

Reintegrating Braithwaite: Shame and Consensus in Criminological Theory

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JOHN BRAITHWAITE, *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press, 1989. Pp. ii+226. \$42.50 cloth; \$14.95 paper.

Crime, Shame and Reintegration presents a general theory of criminal behavior and social control based on a novel conception of shaming. Although it is steeped in classic criminological theory, Braithwaite's treatment of crime, law, and justice has a bracing freshness. The author's broad strokes paint an enormous area—an integrated general theory of crime—in remarkably short order. Braithwaite's optimism, his adroit application of well-established theories and concepts, and his abiding concern for the good have drawn deserved praise from many quarters.¹

As a student growing restless with the classics, I found Braithwaite's creative affirmation of learning, labeling, opportunity, and bonding theories to be inspiring. As one unconvinced by previous attempts to combine or "integrate" these theories, I was struck by his ability to meaningfully assemble each of them around a single unifying concept.² Yet this unifying vision at the model's core, the provocative concept of reintegrative sham-

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1. See, e.g., Thomas J. Scheff, "Review Essay: A New Durkheim," 96 *Am. J. Soc.* 741 (1990).

2. For a diversity of views on integrated theory, see Steven Messner, Marvin Krohn, & Allen Liska, eds., *Theoretical Integration in the Study of Deviance and Crime: Problems and Prospects* (Albany: State University of New York Press, 1989) ("Messner et al., *Theoretical Integration*").

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ing, rests on an uneasy alliance of opposing views of the social world. In judging the creative compromise that Braithwaite engineers, readers are led to reexamine the foundations of modern criminology.

After unpacking and examining the core concepts in several prior explanations, Braithwaite offers "reintegrative shaming" as a connecting link to unify them. Shaming refers to "all social processes of expressing disapproval which have the intention or effect of invoking remorse in the person being shamed and/or condemnation by others who become aware of the shaming" (at 100). Although most theories of crime acknowledge the causal efficacy of informal social control more generally, Braithwaite specifically attends to shaming and its moralizing content.

In brief, deviance engenders a range of shaming responses. If the response retains the bonds between the shamer and the rule violator, the shaming is said to be reintegrative. If the response assigns the violator an enduring deviant status, the shaming is said to be stigmatizing. Thus, reintegration pulls offenders back into the conforming group, while stigmatization pushes them out toward subcultures that amplify deviance. Braithwaite hypothesizes a causal sequence that draws on social control theories for the initial bonds, labeling theories for the stigmatization, and opportunity theories for the subcultures in this process.

Serious analyses of Braithwaite's work have been complicated by several factors. First, a fair critique of *Crime, Shame and Reintegration* requires reference to both previous and more recent works. As Braithwaite's ideas are rapidly evolving and expanding into new areas, the critic is always in danger of reviewing last year's model. Second, Braithwaite himself makes extremely modest claims for the volume: he views the theory as synthetic rather than as innovative. For this reason, one can scarcely analyze reintegrative shaming without dragging Hirschi, Lemert and Sutherland into the fray. Finally, he so eloquently opposes the "theoretical nihilism" destroying new theory in contemporary criminology that one wishes to give Braithwaite's ideas ample room to develop.³

Crime, Shame and Reintegration offers a compelling reconstruction of prior theory that merits serious scholarly attention. But what are we to do with the book? In light of its considerable breadth, scholars will undoubtedly benefit from the theory of reintegrative shaming without embracing it *in toto*. My purpose is to locate Braithwaite's text within existing streams of criminological theory and research, to highlight its strengths and shortcomings, and to evaluate its potential utility.

By uniting diverse perspectives around the concept of reintegrative shaming, Braithwaite appears to have quelled 20 years of acrimonious criminological debate; and he has made it look so easy! To assess this ac-

3. John Braithwaite, in J. Laufer & F. Adler, eds., *2 Advances in Criminological Theory* 164 (New Brunswick, N.J.: Transaction Publishers, 1990).

accomplishment, I first offer a brief summary of the theory and its origins. I then raise some specific questions regarding the conflicting assumptions of its component parts, its very broad conceptualization of shaming, the interactive nature of the shaming process, and the moralizing content of reintegrative shaming. Since Braithwaite anticipates his critics well, he commits few sins of omission. Thus, I argue for shifts in emphasis rather than wholesale rejection of any portion of the theory. The essay concludes with a brief discussion of the model of justice implied by Braithwaite's reintegrative theory and some suggestions for its further development.

A THEORY OF REINTEGRATIVE SHAMING

Crime, Shame and Reintegration is a concise, accessible and persuasive work. Braithwaite's text offers a systematic treatment of conceptual issues, an even-handed and thorough review of existing knowledge, and an original contribution to theory. In these respects, it resembles Travis Hirschi's influential *Causes of Delinquency*.⁴ Unfortunately, Braithwaite lacks the hammer of original empirical evidence that Hirschi brought down on rival hypotheses. This poses a recurring problem, as the author lacks direct tests of his specific propositions. Instead, following Sutherland, he builds his case around prior research and a checklist of 13 brute facts of criminology: the observed associations that a theory of criminal behavior ought to explain.⁵

Braithwaite lists 12 familiar correlates of crime: gender, age, marital status, urbanization, residential mobility, school attachment, aspirations, school performance, parental attachment, criminal friends, moral beliefs, and social class. The 13th item concerns the apparent exception of Japan to the upward international trend in postwar crime rates.

Braithwaite argues that each of the classic criminological theories explains a finite subset of these correlates. Subcultural and opportunity theories best explain the association between class and crime; control theories best explain the association between parental attachment and crime; learning theories best explain the association between delinquent friends and crime. Just as the reader tires of this familiar recapitulation, Braithwaite engineers a simple yet pathbreaking innovation: he shunts the "colliding locomotives of criminological theory" by dividing the societal reaction to deviance into reintegrative and stigmatizing processes (at 107). By partitioning shaming in this way, Braithwaite pulls taut the thread winding

4. Travis Hirschi, *Causes of Delinquency* (Berkeley: University of California Press, 1969) ("Hirschi, *Causes of Delinquency*").

