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Biblical/Theological Works Contributing to Restorative Justice: A Bibliographic Essay

New Perspectives
on Crime and Justice
Occasional Papers of the
MCC Canada Victim Offender Ministries
Program
and the MCC U.S. Office of Criminal
Justice

August 1989 Issue No. 8

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This is a bibliographic essay containing Wayne's personal comment on a variety of texts that are relevant to the current discussions on restorative justice. This is not intended to be an exhaustive work nor a purely objective annotated bibliographic listing. Our hope is that it will contribute to the ongoing conversations which are taking place on the meaning of justice in our society.

In the Table of Contents you will see that Wayne has arranged his brief reviews under four categories. They are arranged consecutively following the order in the Table of Contents.

New Perspectives on Crime and Justice are issued as a means of sharing important papers and perspectives. These "Occasional Papers" are sponsored jointly by MCC U.S. Office of Criminal Justice and the MCC Canada Victim Offender Ministries Program. For additional copies, permission to reprint or a list of other available resources, contact either of the above programs of Mennonite Central Committee (addresses listed on back cover).

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Preface

Two minor disclaimers must be made about these reviews. First, I was originally asked to do an annotated bibliography of several works. So some of the earlier reviews I did are shorter than some of the later reviews, when it became apparent that the product would be more along the lines of a bibliographic essay. Some works therefore received short shrift, when they deserved more. But time constraints precluded redoing them.

Second, there is an understandable selectivity in what has been reviewed — more arbitrary than anything else. A sequel could easily be done.

This reviewer has been convinced for years that the theme of *restorative justice*, or the *restorative justice paradigm* such as developed by Howard Zehr and others, is the overarching understanding of justice in both Testaments, for it fundamentally reflects the character of the God of all the earth who can only do right. But the Old Testament at times clearly seems to belie such a notion, in its law codes, narratives, and other literature. And as C.F.D. Moule and Siegfried Meurer show, even the New Testament at times is tainted with less than a full-fledged restorative model of justice.

For the Christian who holds to a high view of biblical authority, there is no ready answer to the dilemma of contradictory notions of justice and law in the Bible. Karl Barth would remind us, however, that the biblical record at every point must nonetheless be allowed to give its full weight to a biblical understanding of whatever theme, including that of justice and law. Unsavoury texts must not be suppressed. In the direction of dealing with this dilemma, I found Dale Patrick's seventh chapter in *Old Testament Law* (reviewed in this book) helpful, in which he argues for a differentiation between written and unwritten law. He helps one to

see that even when the *written* law seems at its harshest, the *unwritten* law can be discerned, which remains consistent in both Testaments. He can argue in this light that the very provision of capital punishment for first degree murder in fact is the surest indication of the high valuation put on life, which ultimately tells us Christians not to take the life of the murderer!

Vernard Eller in *War and Peace* argues similarly about the problem of war in the Bible. He says in the Introduction that "... the Bible as a whole presents a unified argument regarding peace and war." (p.12), and develops that thesis throughout the whole book. I'm inclined to think that something comparable is the case in the matter of crime and punishment. This doesn't mean that God's people always got the cues right in the various narratives! But I am convinced that one need not resort to the desperate Marcionite heresy to deal with the problem of discrepancies, nor uphold the medieval (and still dominant Catholic and Protestant) notion that God above all is a God of punitive justice in glaring contradiction to his mercy, especially in the secular, sociopolitical sphere of life.

I trust that any one of the books reviewed will help make you thrill to the great God in whom "Mercy triumphs over judgement!"
(James 2:13)

— Wayne Northey

Old Testament

Law and the Administration of Justice in the Old Testament and Ancient Near-East, Hans Jochen Boecker, translated by Jeremy Moiser, Augsburg Publishing House, Minneapolis 1980, 224 pp.

The author's purpose is to compare Old Testament law with ancient near-eastern law, pointing at the outset to similarities, but also to profound differences, due to historical, sociological, but most importantly, theological peculiarities. The methodological principle is to permit readers to compare the respective law systems phenomenologically, letting the reader, with hints, draw his/her own conclusions.

The Book of the Covenant, and the Code of Hammurabi are the centrepieces of the respective Old Testament and ancient near-eastern systems, and hence receive the greatest attention in the book.

The work is replete with insights into Old Testament law – often in contrast to ancient near-eastern counterparts. A sampling follows: "We must remember above all that in its basic message the O.T. (sic) is not interested in conveying a picture of legal processes in Ancient Israel . . . Its purpose is to report God's activity in and with Israel and to demonstrate Israel's answer to this activity." (p.28) Over against Roman and German [or western] law, the author says: "However it may be, such concepts are as foreign to the Hebrew mind as it is possible to be." (p.37) "The purpose of a Hebrew trial was to settle a dispute between members of the community so that prosperous co-existence was possible . . . the legal assembly 'is the organization for reconciliation.' " (p.38) "While law was unchangeable and eternal in the ancient east generally, we can say of OT law: 'The Law is given to the people not as something eternal and immutable', but as a law which comes

from a God 'who is merciful and forgiving' . . . OT law, which is consequently understood as a divinely given law, has its basis in Israel's relationship with God as constituted by God's election. This is a decisive and essential feature of Old Testament law." (p.136) "According to widespread opinion, the principle of the talion, that is, 'the principle of strictly comparable compensation for damage' . . ., is the essence of OT law. Or even worse, the principle embedded in the much quoted 'eye for an eye, tooth for a tooth' is seen as the decisive principle not only of OT law but of OT religion, understood consequently as one of retribution. The following considerations on the talion formula in the OT are intended to show how wide of the mark such conclusions are." (p.171)

This is an important work on Old Testament law, undergirding a restorative justice paradigm.

Old Testament Law, Dale Patrick, John Knox Press, 1985, 278 pp.

The author can speak for himself as to the scope and purpose of his book: "It is necessary . . . to limit the subject to manageable size . . . the series and codes of the Pentateuch . . . A survey of published material shows an ample number of introductory works on Israelite prophecy, wisdom literature, and psalms but virtually nothing on the series and codes of law (except on the Ten Commandments). This study is designed to fill the gap in introductory literature.

"This book is intended to be a course of instruction for beginners and assumes no prior knowledge of the subject." (p.9)

For the purposes of this essay, however, the last three chapters (of nine, including an *Epilog* are most important. However, I shall

briefly sketch the content of the rest of the book. After an initial Introduction, the author spends some time explaining how critical scholars study the Pentateuch, through their use of source criticism, form criticism, and the traditio-historical method. He uses these tools of interpretation throughout the discussion of the texts themselves which are: The Ten Commandments (Exodus 20:2 - 17, Deuteronomy 5:6 - 21 and some related texts); The Book of the Covenant (Exodus 20:23 - 23:19); The Deuteronomic Law (Deuteronomy obviously); and the Holiness Code and Priestly Law (Exodus 25-31, 35-40, Leviticus 1-27, Numbers 1-10). For each of these texts, the author includes a commentary, besides the critical notations. And at the end of each chapter, there is an extensive bibliography, divided into various categories, and mainly of English-language publications.

In Chapter Seven, the author considers the question of the written and unwritten Law. It is his contention that "... the precepts and judgements of the codes were not prescriptions with statutory force but testimony to God's just and righteous will." (pp 189 & 190) He supports this view through a review of the material presented. He believes that "... a change of theory toward the identification of divine law with the rules of law given through Moses" (p.190) (i.e. a move towards emphasizing the **letter** over the **spirit**) began with "... the adoption of the Deuteronomic Law as the basis of King Josiah's reform." [II Kings 23] He goes on to say that "It is my contention that Jesus, followed by most New Testament authors, revived the idea that God's law is an unwritten Law. The epitome of this unwritten Law is the commandment to love God and one's neighbour, which both fulfills and surpasses the sense of justice and right forming the basis of Old Testament divine law." (p.190)

For those convinced that the spirit of biblical Law is always in the direction of restorative justice, this is a very important chapter, in light of the letter of various Old Testament law codes which would appear contradictory of a restorative justice understanding. So, for

instance, the author discusses II Samuel 14 wherein the "... king [David] gives a ruling contrary to every law and principle in Scripture concerning murder." (p.195) — but in accordance with a standard of "unwritten law." So he points out in the Epilog that "In the contemporary debate over the legitimacy of capital punishment, the Old Testament is frequently enlisted as the authority for taking life, *but it would be more appropriate to read it as a witness to the infinite value of every human life.* It would require to ask: What punishment would preserve the infinite value of every human being? Is it more just to pursue moral symmetry ('life for life') or to honour the killer's infinite worth by showing mercy? Is the majesty of the law shown more respect by punishment equal to the crime or by reservation of the ultimate punishment for God?" (p.257, italics mine) He obviously thereby states his understanding of the the 'unwritten/written' dialectic rhetorically.

