

EDITORIAL

Understanding emotions in restorative justice: transcending myths and scepticism

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The global movement of restorative justice can be seen as part of a larger recognition of the profoundly emotional nature of law and justice, in particular criminal law that took hold in the 1990s. The title of John Braithwaite's book *Crime, shame and reintegration* (1989) was a signal and wake-up call that questioned the established juxtaposition of reason and emotion engrained in legal procedures and principles. From the start restorative justice practices were seen as a most welcome and necessary contrast to criminal justice practices in courts, where reason reigned unrestrained and emotions were ignored and suppressed, affecting particularly victims of crime. From its beginnings restorative justice thus represented a more rounded and humane, but also more human, face of justice. It was seen, then, as a way to 'bring emotions in' to criminal justice practices.

Over the past decades restorative justice practices have brought more sensitivity to the undeniable presence, power and impact of emotions in crime and criminal justice. Simultaneously, the message was spread to and received in the realm of (criminal) law proper, opening up new perspectives on legal procedure and the salience of emotion in legal spaces (Bandes, 2000; Karstedt, Loader & Strang, 2011). In courts where emotions seem to be constrained by the 'rational sphere' created, their presence can hardly be denied (Bergman Blix & Wettergren, 2016). Emotions are even more forcefully present in the quasi-legal spaces of mediation and reconciliation. In transitional justice in post-conflict societies, emotions have been assigned an important role in the process of restoring peace and justice (Karstedt, 2016).

Rather than confronting criminal and restorative justice and drawing sharp lines between them, some researchers and proponents of restorative justice have moved towards making criminal justice 'emotionally intelligent' (Sherman, 2003), suggesting ways the unique interplay of emotions present in restorative justice practices can go 'mainstream' (Rossner, 2017). Thus, a vibrant community of research on law and emotions has emerged that probes into the role and mechanisms of emotions in a range of legal spaces (see Bandes, et al., forthcoming; Patulny et al., 2018). With emotions as a focal point for research on restorative

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justice, this field has become increasingly interdisciplinary, spanning sociology and psychology, philosophy and linguistics. Restorative justice scholarship has thus transformed into a test bed for wide-ranging explorations of emotions that are elicited where justice is sought and injustice addressed. As such, theorising and research on restorative justice has transcended the limitations of a narrow framework of criminal justice research and widened its horizon considerably.

At the same time, foundational ideas about the role of emotions in restorative justice practices and the underpinning transformative mechanisms have been increasingly scrutinised, not the least through a growing body of empirical research. When restorative justice practices were uniquely representing the ‘emotional’ (and, implicitly, ‘better’) side of criminal justice, there initially was little questioning of the actual impact of emotions on victims and offenders, or the emotion mechanisms through which restoration could be achieved. It was taken as a given that emotions take centre stage in restorative justice procedures: shame, guilt, remorse, revenge and forgiveness are all invoked, and those who participate in various capacities will express, listen and respond to them. Accordingly, the expectations for restorative justice were seemingly unlimited, and the evocation and expression of emotions was deemed a driving factor in achieving such results. Where such results failed to materialise, a potentially counterproductive effect of emotions, or their sheer absence, was rarely taken into consideration.

The initially unquestioned position of emotions has meanwhile given way to a more critical probing and sober evaluation of the presence, role, dynamics and impact of emotions in the restorative justice setting itself. It turns out that the dramatic expression of emotions is somewhat rare in restorative justice conferences, making them sometimes look more like traditional procedures, even if with more voice and standing for both victims and offenders. In particular the ‘magic’ core sequence of apology, remorse and forgiveness emerges only in a minority of conferences. Moreover, there is an imbalance between the expression of apologies (commonly) and forgiveness (rarely), as well as discrepancies in the perception of authenticity and sincerity of apologies (see Rossner in this issue for an overview). The sharing of emotions seems to be difficult for both victims and offenders (see Bruce and Bolitho and Van Stokkom in this issue; also Karstedt, 2016), and as Meredith Rossner points out in her contribution, anger is often a decisive emotion in such encounters.

An understanding of these self-conscious emotions – including shame, guilt, remorse and anger – in the context of shared and collective emotions is slowly advancing alongside a more sceptical perspective on their transformative power. Already in 2002, Braithwaite (2002) suggested that ‘emotional restoration’ was an aspiration rather than a requirement of successful restorative justice practices. More recently, he has called for a broadening of how we conceive of forgiveness in restorative justice, arguing for ‘thin civility’ in relations between victims and offenders (Braithwaite, 2016: 80, see also Chapman & Chapman, 2016). Contemporary theorising and research on restorative justice seeks to explore how emotions (experienced by the individual and the collective) unfold in legal (or quasi-

legal) spaces, in order to identify the underlying dynamics and extent of their transformative impact.