5. See Edwin H. Sutherland, "Development of the Theory," in Karl Schuessler, ed., *Edwin H. Sutherland on Analyzing Crime* (Chicago: University of Chicago Press, 1973) ("Schuessler, *Sutherland*").

through these theories and snaps each of them into place in an integrated general model.

Because they were developed in opposition to one another, such theories often bear conflicting assumptions and operate at different levels of explanation.⁶ Thus, criminologists have long distrusted attempts to combine concepts from each of these perspectives in the name of theoretical integration. By analogy, the Crips and the Bloods may lay down their arms to produce a music video, but the gangs are in such fundamental opposition to each other that the cease-fire seems doomed by the weight of history if not the force of logic. Braithwaite believes that the differences between criminological theories are more historical than logical and that they may be overcome by carefully restricting the phenomena to be explained.

An adaptation of Braithwaite's integrated model is shown in figure 1.⁷ In the upper left of the diagram, interdependency refers to the extent to which individuals are entwined in networks of reciprocal social obligation. Those who are employed, married, and female, for example, are more likely to have stronger ties to others, are more subject to reintegrative shaming, and are therefore less likely to commit crime.

Braithwaite conceptualizes communitarianism as the societal-level counterpart to interdependency. In more communitarian cultures, group loyalties and mutual trust eclipse individual interests so that shaming will be more effective in controlling crime. Inequality and blocked opportunities also work at the societal level to foster the formation of criminal subcultures in critical fractions of the population. These subcultures, in turn, provide illegitimate opportunity structures that transmit criminal knowledge and social support.

Braithwaite's conceptualization of his dependent variable, crime, is at once ambitiously broad and curiously restrictive. Crime is broadly defined in that the theory of reintegrative shaming encompasses corporate and organizational violations as well as the customary range of delinquent and adult criminal offenses. In a rich chapter on white-collar crime, Braithwaite draws on his earlier empirical applications for vivid examples of his theory in action. For the crimes of funeral directors, for example, mug shots in a publication such as *Funeral Director's Gazette* may be an effective means of shaming (at 151).⁸ For both individuals and organizations, such informal

6. Travis Hirschi, "Separate and Unequal Is Better," 16 *J. Res. Crime & Delinq.* 38 (1979).

7. While such schematics may not capture all of the nuances of a complex theory, they force explicit specification of the concrete indicators and causal paths hypothesized by the theory. For this reason, the diagrams are a useful heuristic device for introducing the theory of reintegrative shaming.

8. See, e.g., John Braithwaite, *Inequality, Crime and Public Policy* (London: Routledge & Kegan Paul, 1979) ("Braithwaite, *Inequality*"); *id.*, *Prisons, Education, and Work: Toward a National Employment Strategy for Prisoners* (Queensland: University of Queensland Press,

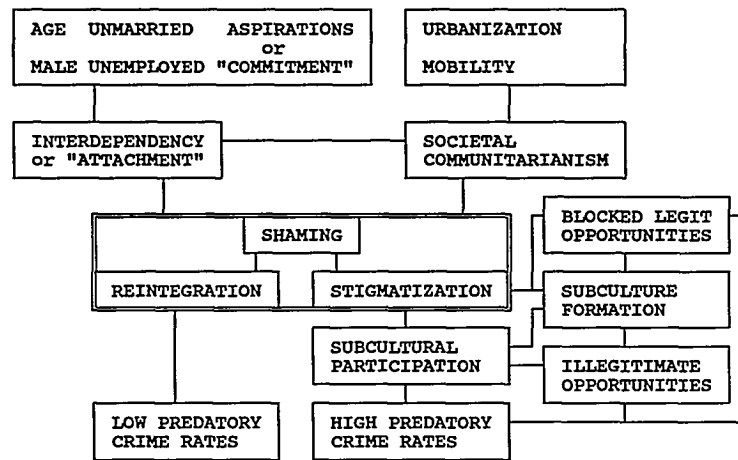


FIGURE 1
Braithwaite's schematic summary of the theory

social controls are said to account for the voluntary compliance of the majority. By encompassing white-collar violations without distorting his theory beyond recognition, Braithwaite works to reestablish "crime" as a unitary social phenomenon amenable to general theorizing.

This unifying scope is undermined, however, by the self-conscious limitation of the theory to "predatory crimes," or violations of criminal laws that prohibit individuals from victimizing one another (shown at the bottom of fig. 1). By confining reintegrative shaming to the "established accumulation of predatory crimes" (at 38), Braithwaite need not conduct a fine-grained analysis of individual or group variation in attitudes toward criminal behavior.

Although moralizing shaming is a powerful agent of informal social control, its efficacy is necessarily a function of the degree of societal consensus opposing the behavior to be shamed. As community dissensus increases regarding the criminality of a particular behavior, the power of shaming is correspondingly diminished. A society can hardly shame a marijuana user, for example, unless the bulk of its members oppose the use of marijuana. Therefore, Braithwaite must restrict the theory to encompass only predatory violations of law on the books, since only these acts clearly oppose majoritarian morality.

1980); *id.*, *Corporate Crime in the Pharmaceutical Industry* (London: Routledge & Kegan Paul, 1984); *id.*, *To Punish or Persuade: Enforcement of Coal Mine Safety* (Albany: State University of New York Press, 1985).

ORIGINS OF THE THEORY

Before opening the double-lined box of the shaming process, I follow Braithwaite in tracing the roots of the theory. Figure 2 recasts the model to highlight its origins in various lines of 20th-century criminological thought. Although each of the constituent theories draws on some combination of social background factors loosely tied to social connectedness, Travis Hirschi's conception of the social bond is the clearest progenitor of Braithwaite's notion of interdependency.⁹ Moreover, Hirschi's central thesis—that deviance results when one's bond to society is weak or broken—is a core assumption in *Crime, Shame and Reintegration*. At the individual as well as the societal level of analysis, the strength of the social bond determines the potential efficacy of shaming.

