

Nature of crime's effect

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Abstract

Nature of crime's effect can be described as "disturbed conscience" or "a sense of guilt for a violation committed". A person feels guilty when he feels responsible for an action. People, in general, consider feelings of guilt to be negative emotions, feelings of embarrassment, guilt and responsibility for the negative circumstances they face. Feelings of guilt are strong when a person feels rightly condemned and deserves punishment. These feelings can make a person feel sick, depressed, and unable to connect with people. In general, it can be said that when a person acts against the moral values of society, this emotional state is called guilt. Individuals feel guilty about recognizing the moral values of a society. So the feeling of guilt is distinguished from the fear of punishment by a factor. Guilt is considered a self-administered punishment. Feelings¹ of guilt, in their normal expression, are feelings of shame in relation to violations of legal obligations or codes of ethics.

Healthy guilt is the feeling a person has when they have actually done something wrong, e.g. has intentionally harmed someone. This is an essential feeling that comes from developing a conscience about the common good. People who have never developed a conscience and feel no guilt or remorse for harming others are called sociopaths. These people do not feel love within themselves and can steal, rape and kill without ever feeling bad about it.

In this paper we will address the question of whether there is a link between guilt and crime and, if so, what its nature is and how guilt affects crime. The paper will be based on a review of the existing literature.

Keywords: Crime's effect, Albania, Penal law.

Introduction

The basis of this paper and the assessment of guilt in criminology² lie in the theory of social learning, generally associated with the American psychologist Bandura, who claims that most human behavior is acquired initially by seeing others, who are called models. Therefore, the explanation for the crime will be found through patterned behavior within families, by peer groups, on television, and so on. Newly learned behavior³ can be reinforced or punished by the consequences it brings. People who observe violent acts not only mimic the observed behavior, but also become generally more violent. There are a number of theories about how social learning affects criminal behavior. One of the theories of social learning⁴ related to criminal behavior is the theory of criminal behavior. This means that human actions take place through learning experiences and intimate relationships. People learn behavior patterns or change

¹ Ahmed E, Braithwaite V. 'What, me ashamed?': Shame management and school bullying. *Journal of Research in Crime and Delinquency*. 2004.

their behavior based on the feedback they receive from relatives. Criminals learn how to become criminals by watching others or by learning how to commit crimes. When we talk about guilt and criminality, we are mainly referring to Braithwaite's Reintegration Theory (RST) or guilt as part of the integration process. Emotions of shame and guilt can represent a fundamental part of the rehabilitation process. Often referred to as "moral" emotions because of their role in promoting altruistic behavior and curbing antisocial behavior, shame and guilt provide important points on which to deal with those convicted of criminal offenses.

The difference between guilt, shame and repentance

Indeed, in addition to these two elements,⁵ it has been observed in the literature that criminological studies address guilt and shame, regardless of the differences between them. Such studies are Grasmick & Bursik, 1990 or Nagin & Paternoster, 1993. Shame is a complex concept, as it implies a degree of self-blame caused by social punishment. Recent theories of crime prevention have focused on extending the concept of the expected usefulness of criminal behavior beyond the consideration of state-imposed sanctions. In particular, these developments have highlighted the role of internalized norms and linking to the most important persons, as potential sources of punishment that should be included in the overall model of prevention. Theories of learning or behavior have made similar distinctions. Traditionally, learning theorists⁶ have believed that human behavior is regulated by its physical determinants (tangible rewards and punishments). However, social learning theory extended the notion of regulatory consequences of behavior to include social determinants (praise and condemnation by others) and self-generated determinants (self-judgments, self-assessment of behavior versus personal standards).

Most psychologists consider repentance to be a major component of guilt. Phenomenological studies underscore the importance of repentance in the concept of guilt. While these are the results⁷ of studies to date, "guilt" can be used as a general term, which also means "repentance." In contrast, the differences between shame and guilt are clear and significant, both theoretically and practically.

