

SPIRITUAL ROOTS OF RESTORATIVE JUSTICE:

Christianity

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Preliminary note:

For the purpose of this paper, we will adopt the following definitions:

Retributive Justice sees crime primarily as a breaking of the law whose response will be provided almost exclusively by professionals in an adversarial system pitting the crown against the defense in front of a Judge alone or Judge and Jury to decide on a guilty or not guilty verdict.

Restorative Justice sees crime primarily as a breaking down of relationships whose response will be provided by professionals, the victim(s)/offender(s) and the community. It will seek to be non-adversarial and to bring healing for all. It focuses on listening, truth-telling and repairing. Howard Zehr in his seminal book, Changing Lenses, gives the following definition of Restorative Justice:

“Crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance.”¹

Introduction

“It is not as though Christianity has been tried and found wanting. It has been found hard and left untried².”

As we begin our journey into the understanding of the spiritual roots of Restorative Justice within Christianity, we are reminded of a symposium held in Vancouver in March 1997 on ‘Satisfying Justice’. The topic given to one of us (Pierre) as a presenter was ‘Faith and Crime’. The day before the presentation, Pierre remembers feeling uneasy as he listened to an aboriginal speaker recounting the abuses suffered in the residential schools and the healing journey begun by his people. In the evening, as Pierre reflected further on his uneasiness, he became jealous, angry and finally solved the enigma. His feelings of jealousy and anger were due to the fact that the aboriginal community is conscious of having lost a treasure and has engaged on a return journey. The Christian community, on the other hand, is not even conscious of having lost a great treasure and is therefore not engaging, for the most part, on a journey of rediscovery. In the area of criminal justice, Christianity has been found hard indeed and left untried for so long that it hardly remembers the time when justice could only be thought of in terms of a *‘restoring justice’*.

It is the thesis of this paper that a Christian reading of the Hebrew Scriptures, the life and ministry of Jesus, and the overall witness of the New Testament, point to what we would describe as a “Restorative Justice” model and practice in response to crime. The demonstration of that contention is to what we now turn.

Jesus and the First Christian Communities

“Yes, God loved the world so much that he gave his only Son, so that everyone who believes in him may not be lost but may have eternal life”.³

The essence of Christianity is that God loved humankind so much that God became human. God became human in the person of Jesus. Jesus, the Christ, in opening his public ministry, made clear his option for justice when, according to Luke, he stood up and read: “The Spirit of the Lord is on me, because he has anointed me to preach good news to the poor. He has sent me to proclaim freedom for the prisoners and recovery of sight for the blind, to release the oppressed, to proclaim the year of the Lord’s favor⁴.”

Jesus healed and preached the Good News. He also moved freely among the people, the despised and rejected. In the Sermon on the Mount⁵, Jesus introduced the revolutionary ethic of forgiveness: “The proportional ethic of ‘eye for eye, tooth for tooth’ was to be supplanted by turning the other cheek, giving your cloak, and going the second mile. Not only are you to love your neighbor but, especially, are you to love your enemy and those who are unjust⁶.”

In Christ, the sinner is given hope, the prodigal is welcomed home. Jesus is the great ‘Restorer’. At the same time, “so many things seem unfair (parable of the labourers in the vineyard, the brother of the prodigal son), unbalanced, irrational, as far as I can see. But there is the rub – as far as I can see. Christ came to take our vision beyond the horizon. He came to reveal something we have never experienced – a God who is completely loving – no strings attached – no ulterior motive. And because His love is total it is given not because we have earned it, but because we need it. Here is the criminology of Christ⁷.”

Jesus’ option for forgiveness, for merciful restoration is sealed forever in the mystery of his death and resurrection. The resurrection, says Brian Wren, “meant that God himself had raised Jesus from the death into a new and transformed life, thereby saying ‘yes’ to all that Jesus had said and done in his name⁸.” Jesus’ love is boundless, amazing, extravagant. It reaches out to all, without distinction, offering hope, fellowship and new beginnings.

As one of us has argued elsewhere⁹, love as “forgiveness” in Christian circles, and in wider society, is too often the “Forbidden” word. Yet, as summarized in that paper, forgiveness as technique and tool is also perhaps the most significant process for overcoming the devastation of crime. “Forgiveness in political context, then, is an act

that joins moral truth, forbearance, empathy, and commitment to repair a fractured human relation¹⁰.” Seen in that light, forgiveness promises to deliver on learning from the past to actually transcend endlessly recycled violence in response to victimization. Forgiveness liberates to the very core of our violent impulses¹¹.

The early church’s attitude of compassion toward offenders is well expressed in the Apostolic Constitutions: “It therefore behooves you.... to encourage those who have offended, and lead them to repentance, and afford them hope.... Receive the penitent with alacrity, and rejoice over them, and with mercy and bowels of compassion judge the sinners¹².”

Although the first generations of Christians would have to struggle – and the struggle continues to this day - to understand the full meaning of Christ’s incarnation-death-resurrection-ascension, the death of Christ among criminals, on a cross, was to link Christianity to criminal justice forever.

The Hebrew Scripture Background

No Christian discussion of Restorative Justice can begin without acknowledging the significance of Hebrew Scriptures. We will highlight only certain directions of Old Testament teaching as they connect to New Testament themes pertinent to Restorative Justice.

A. Shalom

First, *shalom* is the Bible’s word for salvation, justice, and peace. This statement is also title of Perry Yoder’s study. Howard Zehr in his influential book on Restorative Justice draws heavily on Yoder’s work to make the same point¹³. Yoder concludes: “*God’s justice is a response to the lack of shalom in order to create the conditions of shalom*¹⁴.” Restorative Justice is therefore in Hebrew Scripture a *peacemaking response* to crime for all affected by it.

