ON PENANCE

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Penance is sometimes said to be among the steps wrongdoers must take to atone for their wrongful behavior.[1] Yet those who say this rarely agree about what exactly penance involves, why it's sometimes necessary, or how it contributes to the expiation of wrongdoing. My aim in this paper is to shed light on these issues and, in doing so, to contribute to the larger project of understanding how relationships can be repaired in the wake of moral wrongdoing.

I begin by developing one of the few points of real agreement in extant discussions of penance, which is that penance, whatever else it is or may involve, is a sacrificial action undertaken as an outward expression or demonstration of penitential attitudes. Although accounts of penance differ on many other points, this seems to be the conceptual core that they all share. This conceptual core requires sharpening in one way, though. There are several penitential attitudes that penance, so conceived, might express, but I argue that contrition, understood as remorseful repentance, is the most central and thus that penance can be construed more precisely as a sacrificial act undertaken by a penitent as a demonstration of her contrition.

Thus construed, penance differs from other remedial actions like reparation and apology. It's expressive in a way that reparation needn't be and demonstrative in a way that apologies (on

[1] My interest here is in a secular notion of penance, not the Catholic sacrament, though, as Garvey (1999: 1819, n. 80) observes, there may be some conceptual overlap. See also Swinburne (1989) for an application of a secular notion of penance to the Christian doctrine of the atonement.

one way of thinking about them) sometimes aren't. Appreciating this can help us see how penance contributes to, and why it's sometimes necessary for, the expiation of wrongdoing.

The ultimate function of penance, I contend, is to nullify the threatening or offensive message communicated by one's wrongful behavior. Penance, of course, isn't the only step in the atonement process which has that function. Sincere apologies have it, too. But actions, as the saying goes, speak louder than words. Often an apology, even if sincere and even when combined with acts of reparation, isn't enough to effectively demonstrate the wrongdoer's contrition or to nullify the insulting or demeaning message expressed by her wrongful behavior. In such cases, penance is called for, as it's the only means the wrongdoer has left at her disposal of establishing her contrition and of annulling the false and offensive message of wrongdoing.

I conclude by addressing the question of what constitutes an appropriate act of penance. I consider and reject the popular view that one does penance primarily by either punishing oneself or by voluntarily submitting to punishment at the hands of others. I argue that although self-inflicted or voluntarily accepted punishment (suffering, hardship, etc.) may sometimes be a suitable form of penance, often this isn't the case. Other sorts of actions, especially gifts or acts of service, are typically much more conducive to achieving the reparative aims of penance.

1. Penance and Penitence

Penance is commonly thought of as an act of sacrifice or self-denial undertaken as an outward expression or demonstration of penitential attitudes.[2] This common thought provides a useful starting point in our attempt to better understand penance. It doesn't get us terribly far, though, as it doesn't tell us which attitudes in particular penance is supposed to demonstrate or express.

[2] See, e.g., Bennett (2008: 117), Duff (1986: 69, 247), Garvey (1999: 1819-1823), Pettigrove (2003: 325), Radzik (2004: 149), and Swinburne (1989: 83-84).

Guilt is one possibility. Atoning for wrongdoing, one might think, requires that the offender experience an appropriate degree of guilt for what she has done or failed to do. But, according to Christopher Bennett, merely experiencing that emotion isn't enough. The offender also needs to "find a good way to symbolize [her guilt] in her behaviour," and the most symbolically adequate way of doing so, Bennett thinks, is penance, as "it is the expression in behaviour of the way one sees one's relations with those" one has wronged (2008: 117).[3]

Bennett identifies guilt with self-blame, which he characterizes as a "withdrawal of that respect for oneself that one would have been due as a member" in good standing of a specific community or other relationship (2008: 116).[4] Not all suitable acts of penance symbolize guilt construed in that way, though. We can see this by reflecting on one of Bennett's own examples.

Jane is a university professor who recognizes that she has culpably neglected her teaching duties and who blames herself for doing so, which, as Bennett sees it, involves her withdrawing "respect from herself, putting herself in a position that shows that she does not see herself as due the respect that might otherwise come to her from other participants in that shared enterprise" of education. Given the nature of Jane's offense, Bennett suggests that "she might do penance by undertaking unpaid remedial work for students who are in difficulty (particularly, though perhaps not exclusively, those who are in difficulty as a result of her negligence)," or by doing "some voluntary teaching outside of the university," or by taking "a teaching development course to ensure that she is able to meet, not just the minimal responsibilities of her role, but the demands of being a genuinely inspiring teacher" (2008: 117). I agree with Bennett that, given the nature of Jane's transgression, these would be fitting acts of penance. Notice, though, that none

[3] Garvey (1999: 1822-1823) takes a similar line.
[4] The identification of guilt with self-blame is common but not entirely uncontroversial. For some recent rejections of the identification, see, e.g., Shoemaker (2022), Todd and Rabern (2022), and Zhao (2020).

of these acts clearly symbolizes Jane's guilt, understood as a withdrawal of the respect for herself that she would ordinarily be due as a member of the educational community of which she is a part. By voluntarily doing unpaid tutoring, for example, Jane doesn't *eo ipso* withdraw respect from herself, nor does she put "herself in a position that shows that she does not see herself as due the respect that might otherwise come to her from other" members of that community.[5]

Penance, it seems, needn't demonstrate or express guilt, understood as a withdrawal of respect from oneself. But perhaps guilt needn't involve any such withdrawal. Perhaps guilt should instead be understood, as it commonly is, as an emotion that presupposes or involves the thought that one has engaged in unexcused wrongdoing or that one deserves to suffer for what one has done or that one is blameworthy (in the sense of being a fitting target of resentment and indignation). Must penance demonstrate or express guilt understood in this more common way?