One basis for distinguishing between shame and guilt has to do with the types of situations that cause these emotions. Studies done in this area⁸ with children and adults reveal that there are few situations, to say the least, that can be said with certainty to cause shame or guilt. Guilt is seen more closely linked to moral transgressions, and shame can be caused by a wider range of situations, including "moral" and "immoral" failures, but most types of events (e.g., lying, cheating, theft, etc.) are cited by

⁵ Dearing RL, Stuewig J, Tangney JP. On the importance of distinguishing shame from guilt: Relations to problematic alcohol and drug use. *Addictive Behaviors*. 2005.

⁶ Dearing RL, Tangney JP. Introduction. Shame: An Inevitable Challenge in the Therapy Hour. In: Dearing RL, Tangney JP, editors. *Shame in the Therapy Hour*. APA Books; Washington DC: in press.

⁷ de Hooge IE, Breugelmans SM, Zeelenberg M. Not so ugly after all: When shame acts as a commitment device. *Journal of Personality and Social Psychology*. 2008.

⁸ Farmer E, Andrews B. Shameless yet angry: Shame and its relationship to anger in male young offenders and undergraduate controls. *Journal of Forensic Psychiatry and Psychology*. 2009.

some as causes of shame and by others as causes of guilt. In short, the type of event does not make a clear and credible distinction between shame and guilt.

A second basis for distinguishing between shame and guilt emphasizes the public and private nature of the emotionally charged situation. From this point of view⁹, shame is the most “public” emotion that arises from exposure to the disapproval of others, while guilt is the most “private” experience, represented by the killing of conscience that is created within man. It turns out that people feel more exposed, more judged by others when they experience shame than when they experience guilt.

Evidence also favors a third basis for distinguishing between shame and guilt - focusing on oneself versus focusing on behavior. From this perspective¹⁰, shame arises from a negative focus on oneself (on essential identity), whereas guilt arises from a negative focus on a specific behavior. This different emphasis on self or behavior creates the ground for different emotional experiences and different patterns of motivation and behavior in the future. In this context, shame is usually the most painful, destructive emotion, because the object of judgment is the self and not just the behavior. When people feel ashamed of themselves, they feel small, worthless¹¹, and powerless. Embarrassed people also feel exposed. Although often no observational audience is really present, the image is created in the person of how the defective self would look to others.

On the other hand, guilt seems to be less destructive and more adaptive. Although painful, the feeling of guilt is less overwhelming because it is about a specific behavior, somewhat separate from oneself. So people who feel guilty tend to consider their behavior and its consequences¹², so they do not feel compelled to defend themselves. Feelings of remorse and regret are essential to feelings of guilt. When they feel guilty, people are inclined to think about the action they have committed, wishing they had behaved differently.

In summary, shame and guilt refer to negative emotions of consciousness that are related but distinct from each other. Although both are unpleasant¹³, shame is the most painful emotion, which focuses on the self and is associated with hiding or escaping. In contrast, guilt is focused on behavior and is related to correcting its consequences.

Reintegration theory of guilt (RST)

Unlike most criminologists¹⁴, Braithwaite made the distinction between behavior and self. In RST, “disintegration shame” or stigmatization are practices and policies that

⁹ Feiring C, Taska L. The persistence of shame following sexual abuse: A longitudinal look at risk and recovery. *Child Maltreatment*. 2005.

¹⁰ Ferguson TJ, Stegge H. Measuring guilt in children: A rose by any other name still has thorns. In: Bybee J, editor. *Guilt and children*. Academic Press; San Diego, CA: 1998.

¹¹ Gramzow R, Tangney JP. Proneness to shame and the narcissistic personality. *Personality and Social Psychology Bulletin*. 1992.

¹² Grasmick HG, Bursik RJ. Conscience, significant others, and rational choice: Extending the deterrence model. *Law & Society Review*. 1990.

¹³ Grasmick HG, Bursik RJ. Conscience, significant others, and rational choice: Extending the deterrence model. *Law & Society Review*. 1990.