B. The Prophets

Second, against wider cultural trends towards violence and vengeance, Amos pointed to the priority of doing justice over worship; Hosea’s genius was to put the question of deserved punishment within the family context where mercy and justice are finally balanced properly; and Jonah had to learn the hard lesson that God never ceases to care even for the “stranger/enemy”. The Hebrew prophets pulsated with dynamic pointers to the nonviolent work and words of Jesus, and proleptically to the nonviolent way of the Cross.

Still, there are “six hundred passages of explicit violence in the Hebrew Bible, one thousand verses where God’s own violent actions of punishment are described, a hundred passages where Yahweh expressly commands others to kill for no apparent reason...

Violence... is easily the most mentioned activity and central theme of the Hebrew Bible¹⁵.” And there are portions of the book of Revelation and other texts scattered about the New Testament with a violent tinge or avowal.

New Testament writings nonetheless build on an anti-sacrificial momentum begun in the Old Testament and point in John 1 and Hebrews 1 to Jesus as Christians’ “hermeneutic lens”. The requirement of sacrifice is countered in Jesus’ teaching and through the Cross is rejected. “It is mercy I desire and not sacrifice (Matt. 9:13),” Jesus says straightforwardly, quoting from Hosea 6:6.

The sacrificial system of the Old Testament embraces a “scapegoat mechanism¹⁶”. The beginning of the Hebrew religion is the scapegoating of an animal instead of a human being, in the surrogate sacrifice of a ram in place of Isaac¹⁷. Animal sacrifice in the Old Testament is never far from human sacrifice. There is a move away from this scapegoat mechanism, especially during the time of the later prophets¹⁸. Micah identifies animal sacrifice as child sacrifice disguised in the very passage Jesus draws on (Micah 6:8) in Matthew 23:23. Some call Micah 6 the “high water” mark of Old Testament spirituality. Hosea rejects all sacrifice except sincere conversion of the heart.

The Prophets, Christians claim, all pointed to Jesus the Christ (Messiah), who shatters for all time the legitimacy of scapegoating. From his time on, no enemy may ever be put outside the circle of God’s or our love.

Hebrew prophetic insight anticipates the advent of a “Suffering Servant” whom Christians and New Testament witness appropriate as their Saviour, Jesus the Christ. So Williams concludes: “In understanding his suffering, in standing with him and not with the persecutors, those who are taught by him begin to transform the structures of sacred violence¹⁹.”

C. Vengeance

First to notice is, “... it is clear that the prayer for vengeance in the Old Testament and the command for love in the New Testament operate on a different level, and a contrast drawn between such different texts can only produce a false picture²⁰.”

Further, Peels discerns that “Between the vengeance and the love of God there is no contradiction, but sometimes there is a tension....²¹” He does note however that “Wrath and vengeance are variables, while love is a constant in God’s relationship with mankind²².” He concludes finally: “The fact that God’s vengeance stands in the service of salvation is the most evident from the longing for and joy concerning this vengeance, in which there is, incidentally, no trace of malice.... The God of vengeance and the God of love are one and the same God. He is the Lord who brings his kingdom in justice and grace²³.”

Vengeance is self-consciously omitted from Jesus’ agenda - even when he quotes

Scripture with such themes in it²⁴. Rightly understood, the words “punishment” and “retribution” have no place in Christian vocabulary²⁵.

James Alison discerns a dynamic of *subversion* at work in Christian theology in light of the resurrection of Jesus that reconceptualizes the categories of wrath and vengeance such that they (and God!) are completely shorn of violence. He explains: “So we have a gradual ironic subversion of the language of wrath, whereby that which is initially seen as something active (God being angry) is recast to show God being righteous in the midst of human anger, but without losing the word ‘wrath’. Something of the same process can be seen (but more obviously) in the Johannine reworking of the theme of God’s judgment whereby God’s judgment of humanity consists not in any judgment actively exercised by God, but in the judgment undergone by Jesus at the hands of human beings. We are judged by our relationship to that judgment. We see then how God ‘handing over’ Jesus to us can be described as God’s wrath, when the content of that wrath is the human violence exercised against Jesus, or the simultaneous handing over of ourselves to idolatry typified in the killing of Jesus... The true understanding of wrath came about exactly at the same moment as there emerged the possibility of being freed from it: it is the forgiveness of the resurrection which defines the nature of sin²⁶.”

God’s wrath christologically, in light of the Resurrection, is forgiveness. In Jürgen Moltmann’s words: “God’s wrath is nothing less than his wounded love and a pain which cuts to the heart. His wrath is therefore an expression of enduring interest in man.²⁷” God’s wrath is in fact complete solidarity with our suffering such that the very pain of existence is endured by God, taken up into God’s very life. In fact, a trinitarian understanding of God arises from Jesus’ death on the cross: God experiences wrath and death in his Son. Thus, “The material principle of the doctrine of the Trinity is the cross. The formal principle of the theology of the cross is the doctrine of the Trinity²⁸.” Seen in this light, God’s wrath experienced as abandonment, as “Godforsakenness²⁹”, becomes one’s hope and joy in the power of the Resurrection³⁰.

God’s exercise of vengeance is forgiveness and liberation, which is “the joy of being wrong³¹ in Jesus. Jesus determines to disarm every state executioner and to set every prisoner free³².”

II. Historical/Theological Notes

“We wrestled in mighty prayer.... Joy was visible in all their faces. We sang ‘Behold the saviour of Mankind: nailed to the shameful tree. How vast the love that him inclined, To bleed and die for thee.’ It was one of the most triumphant hours I have known.” This was recorded by Charles Wesley in his Journal, 1738.

This journal entry recorded Charles Wesley’s ministry in Newgate prison on the night before the execution of nine prisoners. The next morning he accompanied them to the gallows: “They were all cheerful, full of comfort, peace and triumph, assuredly persuaded that Christ had died for them and waited to receive them into paradise.... I never saw such calm triumph, such incredible indifference to dying.” He returned home and wrote: “Full

of peace and confidence in our friends' happiness. That hour under the gallows was the most blessed hour of my life³³.”