He therefore asks: "If the judgements of the biblical lawbooks were not drawn up for judicial application, what was their purpose?" And he answers: "My argument suggests that they were created to instruct the judges of the community at large in the legal concepts, principles, and procedures inherent in the unwritten law." (p.200)

To the written Old Testament Law, therefore, Jesus might have said: "He who has ears to hear, let him hear!" — for there is more than meets the eye. So Patrick says: "Jesus would condemn anyone who relaxes the divine law of Scripture but would qualify the law itself when it relaxes the will of God." He gives as an example the Matt. 5:38-39 text, and then says: "In other words, the principle of reciprocal justice [as in the written law] is a compromise with evil. The divine will infinitely surpasses the arrangements by which human communities secure a tolerable justice and harmony." (p.207) He points out that "Neither Israel nor any other legal community operates according to the norm of self-sacrificial love. If the idea of an unwritten divine law is revived by Jesus, it is in a new form that exceeds the righteousness of any historical

community." (p.213) This is an obvious challenge for all of us seeking to see this kind of unwritten law become a leaven within an actual criminal justice system.

The author finds in Paul as in Jesus an affirmation of the unwritten law of love.

In the next chapter on "Law and Covenant," Patrick gives insights into the nature of Old and New Testament understandings of covenant in relation to Law. He decidedly understates when he says: "There remains a serious problem in the claim that Christ's death establishes a new covenant . . . [whereby] . . . the people of the new covenant will have the law implanted in their hearts, and they will obey God without fail. *This description does not fit the Christian church.*" (p.245, italics mine)

The Epilog discusses the question: "What is the Meaning of this Law?" — for 20th century believers. He discusses a completely anthropocentric way of understanding the Law, alluding to a book entitled *The Ox That Gored* wherein "Even God is explained as a product of the human imagination. . . ." (p.251)

But he suggests as a key concept for those who understand the Old Testament as the Word of God that "An idea has emerged in this study . . . that may satisfy those who endeavour to take Scripture seriously but not literally — the idea that the written law is a witness to an unwritten law. . . ." (p.253) This is undoubtedly what is most helpful for those who understand biblical justice to reflect the spirit rather than the letter of Old Testament Law, and therefore why it is an important study for those committed to a restorative justice paradigm.

New Testament

Das Recht im Dienst der Versöhnung und des Friedens,
Studie zur Frage des Rechts nach dem Neuen Testament, Siegfried
Meurer, Theologischer Verlag, Zurich, 1972, 194 pp.

Nothing is said anywhere in the book or on the back cover about the author, other than that the work itself was originally presented as a prize essay in 1970 at the University of Basel with "Die Frage des Rechts nach dem Neuen Testament" (The Question of Law According to the New Testament) as title, and Psalm 101:1 the motto: "I will sing of your grace and law." It was awarded a special prize on the recommendation of the theological faculty, and two years later, with slight revisions, it was published as volume 63 of a series entitled: *Essays on the Theology of the Old and New Testament*, edited by O. Cullman and H.J. Stoebe, two well-known European theologians.

The title states the book's thesis: "Law [is] in the Service of Reconciliation and Peace." The first of six sections deals with background considerations, notably, the exegesis of Matthew 20:1-16, and the relationship between God's righteousness [justice] and law. Meurer underscores, *contra* Brunner and others, that there is a significant relationship between justice and law, for "... law understands itself as an expression of the same [justice]." (p.29) And what, from the parable in Matthew 20, is justice concerned with?: "... justice is always concerned with protection of life; that is here its meaning, and this corresponds to the essence of biblical justice. The vineyard owner is just, because he gives to those who put themselves at his service that which is necessary to sustain life. ..." (pp 40 & 41)

"With this parable not only are those sent away who wish to question God's right [in German, *Recht*, which can also mean law] to give all equally the means of life – regardless of their length of

service for the Lord – but also these who understand justice and goodness [Güte] to stand in contradiction, who wish to separate them from love, and put them into a straightjacket of 'tit for tat' justice, and do not wish to see that justice must serve life and its sustenance." (p.41)

In Section II, through an exegesis of Matthew 18, the first chapter concludes that "law is in the service of the re-establishment of peace" (the chapter's title). The second chapter, which is an exegesis of Matthew 7:1, 5:38-42, 5:25ff, 13:24ff, 13:36ff, and parts of the *Didache* (another early church document), concludes that the purpose of law is "reconciliation over against retaliation."

Section III, an inquiry into Luke's writings, sees the "rejection of the church's role in punishment" through considering Acts 5:1-11, and likewise the "rejection of the State's role in punishment vis-à-vis religious matters," through considering Acts 18:12ff.

Section IV deals with the incestuous relationship in I Cor. 5, and with how punishment is to be meted out. II Cor. 2:5-11, 7:8-12 also come under review. Meurer states his understanding variously: "The one who punishes must grant the one punished the possibility of making amends. Human punishment can never be seen as something irreversible and ultimate. ..." "In other words, the one who punishes must be responsible for the results of his act of punishment. ... According to a Christian understanding, the punishment should lead the one punished to a recognition of his guilt and to a point of willingness to make amends. ... From this it follows that proscription without grace in no way can be supported. ..." "To express it juridically: the goal of punishment must be full reintegration into society. So there are obviously consequences of no small moment for the one who punishes, the one punished, and the means of punishment [Strafmittel]. ..."

"The Christian can in any case not opt for or be content with a system of punishment [Strafordnung] which leaves out of consideration basic humane concerns, not least of which are

decisive indications of solidarity with the sinner, forgiveness, and the option of a new start." (pp 135, 137, 139 & 140)

Finally, the author deals with I Cor. 6:1-11, in which he sees a definite Christian responsibility to avoid at all costs the non-Christian legal systems of the day, based as they are on a principle of strict retaliation for wrongs done. He concludes:

"Faith in God, and indeed in a God who claims for himself the prerogative of retaliation [he already had alluded to Romans 12:19 in this connection] makes the Christian willing to give up going to law where revenge and retaliation are practised. Belief in God's act of redemption through Jesus Christ, and appropriated in baptism, makes the Christian recognize that he is called to 'do justice' as one who already has been declared just." (p.156)

In the fifth section, he deals with the response to false teaching in the New Testament, first apart from the pastoral letters (I & II Timothy, Titus), then in the pastorals, and finally in the three Johannine letters.

Meurer sees some movement in the pastorals towards an idea of deterrence as a new consideration of justice which he holds to be a move away from Jesus' approach – a "deviation" he calls it, even a "defection" found nowhere else in the New Testament. (pp 165 & 166) Nonetheless in the other literature under review in this section, and this new idea notwithstanding, he says: "Likewise, through the act of reprimanding, ultimately still the winning over of the brother is in view." (p.165)

In general, throughout all the literature concerned with false doctrine, Meurer observes: "Alongside the concern to protect the church from apostatizing, is an equal concern not to lose the false teacher. The coming to terms [with the false teacher] is made evident in the awareness that the erring brother has been rescued." (p.160)

The final section is entitled: "Law and Grace, Conclusion."