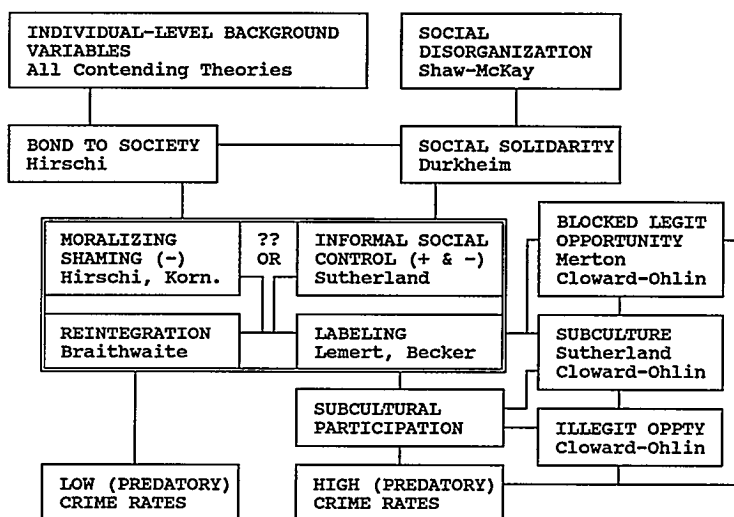


FIGURE 2
The origins of the theory

Braithwaite also retains the control theory assumption of a single unified moral order that is embodied in the criminal code. This consensus assumption drives a wedge between the control and the subcultural components of the theory.¹⁰ From a control perspective, it is reasonable to speak of socialization or reintegration into *the* moral order. The "criminal

9. In *Causes of Delinquency*, Hirschi viewed delinquency as the result of a weakened bond to school, family, and other social units. This bond varies along dimensions of attachment, commitment, involvement, and belief.

10. See Ruth R. Kornhauser, *Social Sources of Delinquency: An Appraisal of Analytic Models* (Chicago: University of Chicago Press, 1978) ("Kornhauser, *Social Sources*"), for a comprehensive examination of consensus and other underlying assumptions in prominent criminological theories.

law in the books" is thus reified as a crystallization of this common core of value agreement (at 41).

By this view, the motivation to commit crime is assumed to be constant across individuals, although it is staved off for most by attachment to others, commitment to conventional lines of action, and belief in the rules of society. Since criminal volition is not in question, criminal subcultures are superfluous "pseudocultures" that cannot compel behavior. Thus, for control theory, procriminal beliefs and associates are ineffectual in causing crime.

Alternatively, writers in the differential association, opportunity, and labeling traditions predict variation in the relative strength of both conforming *and* deviant motives, beliefs, and justifications.¹¹ Both the creation and the application of statutory law are here seen as arising from culture conflict rather than normative consensus. Although a very loose anticrime consensus may exist in the abstract, these theories predict disagreement over precisely what should be outlawed (the law on the books) and the specific circumstances under which the criminal law should be invoked (the law in action).

Braithwaite clearly recognizes the tension in fusing the two traditions (at 43). Nevertheless, to get to the business of practical theory construction, he strikes an uneasy compromise. He fuses these conflicting views of the social world by assuming an *incomplete* consensus, one that holds for predatory crimes and predatory crimes alone. If reintegrative shaming prevents crime, he must have consensus to empower the shamers. If stigmatization causes crime, he must have cultural diversity to create subcultures and subcultures to insulate the offender from shame. Although he acknowledges such obstacles to theoretical integration, Braithwaite underestimates the wide-ranging implications of the consensus assumption.

If the degree of consensus opposing a crime is allowed to vary with the type of act and its situational context, then the explanatory power of majoritarian moralizing shaming must covary with it.¹² Further, if deviant subcultures are granted the power to shame members *into* crime, the theory becomes one of "differential shaming," straying from the core assumptions of control theory toward Sutherland's conception of differential association (at 127). In figure 2, the unidirectionality of moralizing shaming from the control perspective of Hirschi and Kornhauser is denoted by a negative sign. Within Sutherland's differential association theory, informal social control may be organized to either induce or inhibit criminal behavior, as indicated by both positive and negative signs.

11. On this point, see Ross L. Matsueda, "The Current State of Differential Association Theory," 34 *Crime & Delinq.* 277 (1988).

12. In an author-meets-critics panel discussion of *Crime, Shame and Reintegration*, Albert K. Cohen suggested that Braithwaite treat consensus as a variable (annual meetings of American Society of Criminology, San Francisco, 22 Nov. 1991).

In addition to social control and differential association theories, the social disorganization tradition of Shaw and McKay is also represented in Figure 2. In the upper-right corner, indicators of urbanization and mobility recall this ecological line of research.¹³ One of the longstanding problems in testing disorganization theory has been the use of empirical measures of ecological dynamics to operationalize an area's capacity for self-regulation.¹⁴ Recent refinements in both conception and measurement, such as Krohn's network density approach and the work of Bursik, Sampson, and their colleagues, have narrowed this gap.¹⁵ In deference to practical problems of measurement at the community level, Braithwaite has little faith in these advances in quantitative criminology. Instead, he proposes assessing communitarianism through ethnographic methods. If it is truly community-level interdependence that undergirds Braithwaite's theory, however, the disorganization perspective would seem to merit greater attention than it receives in *Crime, Shame and Reintegration*.