I don't think so. To see why, consider a version of Bennett's example in which Jane acknowledges her moral failure and its harmful consequences but in which she doesn't blame herself for these things, doesn't regard her wrongdoing as unexcused, and so doesn't think that she is blameworthy or that she deserves to suffer for it. (We can imagine that this is because Jane has successfully internalized a philosophical view according to which no one ever deserves praise, blame, sanction, or reward for anything.[6]) Even so, Jane might feel deep remorse for her negligent behavior and the damage it has wrought, and she might be committed to mending her ways and to atoning for her past failures, attitudes that motivate her to do penance by undertaking unpaid tutoring to help students who are struggling academically.[7] In this version of

[5] Matters might be different if Jane had voluntarily forfeited pay for her contractual teaching duties or donated that money to remedial teaching programs or taken an unpaid leave of absence. Acts like those that involve the withdrawal or forfeiture of things Jane would normally be due as a university professor seem much more symbolic of guilt, as Bennett construes it, than do the sorts of penitential actions suggested by Bennett.

[6] For a view of this sort, see, e.g., Pereboom (2001, 2014, 2021).

[7] Pereboom (2021: 48-52) defends a similar position. He argues that it's possible to feel pain upon "the recognition that one has done wrong" without presupposing "that this pain is basically deserved" (2021: 49). I agree, and

the case, it still seems that Jane has performed a suitable act of penance even though the act isn't motivated by, and so doesn't express, guilt, understood as self-blame or as an emotion that involves the thought that one culpably did wrong or that one is blameworthy.

Although Jane's volunteer work, in this second version of the case, isn't expressive of attitudes that presuppose blameworthiness or unexcused wrongdoing, it does seem to demonstrate her remorse and repentance. (And, if we construe guilt not as a withdrawal of respect or as an emotion that presupposes blameworthiness but instead as a painful recognition that one has harmed others or that one has violated standards one regards as authoritative, Jane's volunteer work might plausibly be thought to demonstrate her guilt too.[8]) Voluntarily doing extra, unpaid tutoring, especially for students who are struggling because of Jane's negligence, seems to be her way of demonstrating both her remorse for neglecting her teaching duties and her intention to mitigate, to the extent possible, the damage wrought by her negligence. It also displays the sort of commitment to students she had been lacking. In this respect her volunteer efforts are a particularly effective symbol of her renewed commitment to her responsibilities as an educator. It's these features of her action, it would seem, that qualify it as an act of penance, which suggests that remorse and repentance are the attitudes most central to penance.

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remorse, as I'm thinking of it, involves pain of that sort; it's a feeling of pain or sorrow at having acted in a way one believes to be wrong, but it needn't involve the judgment or thought that one is blameworthy or that the pain one feels is deserved or that one's wrongdoing is unexcused. Vilhauer (2004) advances a similar view of remorse. Remorse, on his view, involves sympathetic suffering with the victims of one's wrongdoing, and such suffering needn't presuppose that one is blameworthy for one's wrongful behavior. I agree with Vilhauer that remorse involves a kind of suffering in response to the recognition that one has done something (one believes to be) wrong. However, I don't think it's quite right to see remorse as a kind of sympathetic suffering with the victims of one's wrongdoing, since one can arguably feel remorse over wrongs that don't harm anyone and of which no one else is aware (e.g., wrongful attempts that don't succeed and that are never discovered).

[8] For a construal of guilt along these lines, see, e.g., Bok (1998: 167-176). See more recently Zhao (2020), who argues for a view of guilt according to which guilt needn't involve the thought that one has done wrong. On Zhao's view, the central thought in guilt is that part of the self is somehow implicated the occurrence of a bad event.

This suggestion is further supported by reflection on another example of Bennett's in which a person I'll call Joe "does something that he finds perfectly unobjectionable but which offends a person who is very important to him." Because the offended party is so important to him, Joe "might…find himself undertaking a penance to demonstrate how serious he is about keeping up the relationship." But, as Bennett points out, "we would normally think of this as an unusual case of penance, or not a proper case, because [Joe's] penance does not express the fact that he thinks that what he did was wrong. Although it expresses his view that he is sorry that what he did offended his friend and that he wants to make things better, we normally think that penance is something one does in an attempt to expiate wrongdoing," and obviously one can't attempt to expiate wrongdoing, and so can't do penance as we normally conceive of it, without acknowledging that one has, in fact, done something wrong (2008: 113).