Meurer insists that the New Testament material does not reject out of hand concern with law, legal systems, and legal matters. Rather, "From all indications, the ultimate concern is rejection of the *lex talionis*, which is baldly stated in Matthew 5:38. . . ." (p.174, emphasis mine) So the early church did not shrink back from calling the legal systems of the day into question – even though it was not in a position [as it was not on the issue of slavery either] to display overt opposition. Nonetheless, it would – and did – warn against Christians' availing themselves of such non-Christian systems. (*The Early Church and the World*, reviewed elsewhere, makes it clear that this prohibition was obtained for quite some time before Constantine).

Meurer concludes that: "Punishment seen as retaliation, whether retaliation by the individual or by society is rejected, *for it alone is the reserve of God. Likewise the state is not allowed to exercise retaliation* (emphasis mine)." After this he proceeds with a vigorous refutation that Romans 13:4 teaches ". . . that the state as servant of God has a charge to exercise retaliation." (p.182), which he says is obvious eisegesis – i.e. reading into the text.

Meurer observes that "It is a crucial task to apply these ideas and considerations so as to be fruitful for civil jurisdictions, and so that the jurist can use them and let them be integrated into the system. That is a task which cannot be achieved here, but which is important and promising. . . ." (p.180) Indications that such ideas are being realized within our "criminal justice system" in Canada and the United States are indeed important and promising. Meurer's book, firmly in the restorative justice stream, will be a great inspiration for those who take the Bible and Jesus' Lordship seriously. Meurer has rendered a great service, one which would be only enhanced by a good translation published in English!

Punishment and Retribution: An attempt to delimit their scope in New Testament thought, C.F.D. Moule, Svensk Exegetisk Arssbok, Volume XXX, 1966, pp 21-36.

This is a little gem tucked away in a relatively obscure (and fairly inaccessible) journal. I obtained my copy through Inter-library Loan Service, having read of the article in a footnote of *Release to Those in Prison*, reviewed elsewhere in this book.

Moule is an internationally-known New Testament scholar. Why he turned his attention to this issue is a matter of unanswered curiosity.

He wastes no time in addressing his thesis by saying at the outset: "It is likely, I know, that many readers – perhaps most – will find themselves in disagreement with the radical thesis I am about to present. But my hope is that time will not have been wasted – whatever the conclusions reached – because the thesis leads us in any case to ponder, once more, the very heart of the Gospel."

"What I offer for your consideration is the thesis that the word 'punishment' and other words related to it (especially 'retribution') have, if used in their strictly correct sense, *no legitimate place in the Christian vocabulary.*" (p.21)

He clarifies the thesis further by saying: "In other words, what I want to ask is whether suffering inflicted for disciplinary and deterrent purposes (which are entirely relevant to the gospel) is not too lightly confused with suffering inflicted for the purposes of punishment and retribution, so that the latter have been dragged into a Christian context where they do not properly belong." (p.21)

Moule explains that he is directly questioning any notion that penalty in and of itself – as an end – has any place "... in the name of personal values and, especially, in the name of the Christian gospel." (p.23)

He looks first at two New Testament concepts: the wrath of God, and sacrifice. He suggests that "If God has willed the dire consequences that ensue on sin, *it does not necessarily follow that he has willed them retributively, punitively.* It may be that he has willed them as the only way of doing justice to the freedom and responsibility of the human personality, as he has created it." (p.23 emphasis mine) Where wrath does seem to have a strictly punitive dimension (in strikingly few passages), Moule argues that it does not fit the logic of the gospel.

As to the idea of sacrifice, Moule argues strenuously against the long-held view that it primarily has to do with expiation and propitiation: "... because the more cleanly and clearly the notion of compensation and satisfaction is eradicated from the Christian doctrine of atonement, the less clouded will be the issue about the place of retribution inside the gospel." (p.24) He goes on: "If words like 'compensation' and 'satisfaction' could be successfully specialized, so as to relate exclusively to what has to be done in order to restore the wrong-doer to his proper personhood, to his full stature and dignity as a responsible person, then they would be tolerable – perhaps even desirable. But it seems to me extremely difficult to detach them from the suggestion of compensation and satisfaction to a feudal lord for injuries done to him; and this is something which is alien to the gospel." (pp 24 & 25) [Though, as Berman in *Law and Revolution* points out, this notion held sway when first a doctrine of the atonement was spelled out by St. Anselm and others. See review elsewhere in this book.]

Moule wades into the New Testament texts which seem to be retributive, and even vindictive. He doesn't find them so, and argues strongly his case.

Moule's primary point is that, while there is indeed suffering for one's wrongdoing, biblically, "... it is never, when we stand inside the Gospel, *retributive* suffering." (p.35, emphasis his) His points are so quotable that I will conclude with one final citation: "But to

demand of them [the wrongdoers] less [than the need to make reparation] would not be 'grace', it would be insult. But his responsibility is not to some abstract system of justice: it is to God and to his fellow-men. That, and nothing abstract or sub-personal, is the measure of his responsibility. On the other side of the injured party – who, ultimately is God himself – the suffering of forgiveness is boundless. This, too, is the cost involved in the structure of personal relationship, as God has created it. But, on both sides, the suffering is creative and restorative and healing, and in obedience not to abstract laws of justice but to the demands of the living organism of persons which is most characteristically represented by the Body of Christ. That is why I also query the ultimate appropriateness of a word like 'sacrifice' in its strict sense." (p.35)

Das Recht im Dienst der Versöhnung und des Friedens is an excellent companion to this much briefer article. Moule clearly points us in the restorative justice direction.

General Theological Works

Brethren Life and Thought: A Quarterly Journal Published in the Interests of the Church of the Brethren, edited by Wally Landes, volume XXIX, Winter 1984, Number One, 62 pp.

This entire edition is given to the question of a Christian response to crime and punishment. The nine articles by a variety of authors from many perspectives all hold out nonetheless for a restorative justice approach to the issue.

Lee Griffith leads with a spirited attack on the prison institution. He reviews various points of church history in which the church displayed complete complicity with punishment-as-an-end, especially in the use of the prison. He acknowledges the call for a dramatically different approach to crime. But then he says, much as Jacques Ellul (*Jesus and Marx*) and Vernand Eller (*Christian Anarchy*) argue, "Fundamentally what we do is nothing. Even though prisons are demonic manifestations of the fallen principalities and powers, we cannot hope to tear down the walls of the world's prisons, nor is that our task. It is God who frees the captives *While we cannot establish God's Kingdom, we are freed to witness to it.*" (p. 18, italics mine)

He points to various alternatives for which Christians can nonetheless work, trusting in God in the process to tear down the walls one day.

Donald Miller discusses next the notions of "Punishment and Rehabilitation." He argues that the Scriptures relativize the distinction between the criminal and the righteous person — for "When it comes to a wholehearted expression of responsible relationships within a larger community, all of us have sinned and fallen short of the glory of God." (p.26)

He clearly locates vengeance in God's prerogative, denying humans any right to hold out for it. Prisons are quintessentially places of vengeance, nonetheless, and not places for rehabilitation. He calls for Christians to work for basic change at this point.

Bob Gross then briefly supplies "A History of Brethren Criminal Justice."

Marlin Jeschke follows with "A Christian Approach to Criminal Justice." He notes that "Protestants are biased against law because we are supposed to be saved by grace, not by works of the law. Paradoxically, however, the very people who religiously disparage law are usually the ones most uncritically vocal about law and order. They tend to equate observance of the law of the land with Christian rectitude even while they deprecate 'legalism' in religion." (p.36)

He briefly sketches historical church views about crime and punishment, noting that the Reformation had the great potential to move away from punitive legalism in light of their repudiation of law. Instead, the notion was simply privatized, while Christians blessed the secular state in its continuation of a state-centred goal of punishment in response to crime. And so, "In spite of the Reformation recovery of the gospel, not a single Protestant society, alas, applied the principle of justification by faith to the criminal justice process. . . . Rather, all Protestant societies have persistently continued to impose fines and prison terms (which are really indulgences and purgatory) as the invariable way to expiate offenses, to 'pay one's debt to society.' " (p.38)

He argues that punishing the offender is the opposite of the gospel, for punishment says "You can be restored to society, justified, only by expiating your offense under law." (p.39) And so he asks what would a system of justice look like genuinely reflective of the gospel, instead of one locked as it is primarily ". . . into the tradition of Roman law, feudal custom, Anglo-Saxon precedent, and

other non-Christian influences?" (p.39) Prison in this tradition effectively precludes reconciliation and restitution, the primary thrust of biblical law.