Braithwaite's conception of communitarian societies—those in which individuals are deeply enmeshed in interdependencies—appears to have risen from Durkheim's notion of social solidarity.¹⁶ For Durkheim, of course, modern organic solidarity arises from functional ties among specialized economic roles. The division of labor casts the relations among positions in the social structure, even though specific moral prohibitions derive from a uniform common culture. Although structures such as labor markets and the organization of production are implicit in his model, Braithwaite conceives of communitarianism as a more narrowly cultural characteristic. The low crime rates in modern Japan, for example, stem from cultural traditions of shaming and apology rather than, say, a national full-employment policy.¹⁷

13. Clifford Shaw & Henry McKay, *Juvenile Delinquency and Urban Areas* (Chicago: University of Chicago Press, 1942).

14. Robert Bursik, "Social Disorganization & Theories of Crime and Delinquency," 26 *Criminology* 519 (1988).

15. See, e.g., Robert J. Sampson, "Communities and Crime," in M. Gottfredson & T. Hirschi, eds., *Positive Criminology* (Beverly Hills, Cal.: Sage Publications, 1987); Marvin Krohn, "The Web of Conformity: A Network Approach to the Explanation of Delinquent Behavior," 33 *Soc. Probs.* 81 (1986); and more recently, R. Sampson & B. Groves, "Community Structure and Crime: Testing Social Disorganization Theory," 94 *Am. J. Soc.* 774 (1989). Since the publication of *Crime, Shame and Reintegration*, advances in hierarchical linear modeling (HLM) have fostered the specification of community factors in crime and delinquency research. For an application to criminology, see Robert J. Bursik, Jr., "Methods of Studying Community Change in the Rate and Pattern of Crime" (presented at annual meetings of American Society of Criminology, New Orleans, 1992). For a more general treatment of HLM, see Anthony Bryk & Stephen Raudenbush, *Hierarchical Linear Models: Applications and Data Analysis Methods* (Newbury Park, Cal.: Sage Publications, 1992).

16. Emile Durkheim, *The Division of Labor in Society*, trans. W. D. Hall ([1893]; New York: Free Press, 1984).

17. For the latter view, see Elliott Currie, *Confronting Crime: An American Challenge* 46 (New York: Pantheon, 1985).

Braithwaite relies far too heavily on the Japanese case for evidence that communitarian and interdependent cultures reduce aggregate criminal activity (at 105). In a homogeneous society such as Japan, an island nation sharing a normative consensus opposing crime, he argues that informal shaming processes are the principal cause of low crime rates. Although his interpretation may be consistent with Japanese data, Braithwaite cannot rule out alternative hypotheses. For example, Japan has a higher rate of juvenile offenses among total offenses than the United States, but rates drop dramatically in the late teens.¹⁸ Perhaps, quite apart from Japanese culture, a more rationalized school-to-work transition facilitates the integration of young adults into the social and economic structure.¹⁹ Although Braithwaite expertly details problems of moral integration into the community of conformists, he has less to say in this volume about integration into the economic structure of society.

To better relate individual behavior to social structure, Braithwaite appends a block of subcultural opportunity concepts to the theory, as shown in the lower-right corners of figures 1 and 2.²⁰ In a longstanding empirical debate, Braithwaite has maintained that the association between social class and crime is strong and persistently negative.²¹ To explain this class distribution, he implements Cloward and Ohlin's opportunity model. Opportunity theory is itself an "integrated" model, fusing concepts from Merton's structural anomie theory with the differential association tradition of Sutherland.²² Although Braithwaite discusses opportunity and crime at greater length in other works, this is unfortunately the least developed area of *Crime, Shame and Reintegration*.²³ Braithwaite thus uses opportunity theory to bring individuals into subcultures but has not yet detailed the relations between reintegrative shaming and socially structured ine-

18. Research & Training Institute, Ministry of Justice, ed., *Summary of the White Paper on Crime* 56 (Tokyo: Government of Japan, 1990).

19. See James E. Rosenbaum & Takehiko Kariya, "From High School to Work: Market and Institutional Mechanisms in Japan," 94 *Am. J. Soc.* 1334 (1989), and James E. Rosenbaum, Takehiko Kariya, Rick Settersten, & Tony Maier, "Market and Network Theories of the Transition from High School to Work: Their Application to Industrialized Societies," 16 *Ann. Rev. Soc.* 263 (1990).

20. Richard A. Cloward & Lloyd E. Ohlin, *Delinquency and Opportunity: A Theory of Delinquent Gangs* (Glencoe, Ill.: Free Press, 1960).

21. See, e.g., Braithwaite, *Inequality* (cited in note 8); *id.*, "The Myth of Social Class and Criminality Reconsidered," 46 *Am. Soc. Rev.* 36 (1981). For the opposing view that class is not an important correlate of crime, see Charles R. Tittle, Wayne J. Villemez, & Douglas A. Smith, "The Myth of Social Class and Criminality: An Empirical Assessment of the Empirical Evidence," 43 *Am. Soc. Rev.* 643 (1978), and Charles R. Tittle & Robert F. Meier, "Specifying the SES/Delinquency Relationship," 28 *Criminology* 271 (1990).

22. See Robert K. Merton, "Social Structure and Anomie," 3 *Am. Soc. Rev.* 672 (1938); Edwin Sutherland & Donald Cressey, *Criminology* (10th ed. Philadelphia: Lippincott, 1978).

23. See, e.g., Braithwaite, *Inequality*; Toni Makkai & John Braithwaite, "Criminological Theories and Regulatory Compliance," 29 *Criminology* 191 (1991).

qualities in opportunity. Nor has he fully explored the effect of one's social and subcultural position on the process of shaming.

INSIDE THE SHAMING PROCESS

The shaming process is most readily observed in primary groups, and Braithwaite devotes a full chapter to explicating this "family model" of reintegrative shaming. Here, the evocative illustrations of child disobedience and parental control will ring true to many readers, offering at least a measure of face validity for his theory. Although the family setting shows us how and why reintegrative shaming works to reduce deviance, the reader must be wary in generalizing from specific illustrations to more general principles of social behavior. For this reason, I offer some examples that highlight both the strengths and the limitations of Braithwaite's view of the shaming process.

Braithwaite argues that reintegration is a more effective response to deviance than stigmatization. The pertinent question, however, is not *whether* to reintegrate or stigmatize, but precisely *how* to accomplish reintegration. When my two-year-old son dive-bombs the family cat and retreats with fur in his clutches, my wife and I follow Braithwaite's prescription: we express disapproval with a firm "No!" Then, if we can catch the cat, we demonstrate how we "pet kitty nice." Has our response somehow "accomplished" reintegration? Nowhere does Braithwaite demonstrate that the shaming parent can determine at the outset the character of her admonitions; this is contingent on the offender's interpretation of the shamer's reaction. Therefore, the shaming process is socially constructed in the interaction between the two parties. Ultimately, the individual being shamed—not the shamer—determines whether the shaming is reintegrating.