The Wesleys, Father John Fletcher (called the Anglican St. Francis) and their followers were genuinely concerned for the poor. But Gorringe plaintively asks: “What was it, then, which prevented them from seeing what the editors of the *Spectator* so clearly perceived? How was it that they could see people like Wilkes, whose hopeless background they perfectly understood, go to the gallows for offences which were trivial and which involved no violence against the person, without exerting themselves to have the sentence commuted?... How is it that the question whether the law might be wrong, or even wicked, does not arise for these good Christian people? How could they come away from scenes of judicial murder feeling that this was ‘the most blessed day of their life?’³⁴”

When one contrasts the Wesleys' Journal entries with the following letter by Augustine, one is struck by the great divide in attitudes within Christianity over the span of centuries. In A.D. 412, Augustine, fearing a sentence of death for the murderer of some of his friends, wrote to the judge, Marcellinus: “...by no means do this or permit this to be done.... we do not wish the sufferings of the servants of God avenged by the infliction of precisely similar injuries in the way of retaliation... Fulfill, Christian judge, the duty of an affectionate father; let your indignation against their crimes be tempered by consideration of humanity; be not provoked by the atrocity of their sinful deeds to gratify the passion of revenge, but rather be moved by the wounds which these deeds have inflicted on their own souls to exercise a desire to heal them³⁵.” Many forces were to combine through the centuries to bury, to make the richness of biblical Restorative Justice virtually disappear.

The reigns of the Emperors Constantine and Theodosius radically changed the relationship of Christians to the ‘secular’ world (though “secular” is an anachronism for that time). Until that time, the early church, made up of small, self-contained communities, had tried to avoid contact with secular government and especially its courts. However, to secure a position of power for the church, Constantine sponsored a series of interesting legislative acts. One of these was the abolition of crucifixion as a means of execution, “out of reverence for Jesus³⁶.” Of greater importance was the authorization he gave to episcopal courts to engage in civil litigation. “By this step Constantine directly involved the Church in administering the law and maintaining order in the Empire.... The result of this Church-state alliance was hardly the ‘baptism’ of the Roman Empire. Rather it was abduction of the Christian faith to prop up a dying political and social order³⁷.” “For to envisage the faith as a political principle was not so much to ‘christianize’ civilization as to ‘civilize’ Christianity; it was not to consecrate human institutions to the service of God but rather to identify God with the maintenance of human institutions³⁸.”

As Harold J. Berman puts it: “The conversion of Emperor Constantine in the early fourth century and the establishment of Christianity as the official imperial religion raised the stark question whether Christianity could contribute to the ruler’s role as supreme judge

and supreme legislator in his domain. The question was rendered especially acute by the belief that the emperor was head of the church and represented Christ on earth³⁹.”

C. J. Cadoux, in an Epilogue to his study of the pre-Constantinian church says of that era: “... we certainly have a moral reformatory movement on a scale and with a potency unparalleled at any other epoch before or since... the achievements of the early Church can defy comparison with those of any other moral or religious movement known to history⁴⁰.”

Bishop Lesslie Newbigin asked in this connection, “When the ancient classical world, which had seemed so brilliant and so all-conquering, ran out of spiritual fuel and turned to the church as the one society that could hold a disintegrating world together, should the church have refused the appeal and washed its hands of responsibility for the political order⁴¹?” It is a good question, but without an easy answer. The fourth century was a time of significant transition for the church, during which it moved from being an illegal to a legal institution, and from being “underdog” to “top dog” in exercising political power.

This profound metamorphosis of the church however was not unproblematic in its sudden acquisition and use of power. In the church’s new political hegemony, its dominant former watchword, “The church abhors the shedding of blood”, was replaced remarkably quickly by Emperor Constantine’s bellicose, “In this sign [of the labarum] conquer.”

The problem, to respond to Newbigin’s question, was not the church’s entering into the political/cultural arena, but the choice of means of exercise of political power once it did. It has been argued from that era on that what Jesus had prohibited, “lording it over⁴²”, the church embraced in its quest to become a significant “benefactor” of culture. Jesus’ teaching about power indicated “Instead, [that] the greatest among you should be like the youngest, and the one who rules like the one who serves⁴³.”

Historian Alistair Kee’s comment is germane: “But there is one conquest made by Constantine, the effect of which still continues to the present day, his most surprising yet least acknowledged... He conquered the Christian church. The conquest was complete, extending over doctrine, liturgy, art and architecture, comity, ethos and ethics. And this is the greatest irony, that Constantine achieved by kindness what his predecessors had not been able to achieve by force. Without a threat or a blow, and all unsuspecting, the Christians were led into captivity and their religion transformed into a new imperial cult... But this achievement, unheralded then, unrecognized now, represents Constantine’s greatest conquest, the one which has persisted largely unchallenged through the centuries in Europe and wherever European Christianity has spread⁴⁴.” He adds that “the reign of Constantine is a fundamental turning-point in the history of Europe, and not only Europe. From that time the imperial ideology, with all its implications for the accumulation of wealth and the exercise of power over the weak, was given religious legitimation by the church⁴⁵.” The historical record is certainly clear that the *persecuted* church quickly became the *persecutor* in its response to pagans, Jews,

other outsiders, and eventually criminals.

Kee says, “It is not that the perspective of the early church provides the norm for critically assessing the life of the church today. To the contrary, after Constantine, it is the church under the sway of imperial values which now provides the perspective for reading the Bible.⁴⁶” Certainly hermeneutics of the founding biblical texts themselves becomes an issue before the texts are even read. This does not make the issue of Jesus’ teaching in this matter any easier!

This century, a large body of biblical scholarship⁴⁷ upon rereading the founding texts has discovered the truth of Gandhi’s statement: “The only people on earth who do not see Christ and his teachings as nonviolent are Christians⁴⁸.” Gandhi also wrote: “The message of Jesus, as I understand it, is contained in the Sermon on the Mount.... Much of what passes as Christianity is a negation of the Sermon on the Mount⁴⁹.” While not agreeing fully with Gandhi, Both Wink and Stassen, in their respective books, offer a sustained rereading of Jesus that points up “a great irony of history that the cross, symbol of the ultimate triumph of peaceful means to peaceful ends, has been used as a standard in battle⁵⁰.” This includes the “war” against crime.