He asks in conclusion what Christians must do to bring change. First, they must work for alternative models, and he points with enthusiasm to the Victim Offender Reconciliation Program as one viable alternative. Second, he says that Christians must speak out prophetically, and live peacemaking lifestyles.

There is next a discussion of *Crime is a Peace Issue: A New Call to Justice Making*, written co-operatively by representatives of each of the three historic peace churches. They ask why the resistance to war is far clearer than to the use of state punishments for crime. Yet this latter is often carried out with the attendant rhetoric of a "war on crime," and is no less contrary to the biblical way.

Still another article by William Arick discusses "The Church and Criminal Justice." It issues a call to the church to identify and become involved with those in prison.

There is then a description of a Brethren "Death Row Support Project," then of how "A Local Church Works For Criminal Justice."

There is a final article by a prison employee, entitled "From the Inside Out," who struggles with her faith in the midst of a brutal and brutalizing system. In a postscript to the article, she realizes that she must resign or lose her Christian integrity.

All the articles are thought-provoking and challenging.

Christian Faith and Criminal Justice, Toward a Christian Response to Crime and Punishment, Gerald Austin McHugh, Paulist Press, New York/Ramsey/Toronto, 1978, 234 pp.

At the time of the author's writing, he had been involved for several years in the legal system and as a prison visitor. He was also working on a Juris Doctor degree. He is a lay Catholic.

The underlying premise and problem addressed by the book are both given in the preface. The premise: "While lip-service is paid to 'our great Judeo-Christian heritage' and values, there is little reflection of such a heritage in the modern functioning of the criminal justice system in America." (p.2) And: "... given the realities of criminal justice and penology in America, how should the community of believers respond?" (p.5) One may insert "the West" for America and benefit much from this book, even if one is not American.

The organization of the material is well drawn. There is movement from how the interaction of penology and Christianity has occurred through the centuries, to past and current models of American penal systems, to a major set of chapters on how Christians should approach the question of criminal justice theologically and practically.

The author briefly sketches the pre-Constantinian Christian response to crime, indicating a strong reconciliation paradigm. He notes, however, a significant shift away from this emphasis during the fourth century when church and state were married, resulting in "... abduction of the Christian faith to prop up a dying political and social order." (p.17) There was a further development away from the early church model during the Middle Ages with the introduction of trial by ordeal (i.e. channeling divine judgment through a human institution) and monastic prisons. But the pivotal development was the codification of Canon Law in the 12th century. Concerns about guilt-finding and punishment subsequently

permeated medieval society, persisting ever after in the secular state, for which reason to this day the secular systems of the western democracies are imbued with religious overtones. The Reformation era only continued this orientation, according to the secular state an even greater authority and autonomy.

Hence crime became profoundly depersonalized, moving from an early-church definition of violation of (one) person(s) by (one) other(s) needing a response of reconciliation and restoration, to a concept that crime violated the moral order and appropriate punishment alone could regain the moral equilibrium - a decidedly platonic idea, mediated through Hegelian idealism in the 19th and 20th centuries, especially by Protestant theologians.

McHugh then discusses the birth of the modern prison in 18th-century America, a direct outcome of the Quaker concern for the spiritual rehabilitation of each offender - an orientation which is posited over against the harshly punitive (medieval) approach of the Puritans. "In short, the penitentiary system evolved into a system of conversion by coercion - repent or else!" (p.39) The penitentiary phenomenon is traced through its many models of prison construction and organization, its many reform movements, to a rehabilitation/treatment model - a secularized version of the Quaker concern for spiritual conversion. (This last model was in its death throes at the time of the book's writing.)

"Thus American penal history," he writes, "consists of an advance from the religious to the secular to the therapeutic state." (p.53) (One might add, as an update, to the "punishment-as-an-end" state.)

Five chapters, the heart of the work, address penal ideology and Christian faith. The author argues at length against any ultimate retributionist theory of punishment in the biblical text, rules out any theories of deterrence as biblically legitimate, and opposes the medical/treatment model on theological grounds. Included is an

indictment against the long Christian buttressing of the prevailing criminal justice system. The author directly opposes a "naïve" reading of Romans 13: 1-7 in light of recent scholarship such as summarized by John Howard Yoder (*The Politics of Jesus*), and because of the stark state-instituted atrocities in America and other countries around the world, past and present.

McHugh sketches a Christian approach to criminal justice under three key headings of: "The Love of Enemies," "Forgiveness and Reconciliation," and "The Need for Hope." He further challenges the extreme individualism in Christian thinking about criminal acts (*mea culpa - sola!*), as well as the liberal opposition to this stance (society/environment is culpable), which has led to the treatment model. The author opts for a both/and approach, pointing to both social forces and individual motivation behind criminal acts. He calls further for a rigorous re-evaluation of sin over against crime.

The author finally explores the theme of "liberation to the prisoners," and points Christians to active change in response to crime and punishment.

McHugh is too sketchy on the pre-Constantinian era. *The Early Church and the World* by C.J. Cadoux (reviewed in this book) is an excellent resource which would have filled out early-Christian attitudes to crime and punishment. The author might better have explained the very dramatic "Constantinian shift" which several call "the great reversal" (see for example *Constantine versus Christ* by Alistair Kee, or *The Priestly Kingdom* by John Howard Yoder.) Howard Yoder.)

Also, the author does not adequately fill in the pre-Christian European response to crime and punishment, which, similar to many other non-Christian cultures (including that of ancient Israel), pursued a restorative justice paradigm. McHugh could better have shown how drastic the church's embrace of torture and execution was, for instance, over against the dominant pre-Christian

orientation towards peacemaking prevalent in pagan Europe. (See for example *Law and Revolution*, reviewed elsewhere in this book, by Harold J. Berman.)

Further, he might also have more fully shown how this dramatic shift away from the early church's and pagan Europe's community-oriented, restorative justice approach, climaxed out of the Constantinian/Middle Ages/Reformation era continuum in the state-centred, punitive model of justice we have today. One historian heralds this as the most overlooked revolution of European history (Michael Weisser in *Crime and Punishment in Early Modern Europe*).

Finally, by way of negative critique, the last section on "Faith in Action" gives us few practical models of what Christians ought to do. The Select Bibliography helps somewhat further, but not greatly. The author was obviously unaware of *Instead of Prisons*, done in 1976, for instance.

The great strength of the book is its heart: the theological analysis. It is provocative, biblical, and not easily dismissed. It challenges long-held theological assumptions in Catholic and Protestant camps. It is to be reckoned with, and it clearly points to a restorative paradigm of justice.

Christian Peacemaking and International Conflict: a realist pacifist perspective, Duane K. Friesen, Herald Press, Scottdale, Pennsylvania, Kitchener, Ontario, 1986, 304 pp.

This is a far wider-ranging book than the focus of this bibliographical essay. As Stanley Hauerwas in the Introduction says, "It is my hope that Friesen has written the book that will finally begin the discussion that we have long needed between the so-called 'peace churches' and the mainstream of Christianity." It is

very broad in its scope, and ambitiously undertakes to demonstrate that the words "realist pacifist" may appear together without being an oxymoron!