Learning theories such as differential association have been criticized on similar grounds although in different terms. Mere *exposure* to a procriminal definition is not a sufficient cause of criminal behavior, because whether we notice the definition, remember it, and "make it our own depends on whether it *matters* to us."²⁴ Prior learning and situational contingencies thus determine one's receptivity to shaming and informal social control.²⁵ As a consequence, reintegration can only be accomplished with the assent and cooperation of the individual being shamed. Although

24. Albert K. Cohen, *Deviance and Control* 101 (Englewood Cliffs, N.J.: Prentice-Hall, 1966).

25. But see Edwin H. Sutherland, "Critique of the Theory," in Schuessler, *Sutherland* 30 (Chicago: University of Chicago Press, 1973). In response to this critique, Sutherland argues that "receptivity" is nothing more than prior learning and is therefore interpretable within the differential association framework.

Braithwaite acknowledges that the efficacy of shaming varies across social relationships, he still describes the shaming process as a unidirectional flow of criticism from the shamer to the offender. When he speaks of the "dynamics of shaming," he refers to a sequence of shaming incidents over time and space—the flow of gossip, mass media crime coverage, and face-to-face criticism—rather than concrete incidents of shaming as situationally negotiated exchanges.²⁶

Once shamed, the offender plays a more active part in repentance by apologizing for a misdeed. In apology, one simultaneously takes roles as a misbehaving rule violator and as a detached judge affirming the validity of the rule. Braithwaite draws on Mead and Goffman in elaborating this process of "disassociation" of the misbehaving self from the repentant self.²⁷ In apologizing, individuals typically "overplay the case" against themselves, providing others with the task of "cutting the self-derogation short."²⁸ In the process, the repentant self may be forgiven and permitted to rejoin the conforming community.

Perhaps the most visible microcosm of the group shaming process is found in team sports. The humorist Garrison Keillor offers the familiar example of softball players so internalizing norms of conduct that they shame themselves.²⁹ One's teammates must never laugh off or otherwise minimize their own errors, for to do so implies that

they have forgiven themselves instantly, which is unforgivable. It is *we* who should forgive them, who can say, "It's all right, it's only a game." They are supposed to throw up their hands and kick the dirt and hang their heads, as if this boner, even if it is their sixteenth of the afternoon—*this* is the one that really and truly breaks their hearts. . . . We, the sinner's teammates, feel momentary anger at her—dumb! dumb play!—but then, seeing her grief, we sympathize with her in our hearts.

In displaying remorse over one's errors, the player takes the role of her teammates. At this point, the team may welcome the repentant player back into the conforming group, reinforcing group solidarity: "Your utter shame, though brief, bears silent testimony to the worthiness of your team-

26. For an ethnomethodological account of discourse in such negotiations in a criminal justice setting, see Douglas W. Maynard, "Defendant Attributes in Plea Bargaining: Notes on the Modeling of Sentencing Decisions," 29 *Soc. Probs.* 347 (1982), and *id.*, *Inside Plea Bargaining: The Language of Negotiation* (New York: Plenum, 1984).

27. George H. Mead, *Mind, Self and Society* (Chicago: University of Chicago Press, 1934); Erving Goffman, *Relations in Public* (New York: Basic Books, 1971) ("Goffman, *Relations in Public*").

28. Goffman, *Relations in Public* 113.

29. Garrison Keillor, *Happy to Be Here* 120 (New York: Atheneum, 1981).

mates . . . and as the second baseman runs to his position he says, 'Let's get 'em now,' and tosses you your glove."³⁰

On its face, Keillor's description appears to closely mirror Braithwaite's reintegrative shaming process.³¹ Yet in neither case is the underlying content of the repentance display addressed. Ballplayers may kick the dirt and hang their heads because they feel shame, but they may also do these things because, given the situation, their teammates demand and expect this role performance. This represents not so much an apology as a simple acknowledgment of the situational norms governing group behavior.

Braithwaite neatly delimits his focus to moralizing social control, but he fails to distinguish shame from guilt and guilt from displays of repentance. Yet these distinctions are crucial if the shaming is to have the long-term conscience-building effects hypothesized by the theory. The author is much impressed, for example, by the public displays of repentance by corporate representatives in Japan (at 162). But when an apparently contrite Japanese executive bows long and low before the television cameras, we do not know whether the gesture signals deeply felt remorse, a symbolic role display in response to cultural traditions, or self-serving economic rationality. Each of these meanings implies a different process of informal social control, and only the former could "build consciences which internally deter criminal behavior" in the absence of external punishment (at 75). Thus, from any given behavior, we cannot infer the unique effects of moralizing shaming from myriad other processes of informal social control.³²

Therefore, even though illustrations of shaming and reintegration are intuitively appealing, it is exceedingly difficult to specify this phenomenon with any degree of conceptual precision. Braithwaite very broadly defines shaming as a social process in which disapproval is expressed in order to elicit remorse or condemnation. As shaming he includes:

a frown, a tut-tut, a snide comment, a turning of the back, a slight shaking of the head, a laugh . . . a direct verbal confrontation . . . indirect confrontation by gossip . . . broadcast by the mass media . . . officially pronounced by a judge from the bench or by the government . . . popularized in mass culture by a film." (At 57-58)

One benefit of such a broad conceptualization of shaming is that it allows the integration of diverse theoretical traditions: Hirschi, Suther-

30. *Id.* at 124.

31. Although an unintended error differs from an intentional violation in important ways, the symbolic role of the apology is clear in both cases.