Bennett's explanation of why we would be reluctant to regard this as "a proper case" of penance is correct but incomplete. The reason Joe's attempt to patch things up with his friend doesn't count as "a proper case" of penance isn't just that it doesn't involve an acknowledgement of wrongdoing. Also missing is any expression of contrition. To see this, consider a variation of the case in which Joe acknowledges that what he did was wrong but in which he isn't the least bit contrite (though, because he values the friendship and now knows that the friend finds such behavior offensive, he might try to make sure that she never again catches him in the act). Joe's efforts to patch things up with his friend in this second version of the case are motivated just as they are in the original version solely by his desire to keep up the relationship. This doesn't seem like a proper case of penance either, even though Joe has acknowledged that he behaved badly. What's missing, it seems, is any expression of remorse for or repentance of his bad behavior.

While there may be a variety of attitudes that penance can express, including guilt (variously construed), self-reproach, and a desire for forgiveness from and reconciliation with those one has wronged, the preceding considerations suggest that it is *contrition* or *penitence* (I use the terms interchangeably), understood as an attitude of remorseful repentance, that penance is most fundamentally supposed to express. Combining this suggestion with the general characterization of penance with which we began yields the following more precise construal: penance is a sacrificial act undertaken by a penitent as a demonstration of her contrition.

2. Penance, Reparation, and Apology

What is the relationship between penance, so conceived, and other, more familiar remedial actions such as reparation and apology? In practice the lines can get blurry. A wrongdoer may in some instances apologize, make reparation, and do penance all in one swoop. Jane the negligent university professor is perhaps a case in point. Tutoring students who are struggling academically because of her negligence might be Jane's way of apologizing to those students, of making reparation, and of doing penance. Conceptually, though, there are important differences.

Reparation, as I understand it, is a matter of an offender either repairing the damage occasioned by her offense, or, where repair isn't feasible, providing victims with some form of compensation. In making reparation, offenders redress the harmful consequences of their wrongful behavior (to the extent possible), but they don't necessarily redress the wrong itself, which is conceptually separable from the harms to which it gives rise. Both apology and penance, by contrast, are addressed to the wrong itself and not just its harmful consequences.[9]

[9] For similar views of reparation, see Swinburne (1989) and Garvey (1999).

Consider a tortfeasor who pays damages as ordered by the court but without issuing an apology or even acknowledging that she did anything wrong. By paying the requisite damages, the tortfeasor may have made reparation (e.g., because she thereby made the victim at least as physically, psychologically, or financially well off as he was before). But she hasn't apologized or done penance, for she hasn't addressed the fact that she *wrongfully* harmed the victim.

The harmful consequences of wrongdoing aren't limited to bodily injury, damaged property, and monetary loss. They may also include hurt feelings, diminished trust, and other psychosocial harms, and repairing harms of that sort, it could be argued, may sometimes require an act of penance on the part of the wrongdoer. Maybe, but then again maybe not.

Consider yet another variation on the story about Joe, the man who did something to offend his friend but who believes—mistakenly we'll assume—that his behavior was morally unobjectionable. Because Joe cares about the friend he offended, he might go through the motions of saying "I'm sorry" and performing an apparent act of penance, all without being the least bit contrite. This ruse might succeed in repairing the damage done by Joe's wrongful behavior (e.g., because it soothes the friend's hurt feelings), but it doesn't involve a sincere apology or genuine act of penance, since it isn't an expression of contrition on Joe's part.

The same point can be made using more fanciful cases. Imagine a magician who, by uttering an incantation, can magically reverse any sense of insult, diminished trust, feeling of insecurity, or other psychosocial harm occasioned by his wrongful behavior. This magician can make reparation without doing penance, since he can repair even the psychosocial harms caused by his offense without acknowledging wrongdoing and thus without demonstrating penitence.

Reparation without penance is possible in these cases because the defining feature or aim of reparation (viz., repairing or compensating for the damage done by wrongdoing) can be

achieved in the absence of contrition and thus without performing a genuine act of penance. The opposite is also true; a person can perform a sacrificial act as a demonstration of genuine contrition without thereby making reparation. There are several ways this can happen. A wrongdoer might do penance but be prevented by injury, death, poverty, or other unfortunate circumstances from making reparation. Some wrongs, moreover, involve harms that are neither repairable nor compensable. This is true of the most extreme instances of moral evil, but it's also true of more mundane misdeeds. In such cases, reparation isn't possible, but penance may well be, for there may still be something the wrongdoer can do to demonstrate her contrition.[10]

As an example, suppose I negligently destroy an irreplaceable family heirloom given you by your father on his deathbed. In a case like this, I can't make restitution, since I can't restore the item to you; nor is there anything I can do can compensate you for the loss (not in the way I could if, say, I had irreparably damaged your car but provided you with enough money to purchase an equally good replacement). Reparation, in cases like this, is impossible. Yet, I might still apologize and perform an act of penance in an effort to atone for my negligence.

Similarly, if a close friend culpably forgets your birthday, she can atone for her thoughtlessness by apologizing and performing an act of penance, for example, by giving you a much more thoughtful and extravagant gift than she would otherwise have given you. But such an act of penance needn't repair the damage, for although you may recognize it as an expression of your friend's contrition and, as a result, may commit to reconciling with the friend, it may not completely alleviate the hurt or disappointment you feel as a result of her forgetfulness. Nor is the act properly regarded as compensatory, for to do so would seem to endorse the rather

[10] Radzik makes a similar point. "In cases of serious wrongdoing," she says, "especially cases where the harm does not admit of compensation or reparation, a penance beyond guilt and remorse may be the only form of evidence of the wrongdoer's re-commitment to morality that could balance out the evidence of untrustworthiness presented by the wrongful action" (2004: 150).

perverse position that the damage done to the friendship in this case is fungible. The gift doesn't make up for the friend's hurtful behavior (if and to the extent it does) because it provides you with something of comparable value to the care and consideration she failed to show you by not remembering your birthday. Rather, it makes up for her hurtful behavior (if and to the extent it does) because it demonstrates how very sorry she is for her omission and that she intends to do better in the future. By doing penance in this case, the friend neither repairs nor compensates for the damage occasioned by her wrongdoing, but she does demonstrate her contrition.

