpressed often lie dormant inside us until someone or something reminds us of our past and triggers a memory – and the feeling.” Engle (2006): p. 89.

⁷ This is particularly evident in ‘street codes’, where there is often an extraordinary hypersensitivity to discourteous behaviour: e.g. “Where I lived, stepping on someone’s shoe was a capital offense punishable by death. This was not just in a few isolated instances, or as a result of one or two hotheads, but a recognized given for the crime of disrespect.” Shakur, S. (1993). *Monster: The Autobiography of an L.A. Gang Member*. New York, NY: Penguin: p. 102 - quoted in Buss (1999): p. 814. One explanation for this ‘hyper-sensitivity’ is the weight of shame that people in this life-situation often feel, together with the fact that there are so few sources of affirmation and respect available to them. As Buss puts it, “Most adherents of the street code believe that they have been ‘written off’ by the larger society of which they are marginally a part. . . . Under these circumstances, they naturally attribute exaggerated significance to manners: some sort of acknowledgment is better than none.” Buss (1999): p. 816. This is not to suggest that economic deprivation is invariably the cause. As Holmgren notes, “The millionaire who consistently received cruel words from her parents may have a much more difficult adjustment than someone who grew up in the ghetto with loving, nurturing parents.” Holmgren (1993): p. 350.

⁸ Adapted from Nathanson, D. L. (1992). *Shame and Pride*. NY and London: W.W. Norton & Co.: p. 312.

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