32. On the comparative meaning of apology in Japan and the United States, see Joseph Sanders & V. Lee Hamilton, "Legal Cultures and Punishment Repertoires," 26 *Law & Soc'y Rev.* 117, 129 (1992), and Hiroshi Wagatsuma & Arthur Rosett, "The Implications of Apology: Law and Culture in Japan and the United States," 20 *Law & Soc'y Rev.* 461, 492 (1986).

land, and Lemert alike agree that such processes—whether as social bonds, definitions, or as labels—have causal significance in the study of crime and delinquency. An unfortunate side-effect of this broad view of shaming is that it does not help us to distinguish among these alternative conceptualizations of informal social control. In short, Braithwaite's conception of shaming may explain too little because it excludes nonmoralizing informal control. At the same time, however, the content of such broadly conceived moralizing shaming remains too diffuse to supersede prior conceptions of informal social control.

SHAME AND JUSTICE

Braithwaite's theory, and his long experience studying both white-collar and street crime, have led him to eschew a "cold and punitive" social control strategy for a system that is "warm and firm" (at 152). By this view, it is the moral educative function of punishment, rather than its deterrent effect, that reduces crime. He urges us "beyond individualism" toward a liberal corporatism in which sanctioning by peers and intimate groups replace formal control by a centralized Leviathan (at 168).

Braithwaite thus goes far beyond other consensus theorists in the social control and disorganization traditions. For Kornhauser and Gottfredson and Hirschi, a universal requirement of group life is a "prudently stipulated agreement" that prohibits the use of force or fraud.³³ After defining these "pan-human 'rules of the game,'" however, consensus theorists generally retreat to the sidelines, leaving the state to enforce them on the field.³⁴ Gottfredson and Hirschi, for example, argue that tinkering with formal sanctions and justice administration procedures will be unproductive and that more effective early childhood socialization is the only long-term solution to the crime problem.³⁵

In *Crime, Shame and Reintegration*, as well as more recent contributions, Braithwaite argues for a vastly reworked state role.³⁶ Embedded in this general theory of crime, then, is a model of governance. The book's final chapter argues that a social system of moralizing shaming against consensually opposed criminal behavior is conceivable, desirable, and compatible with necessary freedoms. We need not choose "between a society of

33. See, e.g., Kornhauser, *Social Sources* (cited in note 10); Michael R. Gottfredson & Travis Hirschi, *A General Theory of Crime* 41 (Stanford, Cal.: Stanford University Press, 1990) ("Gottfredson & Hirschi, *General Theory*").

34. Kornhauser, *Social Sources* 41.

35. Gottfredson & Hirschi, *General Theory* 272–73.

36. John Braithwaite and Philip Pettit advance a theory of justice that challenges retributivist theories of punishment in *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Clarendon Press, 1990) ("Braithwaite & Pettit, *Not Just Deserts*").

consensus and a society with conflict, between a culture oriented to duties and one oriented to rights, between crime and freedom" (at 185).

Although this position is carefully articulated, I remain unconvinced that Braithwaite's good society protects against the tyranny of the majority. Braithwaite appears all too willing to sacrifice individual rights and adversarial proceedings if they tend to "de-communitize" justice (at 6). In citing the American Bill of Rights as a guarantor of civil liberties, he seems to adopt a Madisonian approach to the protection of individual freedoms (at 159).³⁷ In this view, society consents to be governed by certain enduring core principles beyond the reach of the majority. Yet Braithwaite's consensual core values go deeper still: They suggest a universal ethic that holds regardless of cultural context.

On their face, the humanistic ideals that Braithwaite advances as core values (diversity, constructive conflict, and freedom) appear to offer a reasonable guarantee of liberty. Even those subculturalists opposing his consensus assumption would grant the abstract virtue of these core principles. Wherever legal authority is exercised, however, disagreement—culture conflict, really—arises in the decision to invoke the law and apply such abstractions to specific situations.³⁸ As Braithwaite no doubt realizes, there are many who view homosexuality or the sale of marijuana or abortion as predatory deviations from core values. Sutherland noted long ago that the apparent consensus opposing deviant behaviors conceals disagreement over the intensity of need justifying, for example, the theft of food (or for that matter, cannibalism).³⁹ Although Braithwaite views the criminal law as a "cautious consensus instrument," the burgeoning number of crimes on the books suggests otherwise.⁴⁰ In concrete application, Braithwaite's firm foundation—the societal consensus over the content of criminal law—may rest on unstable footings.

CONTRIBUTIONS, EXTENSIONS, AND TESTS OF THE THEORY

Braithwaite advances a variety of research strategies for testing his theory of reintegrative shaming: ethnographies for testing the structural

37. See Robert Bork, *The Tempting of America: The Political Seduction of the Law* 139 (New York: Free Press/Macmillan, 1990), and his "Neutral Principles and Some First Amendment Problems," 47 *Ind. L.J.* (1971) for an account of a "Madisonian" model of government.

38. Thorsten Sellin, *Culture Conflict and Crime* (New York: Social Science Research Council, 1938).

39. Edwin H. Sutherland, "Critique of the Theory," in Schuessler, *Sutherland* (Chicago: University of Chicago Press, 1973).

40. On the overreach of the criminal law, see, e.g., Norval Morris & Gordon Hawkins, *The Honest Politician's Guide to Crime Control* 3 (Chicago: University of Chicago Press, 1970), and George F. Cole, *The American System of Criminal Justice* 62 (5th ed. Belmont, Cal.: Wadsworth, 1989).

and individual links of his theory; historical research for testing how relatively integrative social control policies affect temporal trends in crime rates; macrosociological studies of official statistics for testing cross-national differences; experimental research designs for testing the specific deterrence aspect of the theory; and social survey research for testing interdependency, opportunity, and subcultural participation at the individual level. In distributing these assignments to the criminological community, Braithwaite helpfully (and rather bravely) operationalizes his concepts with concrete empirical indicators.

Although *Crime, Shame and Reintegration* certainly merits direct and focused empirical tests, few who read Braithwaite's text will have the opportunity or inclination to conduct a comprehensive investigation. Instead, I expect that criminologists will slip certain of Braithwaite's conceptions into their existing research agendas. A control theorist may use communitarianism in discussing societal-level control processes, although in this post-Kornhauser era she would likely have little time for anything redolent of subculture or opportunity theory. Those studying the labeling process would do well to attend to Braithwaite's bifurcation of the societal reaction to deviance, although few would accept his strong assumptions of moral consensus on the dictates of the criminal law. Researchers may thus apply components of the theory to a wide variety of settings using diverse methods of analysis. In this way, *Crime, Shame and Reintegration* could advance both theory and practice.