¹⁴ Harder DW, Lewis SJ. The assessment of shame and guilt. In: Butcher JN, Spielberger CD, editors. *Advances in personality assessment*. Vol. 6. Erlbaum; Hillsdale NJ: 1987.

focus on the individual. The person is isolated and humiliated, he is not forgiven and the goal is to punish¹⁵ him, instilling feelings similar to what we would call shame. In contrast, “reintegration shame (blame)” does not focus on the individual, but identifies the crime as irresponsible, wrong or bad action. Behavior¹⁶ is punished, but the person is respected, accepted back into society and given the opportunity to regulate the consequences of the offense. In reintegration shame, the behavior is explicitly detached from the self and the goal is to create in the convict emotions similar to guilt. Both RST and psychological theory question the notion that shame is a deterrent to immoral or illegal behavior. Whether we use the terms “shame and guilt” or “disintegrating shame and reintegration shame (blame)”, there seem to be two different ways to feel bad about failures and transgressions, but one of them has more adaptive abilities.

RST emphasizes¹⁷ the usefulness of reintegration shame, as opposed to dissolution shame. There are not many studies on RST, but most existing studies have been partially in support of the theory. Most studies focus on the results of the practice of reintegrating shame (blame) or dissolving shame on convicts. Such studies usually do not assess whether the individual is really experiencing shame or guilt or whether these emotions have anything to do with subsequent behavior. In a rare full-process study, Murphy and Harris explicitly examined whether shameful practices cause shame and whether this shame led to the commission of further acts. In this study of 652 people who had committed tax-related crimes, Murphy and Harris found clear support for Braithwaite’s conclusion that stigmatizing practices (in this case, perceptions of stigmatizing practices) result in a higher degree of recidivism. However¹⁸, the study failed to distinguish between feelings of disintegrating shame and reintegration shame (blame). In fact, some unexpected results of this study were interpreted to suggest that an affective factor is reflected that reflects remorse and the desire to fix things, which is consistent with psychologists’s concepts of guilt.

Feeling guilty as an element of rehabilitation

Psychological studies in this area have been conducted in community settings - often with university students, but studies with convicts or perpetrators are rare. In this context, two basic questions have been raised:

- First, do shame and guilt behave similarly in the community and in criminal justice entities?
- Second, can studies conducted in community settings involving relatively minor violations be generalized to include the most serious offenses committed by criminal justice system entities?

¹⁵ Balla R, Elezi A, Impact of Legal Incentives on “Credit Fraud” Criminal Offence, *European Journal of Multidisciplinary Studies*, Volume 6, 2021.

¹⁶ Harris N. Reintegrative shaming, shame, and criminal justice. *Journal of Social Issues*. 2006.

¹⁷ Hay C. An exploratory test of Braithwaite’s reintegrative shaming theory. *Journal of Research in Crime and Delinquency*. 2001.

¹⁸ Hosser D, Windzio M, Greve W. Guilt and shame as predictors of recidivism: A longitudinal study with young prisoners. *Criminal Justice and Behavior*. 2008.

Studies¹⁹ have found no evidence that shame and guilt should be treated as different factors when considering the effects of a given event, in a monster of people arrested for drunk driving, many of whom had substance abuse problems . However²⁰, this study should be treated with caution, as it focuses on a unique, homogeneous sample and a single type of criminal offense. It is also possible that experiences of shame and guilt may not be well differentiated between individuals with substance abuse problems or, on the other hand, guilt and its empathetic focus on the injured person may be less relevant to acts such as driving while intoxicated, which usually has no casualties. Because of these issues, the generalization of these findings is unclear. Only a handful of studies have attempted to distinguish and examine shame and guilt in convicted persons.

Xuereb, Ireland and Davies created measures to shame, blame and deny convicted respondents. An initial version of the unit of measurement was piloted with a sample of 339 convicts in an English medium security prison. Confirmatory factor analyzes failed to provide specific evidence for shame, guilt²¹, and denial as three distinct factors, possibly due to large differences in all other variables. For example, it is not clear how certain consistent factors (e.g., "I have been told I respect other people's opinions") relate to any of our key concepts (shame, guilt, and denial). Similarly, "feeling angry" as a response to thinking about crime is a conceptually different feeling from shame and guilt. Likewise, "feeling anxious" is not an indication of shame or guilt, as anxiety is conceptually different from these emotions.