To measure properly the consequences of such a move from the biblical/restorative concept to a Roman concept, one turns to the distinguished Dutch historian of law, Herman Bianchi. Probably more than anyone else, he is the one to have studied biblical justice especially as it relates to the legal system and more specifically to the penal law system. Although from the very beginning Christianity claimed to be a leaven for the entire culture, including the legal system, as Bianchi says: “Nowhere else did the Christian religion have less chance to accomplish this claim than exactly in the legal system.... And no legal system was ever more fit for resistance than the Roman legal system, as it was continued in continental Europe after the fall of the Roman empire and even officially adopted later in the Middle Ages. The glamour of this legal system was so strong that it radiated also to Britain⁵¹.” Perhaps this would not have been so significant if it had been more obvious that the legal system had little or nothing to do with the teachings of Christian doctrine. But because the Middle Ages pretended to be a totally Christian culture, the Roman system was accepted as consistent with Christian doctrine. Thomas Aquinas went even further and proclaimed the Greco-Roman idea of justice to be THE idea of justice. So we read: “... it came to be that the western legal system continued to be Greco-Roman in nature and was nevermore endangered by any biblical thought. The Reformation attacked many ideas of medieval doctrine, it never ever pronounced any doubts concerning the legitimacy of Greco-Roman justice for a Christian culture.⁵²”

In Bianchi’s most recent English publication⁵³, he nuances the understanding of “Greco-Roman” legal traditions to explain that Roman slave law was indeed brutal, and it was this retributive law that was taken over into highly punitive Western ways of criminal justice.

From a biblical/Christian concept of justice where the victim's voice is the primary voice and where a dynamic attempt at reconciliation/restoration/shalom between offender-victim is center-stage, we progressively move to a concept of justice where the emerging State is central and where the victim's voice is more and more silenced⁵⁴. The victim is displaced by the King/Emperor responsible for 'keeping the peace' within the kingdom.

Pope Gregory VII in publishing his 27 terse propositions in *Dictatus Papae* in 1075 drew the battle lines between the 'secular' and the 'spiritual'. Berman contends that: "The Papal Revolution gave birth to a new conception of kingship in Western Christendom. The king was no longer the supreme head of the church. The era of 'sacral kinship' gradually came to an end. In matters denominated as 'spiritual,' the bishop of Rome was supreme – not only over kings but also over the most important sovereign of all, the emperor. For the first time emperor and kings were conceived to be 'secular' rulers, whose principal tasks were, first, to keep the peace within their respective kingdoms, that is, to control violence, and second, to do justice, that is, to govern in the political and economic spheres. Even in these matters, moreover, the church played an important role. The reduction of royal authority in ecclesiastical matters was compensated, however, by a very large increase in royal authority in relation to other secular polities – tribal, local, feudal, and urban. In Joseph Strayer's words, 'The Gregorian concept of the Church almost demanded the invention of the concept of the State.'⁵⁵ ". And "as the Papal Revolution gave birth to the modern Western State, so it gave birth also to modern Western legal systems, the first of which was the modern system of canon law."⁵⁶

When one combines with the Gregorian Reform/Revolution, the emergence of the theology of satisfaction under the influence of the book *Cur Deus Homo* (in the closing years of the 11th century) by Anselm of Canterbury, one has great difficulty recognizing the good news of the gospel. As Berman explains: "However broadly Anselm conceived justice, reason required that he stop at the boundary of grace. God is bound by his own justice. If it is divinely just for a man to pay the price for his sins, it would be unjust, and therefore impossible, for God to remit the price. In *Cur Deus Homo* Anselm's theology is a theology of law. Before the time of Anselm (and in the Eastern Church still) it would have been considered wrong to analyze God's justice in this way. It would have been said, first, that these ultimate mysteries cannot be fitted into the concepts and constructs of the human intellect; that reason is inseparable from faith –one is not the servant of the other, but rather the two are indivisible; and the whole exercise of a theology of law is contradiction in terms. And second, it would have been said that it is not only, and not primarily, divine justice that establishes our relationship with God but also, and primarily, his grace and his mercy; that is his grace and mercy, and not only his justice, which explains the crucifixion, since by it mankind was ransomed from the power of the devil and the demons of death – the very power which had procured the slaying of Jesus in the first place but which then itself was finally conquered through the resurrection."⁵⁷

Anselm's theory profoundly influenced the cultural affect of subsequent centuries. Although his theology of 'satisfaction', of 'atonement'⁵⁸ was never proclaimed as the 'official' doctrine of the Christian church, it was widely accepted both in Catholicism and

Protestantism and was to have a number of negative effects especially when applied to the criminal justice system. Over the differing voices of Lombard, Abelard, Blake, Campbell and Moberly and others, Anselm's voice remained the strongest.

“For the Church Fathers, it is the devil who – illegitimately – insists on the payment of the debt incurred by humankind. Anselm inverts this. Now it is God who, legitimately, exacts the payment of debt... In both Old and New Testaments an indebted person could be ‘redeemed’ by the payment of his or her debt. Jesus, following Deuteronomy, insists on the cancelling of debt as a fundamental aspect of Christian practice. Anselm, however, makes God the one who *insists* on debt. The debt humanity has incurred must be paid with human blood. The penal consequences of this doctrine were grim indeed. As it entered the cultural bloodstream, was imaged in crucifixions, painted over church chancels, recited at each celebration of the Eucharist, or hymned, so it created its own structure of affect one in which earthly punishment was demanded because God himself had demanded the death of his Son. When the social reformer Joseph Gerrald was tried in March 1794, he pointed out that Jesus Christ had himself been a reformer. Lord Braxfield, the presiding judge, turned to his fellow judges and remarked: ‘Muckle he made o’ that; *he* was hanget.’ And many generations of the poor, like Gerrald, paid the price of maintaining the ‘justice’ of a confessedly hierarchical system⁵⁹.”