The book's major theoretical advance is the partitioning of shaming and, more generally, informal social control. Braithwaite's distinction between reintegrative and stigmatizing processes produces a more nuanced societal reaction theory that challenges the "radical non-intervention" policy prescriptions of the labeling perspective.⁴¹ More generally, he builds a bridge between theories of initial causation and explanations of persistence in a deviant role. Braithwaite also advances learning theories by specifying the content of some particularly salient definitions favorable and unfavorable to crime.

In addition to these contributions to theory, Braithwaite offers pragmatic guidance for the practitioner. Although his theory is admittedly "incomplete" (at 14), a reintegrative shaming model may prove useful when applied to some of the most vexing crime problems of our age: drunk driving, domestic assault, and white-collar offenses such as fraud and embezzlement.⁴² Strongly socialized, middle-class offenders, for example, may be

41. For the latter view, see Edwin M. Schur, *Radical Nonintervention: Rethinking the Delinquency Problem* (Englewood Cliffs, N.J.: Prentice-Hall, 1973).

42. On drunk driving, see Harold G. Grasmick, Robert J. Bursik, Jr., & Bruce J. Arneklev, "Reduction in Drunk Driving as a Response to Increased Threats of Shame, Embarrassment and Legal Sanctions," 31 *Criminology* 41 (1993). On domestic violence, see Lawrence W. Sherman & Douglas A. Smith, "Crime, Punishment, and Stake in Conformity:

particularly amenable to public shaming, opening a "window of shaming opportunity" in the punishment of such crimes.⁴³

But as a general theory of criminal behavior, Braithwaite's model will of course require further elaboration and refinement. The unfortunate limitations of the theory—to predatory crime, moralizing social control, and the law on the books—all flow from the incompatibility of its initial assumptions. They go to the heart of very different views of the social world and very different models of social control. They also accent the fine distinction between a theory's empirical assertions and its moral assumptions about human nature and the good society.⁴⁴

At the outset, Braithwaite assumes (1) that crime is an objective quality of the act, not the person committing the act (at 2); (2) that a societal consensus opposes (predatory) criminal behavior (at 39); (3) that the law on the books legitimately codifies this consensus (at 41); and (4) that criminal behavior is learned. Labeling theorists would dispute the first three of these assumptions, learning theorists the second and third, and control theorists the fourth. Despite (or perhaps because of) Braithwaite's efforts to narrow his conception of "crime," these disputes severely restrict the explanatory power of his theory. Moreover, since at least the first and third of these assertions cannot be resolved through empirical research, they remain as untestable assumptions held in common with the social control tradition.

I propose keeping the most innovative feature of Braithwaite's theory, the division of informal social control into reintegrative and stigmatizing processes, and pruning its most insoluble inconsistency, the consensus assumption. We need only assume a societal consensus opposing all criminal laws if *moralizing* shaming is the motor driving crime and conformity. Braithwaite argues that one "cannot take the moral content out of social control and expect social control to work" (at 142). I remain unconvinced on this point; control may be effected by any number of moral, amoral, and immoral social sanctions and incentives. Moreover, the smooth functioning of a social unit may be accomplished by factors such as enlightened self-interest as well as by shaming and internalized restraint.

By building a more general model of stigmatization, opportunity, and reintegration from Braithwaite's theory, we need not limit the processes of

Milwaukee and Omaha Experiments," 57 *Am. Soc. Rev.* 680, 688 (1992), and Sherman's *Policing Domestic Violence: Experiments and Dilemmas* (New York: Free Press, 1992). On white-collar deterrence, see John Braithwaite & Toni Makkai, "Testing an Expected Utility Model of Corporate Deterrence," 25 *Law & Soc'y Rev.* 7 (1991).

43. See Toni Massaro, "Shame, Culture, and American Criminal Law," 89 *Mich. L. Rev.* 1880, 1933 (1991), for arguments for and against opening this window of opportunity.

44. On this distinction, see Thomas J. Bernard, "Interpreting Criminology Theories" (presented at annual meetings of American Society of Criminology, New Orleans, 1992), as well as Bernard's *The Consensus-Conflict Debate: Form and Content in Social Theories* (New York: Columbia University Press, 1983).

informal social control to those designed to induce remorse. In this expanded model, as in differential association theory, both procriminal and anticriminal values, beliefs, and attitudes—regarding even nonpredatory crimes—may jointly determine criminal behavior. Moreover, by specifying the dynamics of stigmatization and reintegration, we may exploit the strong link Braithwaite forges between the societal reaction to primary deviance and an individual's prior and subsequent position in the social and economic structure.

When we consider adult criminal offenders rather than misbehaving children, the advantages of this approach become clear. It is not shaming that separates the offender's world from the nonoffender's but stigmatization. By virtue of their social position, ex-offenders face an opportunity structure that is qualitatively different than the one available to nonoffenders. As Sutherland suggests, parolees remain subject to the informal social control of family and friends. The specific direction of this control—whether as shaming, stigmatization, or reintegration—varies with an individual's social position. While one may be shamed for participating in a barroom brawl, another may be censured for retreating in the same situation. The problem is not that certain individuals are “beyond shame,” for few are completely insulated from the opinion of their fellows. Rather, in some groups and situations, informal social controls work to encourage criminal behavior rather than to insulate against it.

Since the dawn of the discipline as a science, sociologists have monitored changes in the social control functions of institutions such as the church, family, and small community.⁴⁵ Just as does Braithwaite, James S. Coleman argues that the gradual erosion of these “primordial institutions,” and the corresponding shift from communitarian to corporate social relations, has weakened traditional forms of informal control.⁴⁶ Coleman too would revamp alternative institutions such as the workplace and school to recapture the social capital necessary to maintain these regulatory processes. The divergent “solutions” proposed by the two thinkers, however, highlight some of the limitations of moralizing shaming and some possible extensions of a general reintegrative theory.