Penance, then, is distinct from reparation. One can repair or compensate for damage done by wrongful behavior without demonstrating contrition, and one can demonstrate contrition without repairing or compensating for the damage wrought by one's wrongful behavior.

The differences between apology and penance are more subtle, and the precise nature of those differences depends on whether we embrace a thick or thin conception of apology. By a "thick" conception of apology I mean one according to which an apology is a remedial process comprised of several distinct steps, including acknowledgement of wrongdoing, repentance, communication of remorse, acts of reparation, and, on some views, penance. On a thick conception, an apology is the entire process of making amends.[11] By a "thin" conception of apology I mean one according to which an apology is a communication (whether verbal, written, or of some other sort) of penitence by the wrongdoer to those she has wronged, such as when one says to victims of one's wrongdoing, "I'm truly sorry for what I did; it won't happen again." On a thin conception, an apology is just one part of the atonement process.[12]

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[11] For a conception of apology along these lines, see Goffman (1971: 113), Lazare (2004), Pettigrove (2003), and Smith (2008). Goffman (1971: 113) lists penance as an element in what he calls apology "In its fullest form," and Pettigrove (2003: 324) says, "Acts of penance…may be considered part of the performance of apology."

[12] For a conception of apology along these lines, see Swinburne (1989: 82) and Radzik (2009: 92). Radzik, it should be noted, expands the emotions that apologies may communicate to include regret as well as shame and even grief. She does so to accommodate the fact that we sometimes apologize for the behavior of others even though we can't feel remorse for their behavior, as remorse is an emotion we experience only with respect to our own bad behavior.

Start with a thick conception of apology. On a thick conception, apologies have several elements in addition to a communicative act like saying "I'm sorry," and penance may be among these additional elements. Given a thick conception of apology, and assuming penance is often an element of a sincere apology, the relationship of penance to apology is that of part to whole.

Consider next a thin conception of apology. Both penance and apology (on a thin conception) are addressed primarily to the wrong and not just its harmful consequences, both express contrition, and, as we'll see, both have very similar reparative functions. But penance is demonstrative in a way that apologies (on a thin conception) typically aren't. Suitable acts of penance not only communicate contrition, but also demonstrate it by putting it into action.

Richard Swinburne illustrates the point with a case in which a friend borrows money from you but forgets to return it "in consequence of which you have to borrow money yourself and disappoint your own creditors." The friend in this case may be contrite and may communicate his contrition by telling you that he is truly sorry for not returning the money in a timely manner and for all the trouble his failure to do so has caused you. In short, he may sincerely apologize (on a thin conception of apology). But, as Swinburne points out, he hasn't yet done penance. That would require, in addition, a demonstration of his contrition, "some token of his sorrow—a favour which you didn't expect, interest on the money additional to that needed to compensate you for your own borrowing, perhaps a bunch of flowers" (1989: 83).

3. The Work of Penance

Having highlighted the differences between penance, on the one hand, and familiar remedial actions like reparation and apology, on the other, let's consider what penance might contribute to the process of moral repair that isn't accomplished by these other corrective actions.

Swinburne links the function of penance closely to that of apology. He reminds us that "sometimes for some people, apology can be very easy. We all know the smooth amiable people who say 'I'm frightfully sorry' with such a charming smile that our reaction is 'Yes, but do you really mean it?' And what else can show 'meaning it', what else can show the sincerity of the apology?" (1989: 83). Swinburne's answer, of course, is penance. By performing a suitable act of penance, the apologetic wrongdoer establishes that his apology is sincere.

Swinburne is quick to clarify that, on his view, penance isn't simply a way for the wrongdoer to prove the sincerity of his apology. It "does not have the function of making clear something which was true whether or not the agent made it clear, that he meant the apology. Rather, it is a performative act whereby he disowns his wrong act (in a way which mere words do not do, where the wrong is a serious one)" and thereby "constitutes his apology as serious by making it costly" (1989: 84). So, for Swinburne, penance doesn't just provide evidence that the wrongdoer's apology was sincere and thus isn't just "a further sign to the victim and the community that the wrongdoer takes his error seriously and is trying to recommit himself to a moral life" (Radzik, 2004: 149).[13] Rather, it's what makes the wrongdoer's apology sincere.

Swinburne's position strikes me as highly implausible, especially if we follow him (1989: 82-83) in adopting a thin conception of apologies. It implies that it's impossible to sincerely apologize for serious wrongdoing without doing penance. Yet that looks to be entirely possible.

