

# How remorse alone can sometimes change the past for those who have been wronged

May 24 2018, by Robert Canton

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Remorse and contrition have a role that seems natural, but the justice system makes it difficult to apply. Credit: ronmacphotos, CC BY

Remorse is one of the most significant and least understood influences on the length of the sentence imposed by a criminal court. A [survey of](#)

[Crown Courts](#) in England and Wales found that remorse was the single most common mitigating factor, mentioned in more than 20% of all cases as a reason why a sentence was being reduced, and is identified as an important consideration in formal [sentencing guidelines](#).

Even if [remorse](#) does not always lead to a lighter sentence, a lack of remorse will often be mentioned by a sentencing judge – and so picked up in newspaper reports—and will almost always lead to a weightier punishment. In a [recent case](#), the judge remarked in passing sentence: "I have watched you closely during this trial and you have shown no emotion and little remorse other than for your own situation." In [another case](#), the judge remarked that the defendant's lack of remorse and attempt to blame others was "an aggravating feature".

It can be very hard to tell whether remorse is genuine or simply self-serving, expressed just in the hope of a lighter punishment. Sincerity can be hard enough to assess in our ordinary exchanges, but in the formal processes of criminal justice it is especially difficult.

While most of us think we can tell when remorse is genuine, there is [little evidence that we can evaluate remorse accurately](#) on the basis of facial expressions or other non-verbal indications. Such judgements are vulnerable to emotional, cultural and [social biases](#). And at [court](#), remorse is articulated not by the offender in person, but by their legal advocate, usually in carefully wrought, familiar, often over-polished expressions. Nor is an apology generally made directly to the victim, who may not even be present.

## **Can remorse change the past?**

But why does remorse weigh with us so heavily? Remorse cannot change the past. Nor does remorse, however sincere, guarantee better behaviour in the future. Plenty of people profess remorse (and not only in court),

but go on to do the same thing, or worse. So if remorse doesn't matter, it's not clear why its absence should make a difference.

When offenders express remorse (or when lawyers do so on their behalf), we may worry that they are insincere. But we should also be troubled about those people who may feel remorse, but are unable or unwilling to express it, often for complex personal reasons. There are those who are believed to be incapable of remorse, said to be the mark of a psychopath. So is it just to impose additional punishment on someone for a lack of remorse if this is an emotion that they are incapable of feeling?

Perhaps remorse registers strongly with us because we see it as fitting and proper. As we grow up, we are encouraged to think that when we have done wrong we should feel bad about it. There should be an element of self-reproach, some wish to make amends and a commitment to do better in future. We are taught that we should not keep these feelings to ourselves, but express them – typically in the form of an apology. We tend to think that this is simply the right thing to do, and that without it, anger and resentment are unlikely to be soothed.

The power a good apology has to restore to the victim the dignity and respect that the wrongdoing violated must not be underestimated. This has a significance beyond the court: we have all given and received apologies, and recognise the value of such expressions. But the process of [criminal justice](#) blocks many of these spontaneous means of achieving resolution for wrongdoing: there is rarely any opportunity to apologise in person, and in serious cases where people are imprisoned, there is hardly ever a chance to make amends.

Past actions and events persist most significantly in the hearts, minds and memories of those most affected by the incident. And memory is never a process of the mere retrieval of data, but an active matter of

construction, reconstruction and interpretation, always influenced by the concerns and interests of the present. To be offered an [apology](#) is an experience that transforms the memory of the original offence; an act apologised for differs in this respect from one that has not. In this way, perhaps, remorse can sometimes change the past after all.

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