As the title suggests, the focus of the book is on the international scene, and hence a good deal of the discussion relates to the nation as an entity and the reality of war as a means of conflict resolution. For the purposes of this essay, however, Part II, "A Theological Perspective for the Community of Faith," is one of the key sections. The author begins with the understanding that "A Christian theology is one that looks at the world and what is happening to it by taking as ultimately decisive for life the reality of Jesus Christ. Christian theology takes Jesus Christ seriously in two respects: as the one through whom ultimate reality (God) is revealed, and as the one who expresses the human in its wholeness." (p.49) Friesen concentrates on four crucial biblical themes which "... shape a Christian attitude to sociopolitical reality — the themes of creation, the Fall, God's redemptive process in history, and the new age to come." (p.53) Especially under the latter two themes, Friesen calls for "... trust and faith in God as the energizer, the redeemer, the one who acts creatively through human culture, who frees persons from sin (that means the principalities and powers) and gives to human beings new possibilities of obedience." (p.99) Under this theme as it relates to human institutions, there is room for the development of all kinds of creative responses to crime which have reconciliation as their goal. Friesen briefly mentions VORP (Victim Offender Reconciliation Programs) in Part IV, "Acting in the World."

The book calls for the proliferation of peaceful resolution of conflict at all levels, recognizing that while perfection of any institutionalization of such an orientation is never perfect, it nonetheless is part of God's redemptive action in history to which the Christian wholeheartedly must give oneself.

It is highly worthwhile reading well beyond the focus of a restorative justice model of response to crime, but is no less worthwhile for that purpose as well.

Crime and Community in Biblical Perspective, Plans and Resources for 14 Sessions, Kathleen E. Madigan and William J. Sullivan, Judson Press, Valley Forge, 1980, 128 pp.

An inside caption reads: "Wanted: Church folk concerned about crime and criminal justice. Why: To form a learning community. When: Sunday mornings for 14 weeks (or study sessions of any length). Where: In your church (or, in your homes)."

A further blurb on the back cover explains: "'We cannot be in full community with God unless we also identify with and seek the good of all persons.' This is a recurring theme throughout a fourteen-session study for adults and older youth which explores 'justice as wholeness.' Based on biblical study and scriptural references, this study addresses hard questions about criminal justice and grapples with the biblical implications of society's approach."

The above adequately describes the book's content. It is well-organized, comprehensive in scope in the individual sessions, and consistently challenging (I have often photocopied portions of it for group studies.) Having said all that, I know of no group which has ever embarked on a consistent study of the book. That is regrettable!

It is an outstanding resource, and clearly in the restorative justice stream.

Review of **Crime and its Victims**, Daniel W. Van Ness, InterVarsity Press, Downers Grove, Illinois, 1986, 240 pp.

Dan Van Ness has done the Christian community a service by writing this book. It complements other general books on a Christian response to crime reviewed in this publication.

Part I begins with a question: "What's Happening Here?", and through anecdote and discussion, deals with the realities of being a victim — and then of being an offender, particularly one who goes to prison. Then the author brings the two types together, saying: "For one brief moment the victim and the offender confront each other. The crime established a relationship in which one wounds another. But we never deal with the wound. We try offenders when we catch them. And we sometimes send them to prison, not for the injury done to the victims, but because they broke the law. So now we have two wounds and no healing".

"We must hold offenders accountable . . . But the offender can be held responsible in many ways. It is in our best interest to find those ways that heal wounds, not create new ones." (pp 58 & 59)

Part II, "How We Got Here," supplies a good brief historical analysis of the development towards a state-centered penal system in western criminal law. It was a movement away from concern for the victim towards concern about the state. Says Van Ness: "Our legal system defines crime as lawbreaking, an offense against law and government. Therefore, it is the government that responds with primary emphasis upon the law and the offender." (p.70) He discusses briefly the history of the modern prison, observing: "Where offenders were once required to compensate the victims or their relatives, now society undertook to cure the offender. Neither the offender nor the state was seen as having responsibility to the victims." (p.81)

Van Ness agrees in the next chapter that "Punishment is the deliberate infliction of pain." (p.87), and points to rationales and problems with various purposes of punishment, while not altogether discarding the use of punishment so defined.

Part III, "How Can Scripture Help Us?", is a treatment of key applications of biblical teaching to his theme. He says: "Justice is far more than fair treatment and due process. It is also more than vindication of those who have been wronged and punishment of the wrongdoer. The full meaning of justice is to establish once again the shalom that existed before the offense. Justice is active and relational and it is redemptive in its intent." (p.121)

Arising from the biblical material, he opts for "A criminal justice system based on restitution . . . [It] . . . deals with the victim, the offender and the community. It restores the victim, holds the offender responsible, and promotes reconciliation in the community." (p.139)

Part IV, "Hope For the Future", outlines and gives substance to a vision of reformation of the criminal justice system in line with biblical notions of justice. He says: "*So a starting point for reducing crime is to agree to view it primarily as an offense against other people. Victims and offenders are the key players, and the state's principle role should be to represent the community's interest in seeing that the offense is resolved appropriately. We must object to the view that crime is simply an injury to the monarch or to the state. It is fundamentally an injury to a victim and should be treated accordingly.*" (p.145, emphasis mine)

In drawing out what can be done, he deals with many current examples of programs such as Victim-Offender Reconciliation, community service, victim compensation and assistance, etc. In a section on Restraining Criminals, he suggests ways of making incarceration less debilitating. He also tackles capital punishment, recognizing that it is **allowed** in Scripture, but not **mandated** for the modern state. His bias is against its use.

He concludes with practical suggestions for how Christians may get involved.

Appendices give helpful notes on organizations and book resources. Another discusses appropriate restitution amounts and still another supplies questions for individual and group study.

The author is perhaps too optimistic about how concerned Christians (and others) might affect the system for the better. He seems almost to ignore the amazing power of the state-centred punitive system to co-opt alternate approaches to these prior goals. As Herman Bianchi is quick to point out, the penitentiary itself was an attempt to break away from state-centred punitive excesses!

The book is nonetheless very helpful, readable, and clearly in the restorative justice mould.

Crime and Reconciliation: Creative Options for Victims and Offenders, Mark Umbreit, Abingdon Press, Nashville, 1985, 141 pp.

This book draws on the experience of an American organization, Prisoner and Community Together, Inc. (PACT), which the author co-founded in 1971.

The first section entitled "Crime and Punishment in Perspective" sets in relief the tension between **justice** and **state law** by telling the story in the first chapter of the first case done by the Victim Offender Reconciliation Program (VORP) in Elkhart, Indiana. In the second chapter, again anecdotal in part, an attempt to set crime in perspective is made, in response to the general sense that crime has reached epidemic proportions, and needs a drastic response. In the third, an attempt is made to set punishment in perspective, questioning America's exceedingly high rate of incarceration. In the

final chapter of this section, the author considers prison overcrowding, arguing for a much higher use of alternatives to incarceration.

The second section is entitled "Building Justice and Reconciliation." The first chapter treats in broad strokes the overarching goal of biblical justice, which is reconciliation. He admits that it is extremely difficult to contemplate forgiving the person who has violated one's property or person, yet underscores that this nonetheless is the biblical mandate. He calls, however, for full offender accountability on the one hand, and victim assistance on the other. He details briefly several justice implications for this kind of approach to crime and punishment. The second chapter tells the story of PACT, underscoring that it was a community-based initiative, largely initially undertaken by Christians. The next chapter describes three models of citizen involvement in developing reconciliation oriented programs, namely VORP, a Community Service Restitution Program, and a halfway house. The final chapter calls for justice advocacy, which moves beyond mere charity to actual identification with people in need of fundamental justice.

There is a concluding section of resources, listing organizations, and other printed and audio-visual materials.

Each of the chapters also includes several questions for the individual reader to consider, or for group discussion.

A restorative justice orientation is present throughout the book. It offers a good brief presentation of theory and practice of such a model of justice.

Crime and the Responsible Community, the 1979 London Lectures in Contemporary Christianity, edited by John Stott and Nick Miller, William B. Eerdmans Publishing Company, Grand Rapids, 1980, 191 pp.

Five men presented the content of this book initially as lectures. The contributors represent wide experience and expertise in the criminal justice field, ranging from a professor of law to a police commissioner, to the founder of an international prison ministry. The material is derived from social sciences, biblical, and experiential perspectives.

The topics covered are understanding the origins of crime; criminal sanctions; policing; preventing delinquency; reform of and alternatives to prisons; understanding imprisonment and rehabilitation.

There is a vast amount of worthwhile material to interact with and reflect on here.