So instead of a merciful/compassionate God as revealed in Jesus the Christ, the Christian God became a severe judge bent on punishment and almost literally ‘blood-thirsty’. The Christians who used the cross to scapegoat the Jews, to lead Crusades and persecute others totally reversed what the cross stood for in Jesus’ death and resurrection. “‘Quick, head off, away with it, in order that the earth does not become full of the ungodly.’ The voice is distinctly Martin Luther’s. Rulers are the ministers of God’s wrath, Luther insisted, whose duty it is to use the sword against offenders. They are ‘God’s hangmen’⁶⁰.” Luther is merely representative of dominant Protestant and Catholic church theory and practice since the 11th century.

As the centuries went by, not much progress was made. For example, in Merry Olde England in 1801, Andrew Branning, age 13, was hanged for stealing a spoon. There were 78,000 hangings during the reign of Henry VIII. Until 1677, heresy merited the death penalty. Hanging was by far the most popular method of capital punishment.

Violence Unveiled: A Girardian Rereading of the Founding Texts

René Girard this century has offered a reading of the Gospels which, unlike some contemporary rereadings, reinterprets the texts without “crucifying” them⁶¹. This is seen in particular in Girard’s reading of the New Testament teaching about the meaning of Jesus’ death on the cross (the atonement). Before Girard considered Judeo-Christian Scriptures, however, he had developed a profound theory about the origins of violence in contemporary culture and, in his view, in all human cultures throughout history⁶².

In brief, Girard argues that at the core of human motivation in all cultures is a dynamic

called “mimetic desire”. “Desire is mimetic in the sense that it imitates desire, it *copies the other’s desire for an object* and not the outward form of the other’s actions⁶³.” Mimetic desire is good in motivating human socialization. It turns to evil however in its inevitable bent towards idolatry and consequent violence.

Further, Girard suggests that the universal cultural response to violent mimetic desire is a “scapegoat mechanism”. Scapegoating is “The age-old way of gaining release from the violence or potential violence that mimesis produces... through nonconscious convergence upon a victim⁶⁴.”

Girard understands the birth of all cultures to arise from the unanimity achieved by scapegoating a victim or victims. Ritual, prohibition, and myth dominant in all cultures religious and secular arise in the repeated exercise of a sacrificial mechanism designed to reestablish the peace. Cultic rites the world over in archaic religions and scapegoating interpretations of Christendom (though not earliest Christianity, as we have argued) demonstrate the phenomenon. The criminal justice system in a secular society serves a similar “scapegoat mechanism” function⁶⁵.

The scapegoat mechanism is “simply a generative scapegoat principle which works unconsciously in culture and society⁶⁶.” In the 1989 execution of serial killer Theodore Bundy, hundreds of men, women and children camped outside the Florida prison in a festive spirit one reporter likened to a *Mardi Gras*. The same reporter described the event as “a brutal act.. [done] in the name of civilization⁶⁷.” Bailie reflects on that commentary thus: “It would be difficult to think of a more succinct summation of the underlying anthropological dynamic at work: *a brutal act done in the name of civilization*, an expulsion or execution that results in social harmony. Clearly, after the shaky justifications based on deterrence or retribution have fallen away, this is the stubborn fact that remains: a brutal act is done in the name of civilization. If we humans become too morally troubled by the brutality to revel in the glories of the civilization made possible by it, we will simply have to reinvent culture. This is what Nietzsche saw through a glass darkly. This is what Paul sensed when he declared the old order to be a dying one (I Cor. 7:31). This is the central anthropological issue of our age⁶⁸.” (This was too, incidentally, the central motivation for Sister Helen Prejean’s participation in the production of the movie *Dead Man Walking*. She writes, in the book by the same title: “I am convinced that if executions were made public, the torture and violence would be unmasked, and we would be shamed into abolishing executions⁶⁹.”)

Girard’s serious engagement with the biblical texts led to a major discovery for him: the Christian New Testament is the ultimate demythologizer of all cultural norms of violence. “The third great moment of discovery for me was when I began to see the uniqueness of the Bible, especially the Christian text, from the standpoint of the scapegoat theory. The mimetic representation of scapegoating in the Passion was the solution to the relationship of the Gospels and archaic cultures. In the Gospels we have the revelation of the mechanism that dominates culture unconsciously⁷⁰.” In particular, this has led to a totally nonviolent rereading of the atonement. Instead of a scapegoating “satisfaction theory”

one author designates a “mysticism of pain which promises redemption to those who pay in blood⁷¹”, Girard claims “that scapegoating does not play an essential role in the Gospels, whereas it has an enormous role in myths since it generates them.... Christianity [witnesses] to the God who reveals himself to be the *arch*-scapegoat in order to liberate humankind⁷².” Girard’s reading of the Gospel texts turns the dominant satisfaction theory of the atonement on its head. He sees the scapegoat mechanism operative in the crucifixion to participate in the universal murderous lie upon which all cultures are founded and from which the Jesus story is the ultimate liberation.

Girard explains: “In the Hebrew Bible, there is clearly a dynamic that moves in the direction of the rehabilitation of the victims, but it is not a cut-and-dried thing. Rather, it is a process under way, a text in travail; it is not a chronologically progressive process, but a struggle that advances and retreats. I see the Gospels as the climactic achievement of that trend, and therefore as *the essential text in the cultural upheaval of the modern world*⁷³.”