Braithwaite's shaming solution, to overlay a sense of guardianship and communitarianism onto modern institutions, relies on an enduring normative consensus supporting the criminal law. Although corporate

45. On the family as the basic social unit, see, e.g., Auguste Comte, *Cours de Philosophie Positive* (*The Positive Philosophy*), trans. H. Martineau ([1832-1840] New York: C. Blanchard, 1855). On the shift from community to society (*Gemeinschaft* to *Gesellschaft*), see Ferdinand Tönnies, *Community and Society*, trans. Charles P. Loomis ([1887] East Lansing: Michigan State University Press, 1957); on the changing role of religious groups, see Emile Durkheim, *The Elementary Forms of the Religious Life*, trans. J. Swain ([1915] New York: Free Press, 1965).

46. James S. Coleman, “The Rational Reconstruction of Society,” 58 *Am. Soc. Rev.* 1 (1993).

publicity rather than face-to-face censure may now be the medium, Braithwaite expects the shaming process to function in all institutions as it does in the family: offenders respond to moralizing disapproval with repentance. Both the pangs of conscience and the need for social approval impel them to apologize, disassociate from the offending self, and rejoin the community of conformists (at.75).

In contrast, Coleman suggests that such moralizing will be ineffective unless it is backed by tangible self-interest: "as the primordial institutions fade, the old structures that led self-interest to reinforce moral values are fading as well."⁴⁷ Thus, to meet societal needs for collective goods such as child rearing or crime control, the new social structures must be purposively designed to reestablish this connection. As 20th-century parents are increasingly independent from their children's support in old age, for example, parental incentives to bring up productive children have diminished. Coleman offers state-sponsored "bounties" to be paid for effective child rearing as one rather radical response to such a problem.⁴⁸

Braithwaite's shaming model leaves little room for such appeals to self-interest. Rather, the efficacy of shaming depends on normative agreement and shared conceptions of status, reputation, and morality rather than rational choice. Braithwaite's assertion of the "supremacy of conscience over rational calculation" (at 144) is a noble declaration. He argues for a criminology and a justice system that appeals to the better nature of individuals rather than to their narrow personal interests, that emphasizes trust and responsibility over formal mechanisms for accountability. He offers mechanisms such as repentance ceremonies and public apologies as practical proposals for building communitarianism.

Although I find this liberal pragmatism appealing, even inspiring, I do not share Braithwaite's faith in reintegrative shaming. Though it remains a very powerful influence on behavior, moralizing shaming is but one form of informal social control. Moreover, with its supporting institutions on the wane, it is difficult to conceive of a large-scale reemergence of this particular form of control. Public shaming of corporate executives, one of Braithwaite's favorite examples, is effective because its appeal to self-interest bolsters its moralizing content. Thus, informal social control works best where rational self-interest buttresses moral values.

CONCLUSION

To scrutinize Braithwaite's most provocative arguments, this essay has directed disproportionate attention to the least-developed areas of his the-

47. *Id.* at 12 n.7.

48. *Id.* at 11-14.

ory. Nevertheless, the overall contribution of the book should not be underestimated. In addition to the major advances in *Crime, Shame and Reintegration*, Braithwaite's contributions to criminology continue at a dizzying pace.⁴⁹ He challenges researchers and theorists to ply all of their conceptual tools in studying crime as a unified field of inquiry.

His partitioning of shaming has simultaneously enlivened the social control, differential association, and societal reaction traditions. At a time when the powerful new explanatory theories in criminology have focused almost exclusively on individual differences, Braithwaite has given us a distinctively sociological theory of crime.⁵⁰ His appropriate inclusion of white-collar and corporate crime in this general theory has renewed hope in the search for a general explanation of all criminal behavior.

In building his general theory, Braithwaite has expertly harnessed the causal motors of social control, learning, opportunity, and labeling theories. By partitioning shaming, he has fashioned a "theoretical universal joint" that transfers explanatory power from each of these parts. Although this creates a powerful vehicle for understanding criminal behavior, it will certainly require further adjustments. I have tried to offer here some modest constructive suggestions for streamlining and strengthening Braithwaite's innovative design.

Braithwaite's wide-ranging inclusive criminology exposes him to a correspondingly wide range of criticism. Even by his own standards, Braithwaite's integrated theory is incomplete (at 14). In recent years, criminology has been divided into oppositionalist and integrationist camps.⁵¹ The former is represented by the unswerving internal consistency of Travis Hirschi's work, the latter by the creative theoretical unions forged in works such as *Crime, Shame and Reintegration*. By partitioning informal social control into reintegrative and stigmatizing processes, Braithwaite offers new hope to those straining to bring integrated models into theoretical alignment. That Braithwaite's "incomplete" text is among the finest and most articulated versions of integrated theory, however, also indicates the great difficulty of the endeavor.

49. Among other projects since the publication of *Crime, Shame, and Reintegration* in 1989, Braithwaite has co-authored with Philip Pettit a theory of criminal justice, *Not Just Deserts* (cited in note 36), and has continued his work on organizational and regulatory crime in "Poverty, Power, White-Collar Crime and the Paradoxes of Criminological Theory," 24 *Austral. & New Zealand J. Criminology* 40 (1991); Makkai & Braithwaite, 29 *Criminology* (cited in note 23); and Ian Ayres & John Braithwaite, *Responsive Regulation: Transcending the Deregulation Debate* (New York: Oxford University Press, 1992).

50. For examples of the former, see Hirschi & Gottfredson, *General Theory* (cited in note 33), and James Q. Wilson & Richard J. Herrnstein, *Crime and Human Nature: The Definitive Study of the Causes of Crime* (New York: Simon & Schuster, 1985).

51. The terms are Travis Hirschi's in "Exploring Alternatives to Integrated Theory," in Messner et al., *Theoretical Integration* (cited in note 2).