The contributors tend to have less of a clearly worked out restorative justice paradigm and agenda, though Chuck Colson would come the furthest in this, which brings him at least into the "ballpark." While not making a radical break with the "majority" response to crime and punishment, most contributors point the way at least to restoration and redemption. The book on the whole provides much insightful reading.

Crime is a Peace Issue, Readings on issues in the criminal justice system, compiled and arranged by Wayne Northey and M.C.C. (Canada) Information Services, 1981, 299 pp.

This is an eclectic compilation of papers and transcriptions from addresses, most authors of which are Christians. The material is

organized under eight headings. The first, "Laying the Groundwork/Theology," argues for the rightness of Christians to be wholeheartedly committed to peacemaking ministries.

Sections II and III deal further with "Corrections/Theology" and "Justice/Biblical." Several essays challenge us that our response to the criminal is to be that of Jesus to the woman taken in adultery: "Neither do I condemn you. Go and sin no more."

Section IV, "Justice/Practical - Biblical," pulls together several essays dealing with the rampant injustices of our present system. Two raise thorny issues about a Christian's professional involvement in the present system.

Section V, "Getting Involved," is by and about many different persons/programs working in some manner in the system.

Section VI, "Doing Time," is two individuals' experiences.

Section VII, "Capital Punishment," is perhaps the most biased of all (a bias of selection admitted to by the compiler): it consistently presents articles arguing against capital punishment.

The final section is "General" and includes two essays dealing with the system and changes afoot.

It certainly has overall a restorative justice flavour, and many articles are usable in whole or in part, for a variety of educational needs - which was why the book was compiled and formatted the way it was, such that any of the material could be photocopied.

Dial 911: Peaceful Christians and Urban Violence, Dave Jackson, Herald Press, Scottdale, Pennsylvania; Kitchener, Ontario, 1981, 152 pp.

Howard Zehr introduces the book's purpose as recounting "... Reba Place Fellowship's recent experiences with crime in Evanston, Illinois, along with observations and reflections." (p.9) (Reba Place Fellowship is an "intentional community" of nearly 30 years standing with some 300 persons all living in a five-block area, it is explained.)

The author recounts numerous stories of experiences of the community in the recent past, representative of many more, since the fellowship is situated in an extremely high-crime rate area.

Four sensitive reflections are interspersed, all helping the reader to struggle with the issue of crime and punishment. As Zehr points out, the author offers no pat answers, details errors and triumphs, and underscores the need to listen to the Spirit and be open to God's will. He says: "Some of our experiences reflect creative faithfulness. In some we must confess failure. Still others display God's intervention. But they all are valuable because they touch reality and move beyond theory." (p.13)

It holds out for the restorative justice model, and is compelling reading.

Dial 911: Peaceful Christians and Urban Violence, A Leader's Guide for Group Study, Dave Jackson, Mennonite Publishing House, Scottdale, PA, 1982, 47 pp.

The study guide is designed to complement the book by the same title. It is divided into four sessions, needing about two hours each to work through, or eight one-hour sessions.

The study is supplemented by fifteen pages of photocopyable handouts.

It was developed by the author of *Dial 911* but in conjunction with a team of others actively concerned with these issues. Jackson says: "You do not need to have all the answers to lead this study. An expert is not required. The course is mostly a search. The participants will learn much and may come to new conclusions, but there are no pat answers to pass out as diplomas. You will be in search with them, learning as you go."

It is recommended for use by small group studies, and again is in the restorative justice model league.

Forgiveness and the Dangerous Few: The Biblical Basis, Thomas R. Yoder-Neufeld, unpublished paper (available from M.C.C. Canada Information Services, 134 Plaza Drive, Winnipeg, Manitoba R3T 5K9), 17 pp.

Though brief, it is a powerful and thought-provoking paper. It focuses upon one text, Matthew 5: 38-48, especially verses 43-48. Yoder-Neufeld's reading of the passage not only radicalizes the actor in the direction of failure to retaliate for wrong, but says further: "Jesus moves to an aggressive stance on the problem: Draw the one or the ones who threaten you into the very circle of love and solidarity! Seek friendship with your enemies." (p.9) As a warning to all he adds: "Indeed the creativity with which Christians have been able to circumvent the clear words of Jesus is nothing short of astonishing." (p.3)

He concludes with reflections on the ambiguity of this stance vis-à-vis the criminal justice system.

It is feisty material, clearly in line with the restorative justice paradigm.

Guilt and Humanness: The Significance of Guilt for the Humanization of the Judicial-Correctional System, Thomas R. Neufeld, Church Council on Justice and Corrections, 1976, 32 pp.

Since this was first written, Queen's Theological College republished it in 1982, and Mr. Neufeld is now Yoder-Neufeld. Regrettably, I had access only to the earlier publication.

"This paper will hopefully succeed in showing that, far from being an anachronism, 'guilt' is essential to the continued existence of the human community, and more specifically, to a human understanding of crime." (p.1) The purpose is stated clearly. The author begins by illustrating the problem of the concept of guilt through recounting a criminal case with which he had personal acquaintance. In light of the account, he describes a jurist's, a behavioral scientist's, a social scientist's, a guard's, and finally, a Christian's conflicting view of guilt.

He wonders which will become determinative in the modern justice system. He goes on to delineate differing views of responsibility, with a similar confusion apparent.

He argues nonetheless that society at large invariably shares in the offender's guilt. Therefore, there is an essential unity that church must feel with the criminal, and all of society. He says: "Specifically within the justice system, we can see that every effort is made to isolate and atomize the criminal and his crime, and thus at the same time to prevent an awareness of the sociality of crime"

"Incarceration is perhaps the most obvious way in which we avoid the awareness of our own evil and guilt." (p.20)

But the good news in Jesus is that guilt is never separated from grace, nor judgement from mercy. "Therein lies the source of courage to open ourselves to the terrible knowledge of sin — of

guilt. We do so only as those who know of reconciliation and forgiveness. (Rom. 7:19–8:1)" (p.25)

Neufeld's paragraph immediately prior to his conclusion best sets his paper in the restorative justice mould: "The process of reconciliation, of which the recognition of guilt is an intrinsic part, will need to take its impetus from those who have gone through the hell of guilt and risen again to new life. To them is given the "ministry of reconciliation" (II Corinthians 5:18). For the Christian, to call for the rehabilitation of guilt in all its fulness is for him to do so only from the vantage point of hope and healing. It is only from this vantage point that *culpa* (guilt) can indeed become *felix culpa* (happy guilt)." (p.26)

Law and Revolution, The Formation of the Western Legal Tradition, Harold J. Berman, Harvard University Press, Cambridge Massachussets, and London, England, 1983, 657 pp.

"This book tells the following story: that once there was a civilization called 'Western'; that it developed distinctive 'legal' institutions, values, and concepts; that these Western legal institutions, values, and concepts were consciously transmitted from generation to generation over centuries, and thus came to constitute a 'tradition'. That the western legal tradition was born of a 'revolution'" (p.1) is how the Introduction begins. This reviewer confesses to standing in awe before such a magisterial work as this, the interdisciplinary range, erudition, and seminal thinking of which are beyond my competence even to attempt a knowledgeable review. But I can achieve a more modest goal of describing the content of this masterful study, and why I think it important to be included in this essay.

The author has had a distinguished academic career, has published numerous books and articles (including *The Interaction of Law and*

Religion, reviewed elsewhere), and spent 30 years in writing this book, which must rate as his *magnum opus*.