Imagine a wrongdoer, Carla, who experiences deep remorse for her wrongdoing, commits to doing better in the future, communicates her penitence (i.e., apologizes) to those she wronged, and then immediately thereafter drops dead of a massive heart attack, before she has had an opportunity to perform a suitable act of penance. If penance is what constitutes a wrongdoer's

[13] See also Radzik (2009: 101) and Lucas (1980: 133).

apology as serious, Carla failed to seriously apologize for her wrongful behavior. But given the description of the case, that strikes me as misleading at best. It may be true that Carla was prevented by her untimely death from doing everything she would otherwise have been obligated to do to make amends for her wrongdoing. But given the genuine remorse and repentance that Carla communicated to the victim of her wrongdoing, it seems inaccurate to say that she didn't sincerely apologize for what she did or that her apology wasn't "meant and serious."

Swinburne's position might seem somewhat more plausible if we adopt a thick conception of apology, one according to which penance is sometimes an element of the process of apologizing; for in that case, we may have to concede that Carla's apology is *incomplete*. Still, given the genuine contrition that Carla communicated to those she wronged, it would be inaccurate to describe her apology, or the part of it she completed, as insincere or unserious.

Although penance needn't be what makes the wrongdoer's apology sincere, I agree with Swinburne that penance does something that an apology sometimes can't do on its own. To see what that is, we need to attend more closely to the nature of moral wrongdoing.

As Jeffrie G. Murphy observes, "moral injuries" aren't simply a matter of their harmful consequences (significant as those consequence may be); they "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'" (1988: 25). Pamela Hieronymi puts the point this way: "a past wrong against you…makes a claim. It says, in effect, that you can be treated in this way, and that such treatment is acceptable" (2011: 546). And that (false) claim is something the wrongdoer must address if she is to make amends for what she has done. To fully atone or make amends for her wrongdoing, the wrongdoer must do something to nullify the demeaning or offensive claim made by her action. But what?

Sometimes, such as in cases involving minor transgressions, especially minor transgressions committed in the context of close relationships, a repudiation of the offensive claim of the sort that occurs in a sincere apology will do the trick. Other times, though, such repudiation isn't enough to completely nullify the relevant claim. Some claims are much too powerful for that. If I have behaved in a way that was extremely disrespectful to you, the message I have conveyed in action is significantly more forceful than a mere verbal repudiation of that message. If I really want to nullify the disrespectful message communicated by my behavior and thereby eliminate the threat or offense it poses to you, I need to do more than simply tell you that I'm contrite, which, on one way of conceiving of apologies, is what I do if I sincerely apologize to you for my disrespectful behavior. I also need to establish my rejection of and opposition to that message in a more definitive way. This will often involve making some form of reparation, and, when making reparation is quite costly to the offender, apology and reparation might be enough to establish the offender's contrition and to annul the threatening or demeaning message communicated by the offense. But, as we have seen, sometimes reparation is impossible, and even when possible, it sometimes isn't enough to effectively convey the message that needs to be communicated. In those cases, something else is needed, which is where penance comes into play. By performing a suitable act of penance, the penitent not only establishes her contrition, she also nullifies the threatening or offensive claim made by her wrongful act; her act of sacrifice or self-denial makes a counterclaim, one that speaks the truth about the moral value of the victim and about the values or standards that the wrongdoer previously flouted.[14]

To illustrate this proposal, consider Eli, a scion of a wealthy family, who is driving recklessly and, as result, smashes into a parked car. Suppose that Eli, who feels genuine remorse

[14] Here I'm influenced in part by Garvey (1999: 1821). I don't, however, follow Garvey in viewing penance as a kind of self-imposed or voluntarily accepted punishment. I explain why below.

for what he did and commits to mending his reckless ways, apologizes to the owner of the car, promptly pays for the repairs, and compensates the owner for any inconvenience this incident has caused him. Given Eli's wealth and social status, these reparative gestures, while necessary, are fairly easy for him and so arguably aren't enough to establish his remorse and repentance. To do that, it seems some further sign or token from Eli of his contrition is needed. Recognizing this, Eli uses a substantial portion of his monthly allowance, which he would ordinarily have spent on lavish parties and gifts for friends, to buy a gift for the victim of his recklessness. Or suppose he instead devotes the time he would otherwise have spent partying on his yacht volunteering at local high schools and speaking to the students about the dangers of reckless driving. When combined with apology and reparation, demonstrations of contrition such as these do what apology and reparation alone don't do in this case; they establish Eli's contrition and at the same time nullify the offensive claim communicated by his reckless behavior.

By driving recklessly, Eli communicated the message that his own enjoyment is more important than the safety and wellbeing of those who could potentially be injured or otherwise harmed by his recklessness. To fully atone or make amends for his reckless behavior, he needs to set the record straight, as it were. He needs to make clear, to his victim and the broader community, that he (now) rejects that offensive message. An apology and reparation might help with this, but, again, by themselves they don't seem to be enough. To establish that he (now) rejects the false message communicated by his reckless behavior, he arguably needs to act in such a way that demonstrates the appropriate preference for the safety and well-being of others over his own trivial enjoyments, which he does by volunteering his free time speaking to new drivers about the dangers of reckless driving or by sacrificing his own money to purchase a gift for those he harmed. These are effective acts of penance precisely because, in performing such

actions, Eli demonstrates, more convincingly than words alone could do, that the safety and wellbeing of others are more important than his trivial enjoyments, a countermessage that effectively nullifies the offensive message communicated by his earlier reckless behavior.