After determining that the three-factor model was not appropriate, the authors performed separate analyzes for 27 stable / immutable factors and for 50 crime-related factors. The first analysis revealed three factors that the authors labeled as chronic anxiety and low self- esteem , chronic self-blame, capacity, and emotional respect. The crime-related analysis revealed 5 factors, which were labeled by the authors²² as responsibility and self-blame, concern and rejection, lack of negative emotion, harm minimization, and denial functions. Some of the factors²³ had particularly low internal consistency. Given the nature of the study, it is again unclear whether the factor structure would be repeated in an independent sample. According to Xuereb, Ireland and Davies, the main finding was the lack of support for the shame-guilt distinction. However²⁴, as noted by the authors, it is not clear how many of the factor-generating experts were familiar with the actual differences between shame and guilt, as two-thirds of them had listed works on shame, guilt, denial, and / or criminals.

In contrast, Wright and Gudjonsson presented support for the distinction between

¹⁹ Lindsay-Hartz J. Contrasting experiences of shame and guilt. *American Behavioral Scientist*. 1984.

²⁰ Makkai T, Braithwaite J. The dialectics of corporate deterrence. *Journal of Research in Crime and Delinquency*. 1994.

²¹ Balla R., *Criminal Proceedings Law Improvements for Justice Witnesses in Albania*. *European Journal of Interdisciplinary Studies* May - August 2020, Volume 6, Issue 2.

²² Wright K, Gudjonsson GH, Young S. An investigation of the relationship between anger and offence-related shame and guilt. *Psychology, Crime & Law*. 2008.

²³ Murphy K, Harris N. Shaming, shame and recidivism: A test of reintegrative shaming theory in the white-collar crime context. *British Journal of Criminology*. 2007.

²⁴ Prelog AJ, Unnithan NP, Loeffler CH, Pogrebin MR. Building a shame-based typology to guide treatment for offenders. *Journal of Offender Rehabilitation*. 2009.

shame and guilt in a study of 60 male authors of panel works, detained in a forensic psychiatric unit in England. A new unit of measurement of shame and guilt associated with the offense was compared to several existing units. An analysis of the degree of shame and guilt factors associated with the offense revealed distinct factors of shame and guilt, which converged as expected with the TOSCA-3 degree of shame and guilt²⁵. No measure of criminal²⁶ behavior or crime-related constructions was included in the study, so it is not clear how these findings relate to actual behavior. In a subsequent article, Wright, Gudjonsson, and Young reported that the shame associated with the offense was related to the difficulties caused by anger, while the guilt associated with the offense was related to the ability to control anger. Using the internal scale of shame in a sample of 50 adult authors, Morrison and Gilbert found that shame was associated with psychopathy, particularly secondary psychopathy, aggression, and other antisocial personality traits. In contrast, in a study of 60 college students and 56 young convicts (18-20 years old), Farmer and Andreas²⁷ found a link between shame and anger in students, but not in convicts. In addition, convicts were less likely to feel ashamed than their university counterparts.

Three studies of incarcerated individuals (two with adolescents and one with adults) examined the extent to which shame and guilt are associated with criminal behavior before or after incarceration. Robinson, Roberts, Strayer and Koopman compared a group of 64 incarcerated male adolescents with a sample of 60 high school male students. The tendency to be ashamed and guilty has very little difference between groups. However²⁸, the two groups did not differ much in terms of antisocial behavior either, as adolescents from the community sample were involved in antisocial behavior to a fairly high degree. When the two samples were combined, the tendency to shame was largely²⁹ unrelated to self-reported antisocial attitudes and behaviors, but in some cases was positively associated with aggression and anger. In contrast, the propensity for guilt was consistently and negatively associated with antisocial attitudes and behaviors.

Hosser, Windzio and Greve reported impressive results from a German champion of 1243 incarcerated teenagers and young adults (ages 14-24). In this large sample of young perpetrators, assessments of shame and guilt committed within four weeks of incarceration showed that:

- 70% reported feeling at least some guilt about their work;
- 40% reported at least some shame associated with the offense.

Surprisingly, these measures of shame and guilt predicted recidivism after release over a period of 6 years or more. Specifically, shame assessments at the beginning of

²⁵ Self-Awareness Impact Test for Social Deviants.