The book is divided into two sections: Part I: The Papal Revolution and the Canon Law (which expands his 30-page essay, "The Influence of Christianity on the Development, of Western Law" in *The Interaction of Law and Religion*, into over 200 pages of material), and Part II: The Formation of Secular Legal Systems. This division of material reflects the author's historical understanding: "More particularly, it is a principal thesis of this book that there was a time when what is known today as a legal system – a distinct, integrated body of law, consciously systematized – did not exist among the peoples of Western Europe, and that at the end of the eleventh and in the early twelfth century and thereafter legal systems were created for the first time both within the Roman Catholic Church and within the various kingdoms, cities, and other secular polities of the West." (p.5) Furthermore, "... prior to the late eleventh century, despite some exceptions, Christianity had not been systematically reflected in the institutional life of the Germanic [read Western] peoples; it was for the most part an otherworldly faith. The Papal Revolution, however, made Christianity into a political and legal program. The church became a state. Canon law became a specific means, first, of holding the church-state together, and second, of reforming the world." (p.528)

The means (and herein for me is the nub) of carrying out this "political and legal program," modeled throughout subsequent centuries in all the manifold secularizations, was "the sword" – the antithesis of a restorative approach to justice. So it seems that the "great reversal" in social ethics – finalized fairly universally in the Constantinian era of the church, quintessentially displayed in the church's picking up the sword again, which Jesus had told Peter to lay down (Tertullian uses this image) – comes home to roost in the great legal revolution of the 11th and 12th centuries. In this period the church set the blueprint for all subsequent developments of

Western criminal law, and for its persistent ultimate goal of retribution.

Berman says: "It is important. . . to ask by what historical route Western man has come to his present predicament, and to confront [his] own nostalgia for an earlier age when people really believed that 'peace vanquishes law, and love vanquishes justice' [as indicated in pre-Papal Revolution Christian understandings of law in Europe]." (p.84)

Berman notes that the theologian Anselm in the wake and anticipatory of the Papal Revolution "... laid the foundation for the new jurisprudence." (p.179) St. Thomas Aquinas, a towering theologian two centuries later, furthered this whole new way of thinking by arguing that "... both criminal and civil offenses require payment and compensation to the victim; but since crime, in contrast to tort, is a defiance of the law itself, punishment, and not merely reparation, must be imposed *as the price for the violation of the law.*" (p.183 – italics in the original) To obviate the church's (i.e. the clergy's) aversion to the shedding of blood (a significant indication of the early church's position which persisted as a superior path of a two-level spirituality) the church, for the first time, relied upon the "secular" authorities to punish sin. Heresy, for instance, was now punishable not just by an "anathema," but by death at the hands of the secular state. (And the secularizations from this response to religious heresy were soon transposed into viewing criminals as "social heretics," likewise in need of violent punishment, including death.)

Berman indicates that "The theology of the Papal Revolution was a theology of judgment. God was, above all, a God of justice." (p.529) This motif persisted in the Reformation era, and was carried over into the modern state. The modern state as a result became solely responsible for law-making and law-enforcing, thereby dramatically separating jurisprudence from theology, leading ultimately to a complete secularization of legal thought. "It

is only in the 20th century that the Christian foundations of Western law have been almost totally rejected." (p.197)

"This twentieth-century development is a historical consequence of the Western belief, of which St. Anselm was the first exponent, that theology itself may be studied independently of revelation." (p.197)

This whole development is then contrasted with the pre-Papal Revolution approach to law in the West, influenced in part, by a Christianity *not* arrogating to itself the (Constantinian) legacy of dominance of legal and other societal institutions. Says Berman: "The absence of law reform movements, of sophisticated legal machinery, of a strong central lawmaking authority, of a strong central judicial authority, of a body of law independent of religious beliefs and emotions, of a systematic legal science – are only one side of the coin. The other side is the presence of the wholeness of life, of the inter-relatedness of law with all other aspects of life – a sense that legal institutions and legal processes as well as legal norms and legal decisions are all integrated in the harmony of the universe. Law, like art and myth and religion, and like language itself, was for the peoples of Europe, in the early stages of their history, not primarily a matter of making and applying rules in order to determine guilt and fix judgment, not an instrument to separate people from one another on the basis of a set of principles, but rather a matter of holding people together, a *matter of reconciliation. Law was conceived primarily as a mediating process, a mode of communication, rather than primarily as a process of rule-making and decision-making.*" (p.78 emphasis mine) (This description of the early Europeans' approach to law, influenced as it was by Christianity before the Papal Revolution, is highly reminiscent of the early Hebrews' approach to law, as indicated in *Law and the Administration of Justice in the Old Testament and Ancient East*, reviewed elsewhere in this book.)

Because of Berman's detailed historical analysis of the "before and after" of the Papal Revolution, of the theological developments vis-à-vis law, and his clear-sighted comparisons and contrasts of this "before and after," the reader is left with much to reflect on, and, I dare say, encouraged in the direction of a restorative paradigm of justice. The author stops short of this, however, when, in concluding his work, he says: "It was Octavio Paz who said, 'Every time a society finds itself in crisis it instinctively turns its eyes towards its origins and looks there for a sign.' " (p.558) One is aided immensely in the search for this sign through reading this book. One is left as well eagerly anticipating its sequel, alluded to in his "Acknowledgements." (p.636)

Lawbreaking and Peacemaking, Edgar Epp, Canadian Quaker Pamphlet, no. 15, Argenta Friends Press, November 1982, 29pp.

Edgar Epp has had a long history of employment in the criminal justice system in various Canadian provinces, including being superintendent of two prisons and deputy minister of corrections. This booklet draws on that experience, and is the text of a lecture given in August 1982.

His central thesis follows on his quotation of Matthew 5: 38-42: "Jesus' words are clearly in harmony with the unfolding Judaic discernment of reconciliation and peacemaking being integral components of justice. As someone trying to integrate these concepts into my lifestyle, I found it increasingly difficult to cope with being a part of the corrections system. *I had to conclude that our Canadian criminal law and its concomitant sanctions are not based on justice as I understand the meaning of that word.*" (p.10, emphasis mine)

He interweaves stories from his own experience in the "system" with reflections on where we ought to go in response.

There is an obvious restorative-justice bias to be challenged with. It should encourage all Christians working in the "system" to do some thinking.

More Justice, Less Law, John Pendleton, MCC US Office of Criminal Justice, MCC Canada Victim Offender Ministries Program, 1987, 18 pp.

This is one of the "New Perspectives on Crime and Justice: Occasional Papers" series.

The writer considers various notions of justice held by 8th-century BC prophets. It held out for the underdog, for a dynamic idea of justice — not a mere abstraction — for the putting of wrongs, right, for the loyalty of covenant, and for reparation in righting wrongs. It is a restorative model.

Jesus further radicalized even these prophetic ideas, showing a preference for the " 'lost over the safe, the sick over the healthy and the sinners over the righteous' " (p.6) quoting from another writer. But there is also the idea in Jesus that the very structures of injustice need to be changed. "The Judaeo-Christian view of justice, therefore, should be read both at the individual/personal, and political/structural levels." (p.6)

But Greek static ideas of justice, Roman bureaucratic ideas, and 17th-century Utilitarianism in the development of western criminal law "... contributed to a static and legalistic rather than a dynamic concept of justice" (p.8) — one which took action to set things right. Christians must hold out for a criminal justice system with such a goal entrenched in the structure.

It is a brief but helpful presentation of the need for more justice, less law.

Native Culture and Canadian law, A Cultural Look at Native People and the Canadian Justice System, Menno Wiebe, Queen's Theological College, Kingston, Ontario, 1984, 34pp.

The work was initially commissioned by the Church Council on Justice and Corrections and is produced as fourth in a series of pamphlets entitled: "Justice and Corrections in Theological Perspective." The author is Director of Native Concerns for the Mennonite Central Committee, Winnipeg.

Wiebe points out the extreme alienation the traditional native cultures feel towards a (European) institutionalization of police, courts, jails, and the codification of law. He says: "To restate the thesis of this paper, criminal law should have its rootage in the body of people for whom that law applies." (p.23)

The booklet concludes with a moving personal story of one native's "Returning to the Elders' Wisdom" after a number of bitter jail experiences.

It sounds the restorative justice paradigm note vigorously in light of the alternative way of native culture.

Peoplehood and the Law, New Perspectives on Crime and Justice, Occasional Papers of the M.C.C. Canada Victim Offender Ministries Program and the M.C.C. U.S. Office of Criminal Justice, issue no. 3, Walter Klaassen, 1985, 23 pp.