4. Penance and Punishment

If, as I have argued, the aim of penance is for the wrongdoer to establish her penitence and to nullify the offensive message communicated by her wrongful behavior, how best to do so? What sorts of actions are best suited to achieving that aim? According to what we might call the self-punishment view of penance, a person does penance by either punishing herself or by voluntarily submitting to punishment at the hands of others. Doing so, it is said, demonstrates that the person accepts responsibility for her wrongful behavior and is committed to mending her ways.[15]

Although self-imposed or voluntarily accepted punishment may sometimes be a suitable form of penance, penance, as I've suggested it be understood, needn't involve punishment to be effective, nor is self-imposed punishment, hardship, or suffering typically necessary for the expiation of wrongdoing. To see this, consider Eli the reckless driver again. Buying a gift for the owner of the car he damaged or volunteering his time at local high schools to speak about the

[15] Duff (1986: 69, 249-254) and Garvey (1999: 1819) explicitly endorse this view, and Radzik (2004: 148) seems to follow Garvey. See also Radzik (2009: 32). Fingarette (1979: 162), Lucas (1980: 133), and Morris (1971) seem to endorse the view as well, though Morris doesn't use the term 'penance'. Some who take this view build the idea of self-imposed punishment or hardship or suffering into their definition of 'penance'. They see penance as something like an act of self-punishment whereby the wrongdoer demonstrates penitence (see, e.g., Garvey [1999: 1819, n. 80]). Defining 'penance' in this way would require a re-wording of the points to made in what follows, but it wouldn't alter their substance, which is that sacrificial demonstrations of contrition of the sort that I've argued are sometimes necessary for the expiation of wrongdoing needn't involve self-imposed or voluntarily accepted punishment, hardship, or suffering to be effective. Whether one wants to call sacrificial demonstrations of penitence lacking those punitive elements 'penance' is just semantics. Refusing to do so (e.g., on the grounds that penance must, by definition, involve self-inflicted or voluntarily accepted punishment or hardship) wouldn't affect the substantive points made in what follows.

dangers of reckless driving are suitable acts of penance, but, as I'll now argue, they needn't be acts of self-punishment. Nor need Eli punish himself in order to atone for his wrongdoing.

Whatever else punishment is or involves, it's commonly thought to involve the infliction of, or at least the intention to inflict, some sort of harm or hardship or suffering on the offender. But the penitential actions undertaken by Eli needn't have this feature. We may assume that, in buying a gift for the victim or volunteering time, Eli didn't intend to harm himself or to inflict suffering or hardship upon himself, and we may also assume that he didn't experience any suffering or hardship because of these actions. Indeed, he may have derived a great deal of enjoyment from them. Yet none of this undermines the claim that they are fitting acts of penance.

Or does it? According to R.A. Duff, "We should not find it puzzling…that a penance must be painful or burdensome, since what it expresses is the wrong-doer's painful awareness of his guilt and of the wrong he has done to others" (1986: 69). Following Duff, it could be argued that no action that isn't painful or burdensome is a proper act of penance, as penance is, by its very nature, an action that expresses painful psychological states such as guilt and remorse.

This argument is unsound. It assumes that actions expressing painful psychological states must themselves be painful for the agent, which isn't so. Indeed, such actions can often be quite enjoyable. Expressing one's frustrations to a confidant can feel wonderful, even if the frustration to which one is giving voice is unpleasant. Similarly, Eli might genuinely look forward to acting on behalf of others for a change, and he might find the experience of doing so thoroughly rewarding, and this is so even if the attitudes his behavior expresses are themselves painful. So, while penance is essentially an expression of painful moral emotions like guilt and remorse, it doesn't follow that the act of penance itself must be painful for the agent.

Not everyone agrees that punishment must involve the infliction of, or even the intention to inflict, suffering or hardship. Jean Hampton (1984), for example, argues that what is distinctive of punishment as a response to wrongdoing isn't the pain and suffering ordinarily involved but rather the limitation of the offender's freedom. The limitation of one's freedom is often unpleasant, to be sure, which might explain why punishment is often unpleasant for the offender. But according to Hampton, such unpleasantness isn't essential to punishment. Her example is "a doctor who cheated the Medicare system and who is sentenced to compulsory weekend service in a state-supported clinic." Hampton says that this doctor "would not be undergoing what one would normally describe as a painful or unpleasant experience (he isn't being incarcerated, whipped, fined)." We might add that the authorities who handed down the sentence needn't have intended to harm the doctor or to inflict pain or suffering on him. Even so, Hampton thinks that "In this case, the state is clearly punishing an offender" (1984: 224).

If Hampton is right that punishment is fundamentally a matter of restricting the offender's freedom, then self-punishment would amount to the voluntary restriction of one's own freedom (e.g., by submitting to incarceration or forced labor). Many appropriate acts of penance don't count as self-punishment on this view either. To illustrate, consider a variation of Hampton's example. Suppose that, rather than being sentenced by the court to work at the state-sponsored clinic, the doctor—call him Hal—voluntarily engages in weekend service at the clinic, and that he does so out of genuine remorse and repentance for his wrongdoing. In this version of the case, Hal arguably performs an appropriate act of penance. However, he hasn't restricted his freedom, for unlike in the case of voluntarily accepted incarceration, there is nothing that prevents him from reneging on his commitment and going to play golf instead.