The five contributions to this special issue span the range between widening the horizon and in-depth understanding of emotions in restorative justice settings. The authors not only illuminate tensions and scepticism, but also the chances of further development in the field. Their contributions testify to a widening and simultaneously focused engagement with the problem of emotions in restorative justice, and to efforts of overcoming scepticism as well as unfounded hopes in order to achieve a realistic picture of transformative emotion dynamics. In this way, they combine radical criticism of restorative justice with identifying promising roads into the future. Meredith Rossner sets the scene with an overview of the achievements of restorative justice and key critical concerns. In a political moment where restorative justice practices are increasingly 'mainstreamed' into broader criminal justice practice, she asks us to consider the unique elements of the restorative justice emotional dynamic: the staging of the encounter as a particular form of justice ritual, the way anger and other strongly felt and expressed emotions focus the ritual, and the peculiar dynamics of the apology-forgiveness exchange. Ultimately, she argues that an understanding of these emotional dynamics in restorative justice can provide a framework for rethinking how criminal justice institutions operate.

Two articles – by Jasmine Bruce and Jane Bolitho and Tamera Jenkins – take us to the micro level of sharing and understanding emotions in restorative justice settings, offering in-depth and new insights. Jasmine Bruce and Jane Bolitho's research covers the trajectory of emotions between crime incidence to restorative justice conference and through to the longer-term (emotional) impacts. It is based on interviews with victims and offenders who participated in post-sentencing conferences after serious crimes. The authors demonstrate the different emotional journeys for victims and offenders of serious violence, and thus provide a welcome empirical exploration into the questions raised by Bas van Stokkom and Antony Pemberton. Victims as well as offenders experienced the actual conference as fearful and distressing but felt relief afterwards. Importantly, victims regulated and restrained the display of emotions thus adhering to an unwritten 'emotional regime' (Van Stokkom). The authors challenge common wisdom about a necessary presence of emotions in restorative justice. They think of restorative justice as an 'avenue to new meaning rather than emotional transformation per se'.

Tamera Jenkins provides insights into offenders' perceptions of forgiveness with surprising results. She reminds us of the well-documented overlap between offending and prior victimisation, and the offenders that she interviews conceive of forgiveness as both something that they can offer (to those who have wronged them in their past) as well as receive (from their victims). In this process they develop cognitive rather than affective empathy with those who harmed them. For most of them, forgiving is not forgetting, and they see forgetting as harmful rather than beneficial. Giving and receiving forgiveness are as closely related in one individual as they are in the conference setting.

The contributions by Bas van Stokkom and Antony Pemberton situate our understanding of emotions in wider philosophical and theoretical frameworks. Both authors ask questions around those emotional experiences that victims and offenders bring to restorative justice procedures (and might take away) thus grounding the empirical research by Bruce and Bolitho. Van Stokkom starts with a critical exploration into the absence of visible and expressed emotions or ‘passion plays’ in restorative justice, citing evidence on young offenders, and their difficulties of expressing and displaying emotions. He analyses the ‘emotional regime’ of restorative justice as a straightjacket with little space for genuine emotional expression. He argues for reducing rather than maximising emotions in favour of ‘re-storying’ the initial conflict and cognitive reactions and articulation of distressing events, drawing on social psychology and the sociology of emotions. He calls for transforming the subterranean emotional regime of restorative justice and a better understanding of the necessary balance between affective and cognitive interactions in restorative justice conferences.

Antony Pemberton redirects the traditional role of shame in restorative justice from offender to victim and draws attention to the shame of victims. Shame then becomes bidirectional and includes both ‘what I have done’ and ‘what I am.’ The focus in restorative justice on shaming the act foregoes the needs of victims’ sense of self and identity and can result in amplifying injustice rather than providing justice. This fresh perspective is a potential game changer for restorative justice and can reshape our understanding of the experiences of both victims and offenders. In a subtle way, Pemberton offers a philosophical framework for a thorough understanding of Tamera Jenkins’ results. Offenders experience forgiveness as both receivers and givers, and they might similarly experience shame both as victim and offender. These are important insights for the development of theory as well as practice of restorative justice.

Four of the five contributions – by Meredith Rossner, Tamera Jenkins, Bas van Stokkom and Antony Pemberton – were first presented at a workshop at the International Institute of the Sociology of Law, in Oñati, Spain, in May 2018. The workshop on ‘Sharing and regulating emotions in legal spaces: mediation, restoration, and reconciliation’ was organised by Susanne Karstedt, Bernard Rimé and Darío Páez.

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