Vern Redekop asks in application of Girardian theory, “Is it possible that what we call a criminal justice system is really a scapegoat mechanism⁷⁴?” He continues later: “In a secular democratic society, nothing is as sacred as the law code and the justice system which enforces it. The buildings in which laws are made are the most elaborate and the courts in which decisions are made about points of law are the most stately. Formality, uniforms, and respect surround the agents of law⁷⁵.” He finally states baldly: “It is possible to think of the criminal justice system as one gigantic scapegoat mechanism for society.... [A] tiny percentage of offenders who are severely punished can be thought of as a collective scapegoat for society⁷⁶.”

The entire Girardian project points to a profound *nonviolent* reading of God. It discerns a dynamic of subversion within the Judeo-Christian tradition itself whereby God is eventually shorn of all violent attributes. It is a process “in travail” says Girard, whose culmination in Jesus on the Cross is the ultimate negation of all violence in God and hence humanity. Says one interpreter: “The experience of being morally shaken by a public execution is the beginning of an anthropological and spiritual revolution for which the term ‘Christianity’ was coined decades after the public execution of Jesus⁷⁷.”

Since Constantine pragmatically and politically, and since Anselm theologically, the church has inconceivably claimed legitimacy for the very violence that killed Jesus. It further arrogated to itself, and society under its influence, that same rightfulness.

René Girard, and the plethora of articles and books inspired by his writings⁷⁸, points to a reading of God in the Christian Scriptures “which is absolutely incompatible with any perception of God as involved in violence, separation, anger, or exclusion⁷⁹.” Read as fundamental texts of cultural deconstruction, the Christian Scriptures for several commentators emerge as the most radical demythologizing texts known to humanity.

Vern Redekop in the book earlier quoted⁸⁰ has best explored the implications of Girard’s

New Testament reading for criminal justice. Suffice it to say: the highly violent nature of the Western legal tradition would have been vastly different had this arguably more faithful reading of the founding texts been dominant. That is the burden of Timothy Gorringer's masterful work⁸¹.

The 'modern prison' was to drastically grow during the 19th century as the new form of punishment but the punitive attitude in the church remained alive and well. As Gorringer says: "For those who hope to find in the witness of the church some signs of the work of the Holy Spirit an examination of the role of the church in the penal debates of the nineteenth century is depressing indeed. From start to finish the bishops proved staunch supporters of flogging and hanging. When the Duke of Argyll echoed Luther in calling society a minister of divine justice in imposing capital punishment, Samuel Wilberforce, the Bishop of Oxford, cried, 'Hear, hear!' In a debate on flogging in 1883 the Bishop of Rochester, in an extraordinary unpleasant intervention, said that offenders should be 'scoured to the bone'. In the prison chaplains were not simply functionaries, but often did their best to extract confessions of guilt, and in attending executions gave divine sanction to legal violence⁸²."

Through the centuries, the restorative voice of the gospel did not die completely and found deep echoes in the Anabaptist tradition for instance, and elsewhere, but, in the words of the Most Rev. E.W. Scott, "[...] all too often the State has claimed divine authority for legal actions for which no such authority exists. In this process the Church, which should have been challenging or critiquing the civil authority from a Biblical perspective, has too often allowed itself to be 'domesticated' and has blessed and sanctioned when it ought to have challenged⁸³."

In the first centuries CE, as the Church and the State were defining their own identity, they engaged in a duet of cooperation. In the twelfth century, the duet truly became a dual where the dividing lines of power were clearly drawn. It led, during the modern period, to full disengagement. Over the centuries, in the area of criminal justice, the Christian church moved from a theology of grace and servanthood to a theology of law and punishment. Will the Restorative Justice treasure remain deeply buried or will the Christian church have the courage to raise a prophetic voice within the criminal justice system? A decisive answer is urgently needed.

III. A radical reengagement

“ Restorative Justice can help reduce the level of pain so that healing may begin to take place, but it should never be forced on anyone. If it is embraced freely, it can have deep and lasting effects on individuals and communities. Our goal is to seek Shalom, harmony and security for all, with reconciliation and healing replacing revenge and pain.

“We believe that the search for true and satisfying justice is forever linked to the spiritual growth of all concerned. The path of over-incarceration, of a vengeful

spirit and a punitive mentality, can only dry up the soul of our country (A Call for Justice (Interfaith Committee on Chaplaincy in the Correctional Service of Canada), September 1997).”

From Matthew 5 - 7 and Luke 6 to Romans 5:6 - 11 and 12:1-21; from 2 Corinthians 5:11-21 to Ephesians 2:11- 22 and 5:1 & 2, and in many other passages of the New Testament, one can recapture the heartbeat of God for restoration, reconciliation and peaceful communities. Although other passages such as Romans 13, 1 Peter 2 and Titus 3 were often read politically and used to justify wars, crusades and vengeful attitudes towards offenders, we are not left with an irreconcilable dilemma.

“Our fundamental hermeneutic principle must be derived from the overall *direction* of the New Testament documents. The central story they tell speaks of God’s movement ‘downwards and to the periphery, his unconditional solidarity with those who have nothing, those who suffer, the humiliated and injured’. This represents a diametrically opposite perception to the Roman view which assumed that, as Caesar once said to his rebellious soldiers, ‘as the great ordain, so the affairs of this world are directed’. The crucifixion of Jesus, on the other hand, constitutes ‘a permanent and effective protest against those structures which continually bring about separation at the centre and the margin.’ It is this protest rather than an endorsement of expiatory sacrifice, which is the heart of the New Testament witness. Turning Christianity into a cult centred on an expiatory death achieved long ago, and honoured in the present by other - or inwardly asceticism, represented an easy option, a refusal of the costliness of the gospel ethic, of a realization of the Jubilee prescriptions. The recovery of a text of protest and critique would serve to create quite different mentalities and structures of affect from those avowed by Christendom⁸⁴.”