As the preceding examples illustrate, suitable acts of penance invariably involve some sort of sacrifice or loss or extra effort on the part of the offender. Eli, by purchasing an expensive gift for the victim of his recklessness or by volunteering at local schools, forgoes certain pleasures in which he would otherwise have indulged, as does Hal, the doctor who volunteers weekend service at a clinic rather than playing golf. The same might also be said about Jane, the negligent university professor who does extra tutoring, and the friend who buys you an extravagant gift to atone for forgetting your birthday. But, again, these actions needn't harm or be intended to harm the offender, are often exercises, not restrictions, of the offender's freedom, and, more generally, needn't be viewed by the offender as an attempt at self-imposed sanction.

Penance, then, needn't involve self-imposed or voluntarily accepted punishment. What's more, self-punishment is often not the most effective way of doing penance. Whatever penitential value there is in self-inflicted or voluntarily accepted sanctions is almost always more effectively realized by non-punitive actions of the sort performed by the agents in the examples we have been considering. That this is so can be made clearer by considering some of the penitential aims that self-imposed or voluntarily accepted punishment is said to achieve.

"Not being pained by the hurt done others," Herbert Morris observes, "would reveal an absence of care for them" (1971: 427). Thus, if a person has wrongfully harmed others, it would be good for the person to be pained by this, not because (or not only because) she deserves to suffer, but because it would indicate that, contrary to what her wrongful behavior suggests, she does in fact care for those she has wronged.[16] But how can the person demonstrate her care and concern, especially to the victims of her wrongdoing? One way, Morris suggests, is by "inflicting upon oneself something painful or by accepting its infliction on one," as this would make

[16] Radzik (2009: 34-37) develops and defends a similar point.

"apparent how deeply hurt one has been by the damage and how deeply committed one is to the relationship" (1971: 431). And perhaps it would. However, self-inflicted or voluntarily accepted pain is rarely the only means of demonstrating one's care or concern for those one has wronged, nor is it typically the most effective. By going out of their way to help those they wronged, the agents in the examples we have considered communicate care for the victims of their wrongful deeds without inflicting pain upon themselves. What's more, they do so much more effectively than they would have had they simply donned hairshirts or the modern equivalent.

Care, of course, isn't the only attitude we want from wrongdoers. Also important are attitudes such as guilt, self-reproach, remorse, and repentance, and wrongdoers can evince care for those they have wronged without exhibiting these other attitudes. (Think again, in this connection, of Joe, the man in Bennett's example who does something to make clear to the friend he offended that he cares for her and for their relationship but who experiences no guilt, remorse, or repentance for his wrongful behavior.) Those who see self-punishment as a particularly fitting type of penance might appeal to this point in support of their position. They might argue that self-inflicted and voluntarily accepted punishments are particularly effective means of expiating wrongdoing precisely because they are ways in which the wrongdoer can acknowledge and condemn her wrongful behavior and express the painful moral emotions she rightly feels at having wronged others. Stephen P. Garvey is an example of someone who takes this line. He insists that punishment is "our way of censuring or condemning the wrongdoer's wrong, of annulling the false message he implicitly conveys through his wrongdoing, and of vindicating the moral value and standing of his victim" (1999: 1821). By punishing themselves or by voluntarily submitting to punishment, wrongdoers affirm the condemnatory message of punishment. It also

enables them to identify, at least to some extent, with the suffering of their victims, which can in turn aide in bringing about reconciliation and restoring the wrongdoer to the moral community.

It seems to me, however, that this position significantly underestimates the power of other sorts of penitential actions to achieve the communicative aims punishment is said to achieve. Eli, by volunteering his time to speak out against reckless driving, effectively condemns such behavior, annuls the false message it implicitly conveys (e.g., by explicitly affirming the value of safe driving), and in so doing vindicates "the moral value and standing of his victim," all without punishing himself or submitting to punishment. What's more, his means of achieving these aims are at least as effective as self-inflicted or voluntarily accepted punishment would be, indeed arguably more so, and have the added benefit of providing a service to the broader community. And here, too, much the same could be said for Jane and Hal and their volunteer efforts and the friend who buys an extravagant gift to make up for forgetting your birthday.

That self-punishment is often not the most effective means of doing penance can also be seen by considering again the communicative aims of penance. While punishing myself for something I've done may in some instances demonstrate my remorse by providing a vivid demonstration of the fact that I'm pained by the wrong I have done, it will often do little to convey my renewed commitment to the relevant values. Much more effective in this regard are gifts or acts of service, especially those that, as in some of the examples we have considered, are closely related to the wrongful behavior (e.g., because they aim at preventing such behavior). More generally, I think we can say that the most fitting acts of penance will be those that are guided by the (sorts of) reasons that should have guided the agent's behavior in the first place and that therefore clearly affirm, or perhaps reaffirm, the standards the wrongdoer violated. Self-inflicted or voluntarily accepted punishment rarely, if ever, fits this bill, though.