²⁶ Balla R., *Combating Money Laundering and Terrorist Financing in Albania. Amendments to the Legislation on AML/CTF. SEE | EU Cluster of Excellence in European and International Law (Ed.)*. Saarland Germany December 2018.

²⁷ Quinsey VL, Harris GT, Rice ME, Cormier CA. *Violent offenders: Appraising and managing risk*. American Psychological Association; Washington, DC: 1998.

²⁸ Robinson R, Roberts WL, Strayer J, Koopman R. *Empathy and emotional responsiveness in delinquent and non-delinquent adolescents*. Social Development. 2007.

²⁹ Sabini J, Silver M. *In defense of shame: Shame in the context of guilt and embarrassment*. Journal for the Theory of Social Behavior. 1997.

imprisonment predicted higher recidivism rates, while guilt assessments predicted lower recidivism. These findings³⁰ did not change even when checked for a host of variables, such as age, intelligence, substance use history, and parental criminal records.

Finally, Tangney, Stuewig, Hastings, and Mashek examined the simultaneous relationships and background of propensity³¹ for shame and propensity for guilt in a sample of 550 (379 males and 171 females) adult prisoners charged with crimes. Taken together, the findings supported the reliability and validity of TOSCA-3 as a measure of inmates' propensity for shame and guilt and expanded the empirical literature in several respects.

First, the results showed a substantial change in the authors' tendency to experience shame and guilt. Most authors do not lack the ability for moral emotions, as some may believe. Second³², shame and guilt seem to perform similar functions to perpetrators and community representatives. For example, as in community samples, the propensity³³ for shame of prisoners was associated with psychological symptoms, problems with alcohol and drugs, and a tendency to shirk responsibility and blame others. Prisoners' guilt tendency was positively associated with sensitivity to others, but was negatively associated with guilt externalization³⁴, compared to persons who are less prone to guilt. As in community samples, guilt among inmates seems to be the moral emotion that fits best, while shame carries a heavy cost.

Third, this study examined the association of these emotional moral reactions with psychological and behavioral factors, which are already recognized as important in crime prediction. In short, the propensity for guilt emerged as a protective factor, while the propensity for shame appears to be a risk factor for relevant criminal characteristics and behaviors. For example, self-control was positively associated with inmates' tendency to experience guilt and negatively correlated with inmates' propensity for shame. The tendency³⁵ to guilt was also negatively related to the criminogenic elements, the severity of the current charges, previous prison experience, previous convictions for crimes, detention, etc. On the contrary, the tendency towards shame of prisoners had nothing to do with the severity of the current charges, previous experience in prison, etc.

Conclusions on the impact of guilt on crime

In summary, the findings of the above studies converge with each other, showing that

³⁰ Scheff T, Retzinger S. *Emotion and violence: Shame / rage spirals in interminable conflicts*. Lexington Books; Lexington: 1991.

³¹ Stuewig J, Tangney JP. Shame and guilt in antisocial and risky behaviors. In: Tracy JL, Robins RW, Tangney JP, editors. *The self-conscious emotions: Theory and research*. Guilford Press; New York: 2007.

³² Tangney JP, Dearing R. *Shame and Guilt*. Guilford; New York: 2002.

³³ Tibbetts SG. Shame and rational choice in offending decisions. *Criminal Justice & Behavior*. 1997.

³⁴ Wolf ST, Cohen TR, Panter AT, Insko CA. Shame proneness and guilt proneness: Toward the further understanding of reactions to public and private transgressions. *Self and Identity*. 2010.

³⁵ Xuereb S, Ireland JL, Davies M. Development and preliminary assessment of a measure of shame, guilt, and denial of offenders. *Journal of Forensic Psychiatry & Psychology*. 2009.

the tendency to experience guilt for specific behaviors is a protective factor against the severity of the crime, involvement in the criminal justice system, and known predictors of recidivism. In contrast, there is little evidence that the tendency to experience shame serves a restraining function. On the contrary, it is positively related to a number of psychological problems, a number of risk factors for criminal recidivism and recidivism itself.

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