Over the last twenty-five years, in many countries, there have been a number of initiatives challenging us to go beyond a retributive justice to a Restorative Justice. These initiatives have been emerging signs of hope calling for a radical reengagement of the Christian faith in criminal justice issues from a Restorative Justice perspective. A brief mention of some of these trends seeks to open vistas on the new paradigm:

Victim Offender Reconciliation Programs (VORP): Pioneered by Canadians over twenty-five years ago, the VORP programs demonstrated that there are better ways than incarceration for many types of offenses. Used at first in property crimes, the Victim Offender Mediation Program (VOMP)⁸⁵ in British Columbia, Canada is ample proof over the last several years that, properly done, victim offender mediation can be successfully applied in the most serious of cases.

Church Council for Justice and Corrections (CCJC): Relentlessly through the years CCJC has engaged the churches of Canada on a journey of rediscovery of the theological/biblical foundations of a more satisfying, transformative, real justice. CCJC played a significant role in the abolition of capital punishment in Canada and has provided the churches with many valuable hands-on tools in the area of criminal justice⁸⁶.

CSC Mission and NPB Mission: The missions of both the Correctional Service of Canada and the National Parole Board are a commitment to enlightened corrections where offenders, victims and the communities must be treated with respect and professionalism of the highest order⁸⁷.

New Partnerships: As never before (as was evident in the Vancouver Symposium of 1997), new partnerships between various government departments and the private sectors are being formed to move forward a Restorative Justice agenda. Circle sentencing, family conferencing, restorative parole, etc. are now the subject of daily conversation in many quarters.

Community Chaplaincies/Circles of Support: These growing initiatives seek to involve the faith communities in playing a more significant role with offenders and victims and ensuring that crime is returned to the communities for creative solutions⁸⁸.

Restorative Justice Week: This yearly event in November is proving to be one of the most effective educational tools to sensitize people of faith to the challenges of doing justice in a biblical way⁸⁸.

A Call to Justice: This 1997 proclamation by the Interfaith Committee on Chaplaincy in the Correctional Service of Canada deserves to be publicized more widely as it is a call to Restorative Justice by rediscovering our spiritual roots⁸⁸.

These are but a few examples among many initiatives engaging the churches in a reexamination of their attitudes in the criminal justice system.

Conclusion

“There comes a moment when words must either become incarnate or the words, even if literally true, are rendered false⁸⁹.”

At the end of our journey toward the understanding of the spiritual roots of Restorative Justice within Christianity, if it is true that the Christian Church:

- * lost its ‘scriptural’ understanding of justice,
 - * was deeply influenced by the Roman slavery concept of law,
 - * fell prey to a theology of punishment and vindication,
 - * and must rediscover the richness of its heritage,
- then, such a recovery is a call to repentance and conversion, to creativity and community.

A call to repentance and conversion: As a Christian becomes a pilgrim on the roads of history and realizes how the message of Christ was subverted, misused to oppress, there is a call to humble repentance and personal conversion. It should lead to a commitment

to influence through servanthood and not through power and to daily seek a change of heart as the line dividing good and evil cuts through the heart of every human being.

A call to creativity: As Christians return to the spiritual roots of Restorative Justice they will be challenged to discover new ways of doing justice. They will have to learn to dream new dreams and pursue new visions. It is a call to co-operation, partnership in new creative ways.

A call to community: Most fundamentally, Restorative Justice is a call to build new communities where acceptance and reconciliation are realities. Restoration and reconciliation are lived in the community of the covenant of love between God and humankind. Being a follower of Christ is far more than experiencing a personal conversion. It is becoming part of a community committed to justice in a world of injustices, a community committed to listening to all sides when crime happens, a community committed to truth beyond the guilty/not guilty dichotomy and a community committed to offering opportunities for reparation and peacemaking so that offenders and victims find healing in a community of hope.

“Assured of God’s justice and undergirded by God’s presence, they [the Christians] are to break the cycle of violence by refusing to be caught in the automatism of revenge. It cannot be denied that the prospects are good that by trying to love their enemies they may end up hanging on a cross. Yet often enough, the costly acts of nonretaliation become a seed from which the fragile fruit of Pentecostal peace grows – a peace between people from different cultural spaces gathered in one place who understand each other’s languages and share in each others’ goods⁹⁰.”

The God of Jesus Christ calls us to nothing less.

¹ Zehr, Changing Lenses, p. 181.

² Zacharias, “Diagnosing the Modern Mind”.

³ John 3:16, *Jerusalem Bible*

⁴ Luke 4:18 - 19, *New International Version*

⁵ Matt. 5:38 - 48

⁶ Mackey, Punishment, p.15

⁷ Harris, “The Criminology of Christ”, p. 9.

⁸ Wren, Education for Justice, p. 50.

⁹ Northey, “Rediscovering Spiritual Roots: The Judeo-Christian Tradition and Criminal Justice”, pp. 60ff.

¹⁰ Shriver, An Ethic For Enemies, p. 9.

¹¹ The best biblical story told by Jesus illustrating forgiveness is Luke 15:11-32.

¹² Roberts and Donaldson, Apostolic Constitutions, p. 402.

¹³ Zehr, Changing Lenses, pp. 126 - 157.

¹⁴ Yoder, Shalom, p. 34, italics in original.

¹⁵ Wink, Engaging the Powers, p. 146.

¹⁶ This is René Girard’s term. Please see discussion of his thought below.

¹⁷ See the poignant story in Genesis 22: 1 - 18.

¹⁸ Barbé, A Theology of Conflict, pp.24ff.

¹⁹ Williams, The Bible, Violence, and the Sacred, p. 162.

²⁰ Peels, The Vengeance of God, p. 244.

²¹ Peels, The Vengeance of God, p. 294.