Not only is self-punishment often not the most effective means of doing penance, in some cases it won't be effective at all. There are any number of reasons a wrongdoer might have for punishing herself or submitting to punishment. She might do so simply because she feels she deserves to suffer or because she believes it will allay her feelings of guilt or because she knows it will help make things right with those whom she has wronged or simply because she believes that resisting sanction is futile. But a wrongdoer may feel some guilt for what she has done, believe that she deserves hard treatment, and want desperately to patch things up with those she has wronged, without experiencing the contrition necessary to expiate wrongdoing. Self-punishment motivated by these attitudes alone therefore won't count as a proper penance.[17]

Self-punishment, then, is neither necessary nor sufficient for penance. It's not necessary since wrongdoers can do penance without thereby punishing themselves or submitting to punishment. Nor is it sufficient, since wrongdoers may punish themselves without displaying the contrition required for genuine acts of penance. Moreover, even when self-punishment is an acceptable means of doing penance, it typically isn't the most effective means, as there will often be more effective means of achieving the communicative aims of penance.

Doing penance requires sacrifice or extra effort and may therefore sometimes be unpleasant. But the pain that's sometimes involved in doing penance isn't essential to the act. What makes for a suitable penance is that it demonstrates the sorrow the penitent feels regarding her wrongful behavior, her care for those she has harmed, and her recommitment to the standards and values she flouted. So, rather than focusing on punishing themselves, penitents searching for

[17] Radzik (2009) raises a similar though importantly different objection to self-punishment views of atonement. She observes that acts of self-punishment can become "shortsighted and self-absorbed" if they ignore "the moral significance of the fact that the wrong has been committed against a particular person," one who "may continue to suffer from hurt pride, alienation, or self-doubt" (38, 39). Her point is well taken but is directed at views that see atonement as primarily or even solely a matter of self-punishment. The point doesn't apply with equal force to views such as Garvey's (1999), according to which victim-centered actions such as apology and reparation are also essential to atonement and that emphasize the benefits of self-punishment for both wrongdoers and victims.

appropriate ways to demonstrate their contrition should instead look for actions that benefit those they have wronged (or those who are in a similar position to those they have wronged) and that are supported by, and that can therefore (re)affirm, the standards and values violated in the wrongful behavior for which they are trying to atone. Whether the action qualifies as self-punishment isn't important. What matters is that it expresses and demonstrates to victims and the broader community the wrongdoer's contrition and her commitment to reform. Only when she has performed an action of that sort will she have performed a suitable act of penance.[18]

References

Bennett, C. (2008). *The Apology Ritual: A Philosophical Theory of Punishment*. Cambridge: Cambridge University Press.

Bok, H. (1998). *Freedom and Responsibility*. Princeton: NJ: Princeton University Press.

Duff, R.A. (1986). *Trials and Punishments*. New York: Cambridge University Press.

Fingarette, H. (1979). Feeling guilty. *American Philosophical Quarterly*, *16*, 159-164.

Garvey, S. P. (1999). Punishment as atonement. *UCLA Law Review*, *46*, 1801-1858.

Goffman, E. (1971). *Relations in Public: Microstudies of the Public Order*. New York: Basic Books.

Hampton, J. (1984). The moral education theory of punishment. *Philosophy and Public Affairs*, *13*, 208-238.

Hieronymi, P. (2001). Articulating an uncompromising forgiveness. *Philosophy and Phenomenological Research*, *62*, 529-555.

Lazare, A. (2004). *On Apology*. New York: Oxford University Press.

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Lucas, J.R. (1980). *On Justice*. Oxford: Clarendon Press.

Morris, H. (1971). Guilt and suffering. *Philosophy East and West*, *21*, 419-434.

Murphy, J.G. & Hampton, J. (1988). *Forgiveness and Mercy*. Cambridge: Cambridge University Press.

Pettigrove, G. (2003). Apology, reparations, and the question of inherited guilt. *Public Affairs Quarterly*, *17*, 319-348.

Pereboom, D. (2001). *Living Without Free Will*. Cambridge: Cambridge University Press.

Pereboom, D. (2014). *Free Will, Agency, and Meaning in Life*. New York: Oxford University Press.

Pereboom, D. (2021). *Wrongdoing and the Moral Emotions*. New York: Oxford University Press.

Radzik, L. (2004). Making amends. *American Philosophical Quarterly*, *41*, 141-151.

Radzik, L. (2009). *Making Amends: Atonement in Morality, Law, and Politics*. New York: Oxford University Press.

Shoemaker, D. (2022). The trials and tribulations of Tom Brady: self-blame, self-talk, self-flagellation." In A.B. Carlsson (Ed.), *Self-Blame and Moral Responsibility* (pp. 28-47). Cambridge: Cambridge University Press.

Smith, N. (2008). *I Was Wrong: The Meaning of Apologies*. New York: Cambridge University Press.

Swinburne, R. (1989). *Responsibility and Atonement*. Oxford: Clarendon Press.

Todd, P & Rabern, B. (2022). The paradox of self-blame. *American Philosophical Quarterly*, *59*, 111-125.

Vilhauer, B. (2004). Hard determinism, remorse, and virtue ethics. *Southern Journal of Philosophy*, *42*, 547-564.

Zhao, M. (2020). Guilt without perceived wrongdoing. *Philosophy and Public Affairs*, *48*, 285-314.