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- ²² Peels, The Vengeance of God, p. 294
- ²³ Peels, The Vengeance of God, p. 295.
- ²⁴ See Jeremias, New Testament Theology, pp. 204ff.
- ²⁵ Moule, Punishment and Retribution.
- ²⁶ Alison, The Joy of Being Wrong, 128.
- ²⁷ Moltmann, The Experiment of Hope, p. 76.
- ²⁸ Moltmann, The Experiment of Hope, p. 81
- ²⁹ Moltmann's term in The Experiment of Hope, p. 79.
- ³⁰ The best biblical illustration of the transformation or subversion of wrath is John 8:111.
- ³¹ James Alison's book title.
- ³² See Luke 4:16ff. Early Church Father Tertullian said that with Jesus' disarming of Peter (Matt. 26:51ff), Jesus thereby disarmed the Church forever. If only!
- ³³ Linebaugh, The London Hanged, pp. 214 - 215; as quoted in Gorringer, God's Just Vengeance, pp. 3 - 4.
- ³⁴ Gorringer, God's Just Vengeance, p. 5.
- ³⁵ Schaff and Wace, "The Confessions and Letters of St. Augustine", pp. 470 - 471.
- ³⁶ Hastings, s.v. "Constantine", by Herbert Workman, p. 80.
- ³⁷ McHugh, Christian Faith and Criminal Justice, p. 16.
- ³⁸ Cochrane, Christianity and Classical Culture, p. 336.
- ³⁹ Berman, Law and Revolution, p. 167.
- ⁴⁰ Cadoux, The Early Church and the World, p. 611.
- ⁴¹ Newbigin, Foolishness to the Greeks, p. 101.
- ⁴² Luke 22:25 & 26a.
- ⁴³ Luke 22:26b.
- ⁴⁴ Kee, Constantine versus Christ, p. 154.
- ⁴⁵ Kee, Constantine versus Christ, p. 168
- ⁴⁶ Kee, Constantine versus Christ, p. 168.
- ⁴⁷ See "Notes" in both books cited below for examples.
- ⁴⁸ quoted in Wink, Engaging the Powers, p. 216.
- ⁴⁹ quoted in Stassen, Just Peacemaking, p. 33.
- ⁵⁰ Anderson, "Jesus and Peace", p. 104.
- ⁵¹ Bianchi, "Tsedeka-Justice", p. 308.
- ⁵² Bianchi, "Tsedeka-Justice", p. 308.
- ⁵³ Bianchi, Justice as Sanctuary.
- ⁵⁴ This process is well described in Van Ness and Strong in Restoring Justice.
- ⁵⁵ Berman, Law and Revolution, p. 404.
- ⁵⁶ Berman, Law and Revolution, p. 115.
- ⁵⁷ Berman, Law and Revolution, p. 180.
- ⁵⁸ There have been three discernible views of the atonement in the history of the church, of which the second, the "satisfaction theory", has been the most dominant in Western history since the 11th century. "The second group of theories may be said to have originated with Anselm, who saw sin as dishonor to the majesty of God. On the cross the God-man rendered satisfaction for this dishonor. Along similar lines the Reformers thought that Christ paid the penalty sinners incurred when they broke God's law (Morris, "Atonement", p. 83)."
- ⁵⁹ Gorringer, God's Just Vengeance, p. 102.
- ⁶⁰ Gorringer, God's Just Vengeance, p. 131.
- ⁶¹ Girard calls the reinterpretations "things hidden since the foundation of the world", title also of one of his books, and himself uses the image of "crucifying" the texts.
- ⁶² Three earlier publications investigated this: Deceit, Desire and the Novel; Violence and the Sacred; "To Double Business Bound".
- ⁶³ Hamerton-Kelly, The Gospel and the Sacred, p. 132.

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- ⁶⁴ Williams, The Girard Reader, p. 293.
- ⁶⁵ Redekop, Scapegoats, the Bible, and Criminal Justice, pp. 32ff. This was not initially recognized by Girard in Violence and the Sacred, pp. 22 & 23.
- ⁶⁶ Williams, The Girard Reader, p. 294.
- ⁶⁷ Bailie, Violence Unveiled, p. 79.
- ⁶⁸ Bailie, Violence Unveiled, p. 79.
- ⁶⁹ Prejean, Dead Man Walking, p. 197.
- ⁷⁰ Williams, The Girard Reader, p. 263.
- ⁷¹ Gorringer, God's Just Vengeance, p. 102.
- ⁷² Williams, The Girard Reader, p. 263.
- ⁷³ Hamerton-Kelly, ed., Violent Origins, p. 141, italics added.
- ⁷⁴ Redekop, Scapegoats, the Bible, and Criminal Justice, p. 1.
- ⁷⁵ Redekop, Scapegoats, the Bible, and Criminal Justice, p. 16.
- ⁷⁶ Redekop, Scapegoats, the Bible, and Criminal Justice, pp. 33 & 34.
- ⁷⁷ Bailie, Violence Unveiled, p. 83.
- ⁷⁸ An extensive bibliography appears in Williams, The Girard Reader.
- ⁷⁹ Alison, Raising Abel, p. 48. Alison's book just quoted from, and his subsequent publication, The Joy of Being Wrong, are the premier texts of a theologian directly impacted by René Girard.
- ⁸⁰ Redekop, Scapegoats, the Bible, and Criminal Justice.
- ⁸¹ Gorringer, God's Just Vengeance.
- ⁸² Gorringer, God's Just Vengeance, p. 211
- ⁸³ Scott, "Is Canadian Justice Just?"
- ⁸⁴ Gorringer, God's Just Vengeance, p. 82.
- ⁸⁵ For a copy of two evaluations of this program, and more on the program itself, write: FRCJIA, 101 - 20678 Eastleigh Cres., Langley BC, V3A 4C4, CANADA.
- ⁸⁶ One of its most helpful resources for this discussion is: CCJC, Satisfying Justice.
- ⁸⁷ May be ordered from CSC Chaplaincy, 340 Laurier Ave. W., Ottawa Ontario, K1A 0P9, CANADA.
- ⁸⁸ For more information, please contact: CSC Chaplaincy, 340 Laurier Ave. W., Ottawa Ontario, K1A 0P9, CANADA.
- ⁸⁹ Stringfellow, An Ethic for Christians, p. 21.
- ⁹⁰ Volf, Exclusion and Embrace, p. 306