The booklet was edited by David Kroeker, combining transcripts from three talks given at the fourth M.C.C. (Canada) biennial seminar on The Church and Criminal Justice, held in Langley, B.C., May 25-27, 1984.

Klaassen presents two paradigms, one the story of the people of God in the Old and New Testaments, and the other the story of the Anabaptist-Mennonite experience, as a means by which to reflect on the Christians' response to "Peoplehood and the Law," warning that: "... we exercise great care about the way in which we use models from the past." (p.1) Under the headings "The Bible, People of God, and Law," and "Anabaptist-Mennonite Peoplehood and Law Through History," he presents his thesis that law in Israel is ever to serve a *people*, with all the covenantal, relational impact of that word, as opposed to the impersonal state law of surrounding *nations*. Hence, the emergence of kingship and kingship law in Israel was a retrogressive step vis-à-vis Israel's experience of law. He characterizes these opposite approaches to law thus: "Therefore, in one case the law represents salvation, healing, and protection, a source of joy, hope, and confidence, and in the other represents slavery, death, and exposure to violence and arbitrary rules, a source of fear, despair, and hate." (p.6)

His concluding talk was given at a worship service, in which he reflects on the story of Ahab and Jezreel and the seizure of Naboth's vineyard, and how a prophet (Elijah), not the king, or the police etc., was the enforcer of law in the Old Testament.

Clearly in the restorative justice paradigm field, it is challenging reading.

Punishment in the Bible, J. Arthur Hoyles, Epworth Press, 1986, 148 pp.

The author is a retired Methodist minister who was a prison chaplain for much of his career, and author of some previous works in this field. He spent three years researching his present book.

In the introduction, he stresses that one cannot easily arrive at certainties concerning "punishment in the Bible." His concluding

sentence in the Introduction says: "If at journey's end we have collected little in the way of permanent truth, it may be possible to say that we travelled hopefully." (p. xi) Perhaps this is said as a kind of corrective to the overzealous use of the Bible by those who, "If the sceptical critic discovers inconsistencies or contradictions . . . will find refuge in antinomies in the firm belief that truth is greater than logic." (p. vii) Especially in the author's discussion of Paul and Jesus, he seems indeed to extol the "permanent truth" of their radical call to love of the enemy in response to crime — as will be shown. The author points out on the one hand that: "There are glaring examples of brutality in the annals of Israelite history, which contradict the general image of a gracious and merciful God." (p. vii) Following this he provides two classic examples, one of which is the hacking to pieces of King Agag before the Lord by Samuel. But he points with approbation nonetheless to "... one supreme motivation for moral achievement in Israel [which] was the 'imperative of redemption', which . . . [is] the revelation of divine mercy in the deliverance of his people from slavery in Egypt." (p. x)

Likewise, "There is much in the theological ethics of the gospel that requires the Jewish literature to make it intelligible. There are also some crude statements in the New Testament which are not far removed from the butchery of Agag by Samuel." (p. x) He continues, "We must be prepared to find a confusion of theory and practice in the penology of the Bible." (p. xi) The author obviously desires to take the Bible "seriously, but not literally," as Dale Patrick says in *Old Testament Law*, reviewed elsewhere.

He begins by observing that **vengeance** is certainly one of the motivating factors in the biblical literature — particularly in the Old Testament legal codes. The author concludes his discussion of "punishment as vengeance" by saying, "The other view is that the true character of God was only partially understood by primitive peoples. The revelation in Jesus Christ is of a God of love and some theologians see no possibility of reconciling the radical ethic

of the gospel with the crude penalties of the early Israelite code. *This dilemma is one of the main problems to be faced by the student of punishment in the Bible.*" (p.14, italics mine.) And Hoyles does not discuss any resolution of the dilemma. Dale Patrick's discussion of unwritten versus written law (see the review) is one helpful way of dealing with the conundrum.

Another theological idea related to the theory and practice of punishment was justice. Hoyles alludes to many passages in his discussion of this concept, but offers no all-encompassing definition. He observes only that, "In a theocratic society those appointed to rule are God's agents and are expected to imitate him in their ordering of society." (p.16) Hoyles seems to believe that the dominant image of God from the Old Testament was the same as the medieval church's image: God as a stern judge and law-giver (see the review of *Law and Revolution*). "Sin was seen as rebellion against the rule of the mighty God who had power of life and death and would punish disaffection with great ferocity. The doctrine of the all-powerful judge operating retribution co-incided with that of the just king." (p.27) But as Jacques Ellul points out (*Jesus and Marx*), God's omnipotence is always mentioned in conjunction with his nurturing presence. Or as Hosea would have God saying (11:8b and 9):

My heart is changed within me;
all my compassion is aroused.
I will not carry out my fierce anger,
nor devastate Ephraim again.
For I am God, and not man —
the Holy One among you.
I will not come in wrath."

Hoyles seems to miss this dialectical aspect of justice in the Old Testament.

He discerns nonetheless a third Old Testament theological concept bearing on penology: **reconciliation**. He observes, "When reconciliation to God and one's fellow men, however, is the paramount objective, punishment takes on a different character and may even be abrogated altogether. . . Shining through the variety of theological viewpoints is the *basic theme* that God's mercy guiding, protecting and redeeming his people, is a secure foundation for the people's gracious treatment of one another." (p.28, italics mine) This basic theme is surely a "permanent truth" as per his introduction. So he can say: "The tension between justice and mercy is unresolved. In spite of the wickedness of the people there is hope for forgiveness and renewal. The pedagogic factor is unmistakable in divine punishment." (p.30)

He begins his discussion of the New Testament by discouraging any Christian from thinking it supplies a blue-print for modern penal policy. He also points out that in Jesus, "The attitude of God to the wrongdoer provides the standard for human justice." (p.48) — namely one of mercy to sinners. "[The disciples'] veneration was not for the god who punishes criminals but for the God who was executed as a criminal. This psychological reversal was the major miracle of history." (p.59) Hoyles concludes his discussion of Jesus with, "His strategy is to bear the burden of sin and to transform the character by absorbing the evil in order to redeem the person who is precious in God's sight." (p.60)

He finds Paul at once overwhelmed by this way of Jesus, and the great champion of such an approach to the offender. "... Paul came to understand that the only way to change the human heart from bad to good was through acceptance and forgiveness, rather than through condemnation and punishment." (p.63) Hoyles vigorously disputes therefore that Paul taught a penal substitution theory of the atonement. He also shows how vigorously Paul worked to "dethrone" Law — especially in its punitive mode. But this is not mere antinomianism.

In light of the survey of the Old and New Testaments, Hoyles considers the "dilemma of Christian ethics," observing that "It is useless to deny that fundamental inconsistencies emerge from scriptural evidence." (p.77) And he quotes from both Testaments to demonstrate this — denying any kind of Marcionite solution. In dealing with the dilemma, he discusses the doctrine of hell at length, and its opposite, universalism. He also deals with the notion of Jesus' ethic of forgiveness being essentially **personal**, versus a **public** ethic of vengeance. He says helpfully (and hopefully): "We cannot measure the boundless grace of God nor the extent of his victory over evil." (p.91)

A Third Part deals with the question of biblical insights and penal history. His overall bias in reading the biblical material, confusing as he finds it, is stated at the conclusion of the book: "If a humanitarian movement [calling for the abolition of punishment] can visualize the day when therapy will replace the system of punishment and decriminalization bring a new sense of responsibility in freedom to the citizen, there is every reason why the Christian should embrace a like deal." (p.139)

He ultimately points to a **restorative justice model**, one "permanent truth" at least which he believes is legitimately gleaned from sifting the evidence for a biblical view of punishment.

His discussion of Jesus and Paul on the subject of punishment is invigorating, and make it well worth obtaining the book.

Punishment in the Scripture and Tradition of Judaism, Christianity and Islam, Virginia Mackey, Joint Strategy and Action Committee, Inc., (475 Riverside Dr., Room 560, New York, N.Y., 10115), 1983, 94 pp.

This work was commissioned by the (U.S.) National Council on Crime and Delinquency and presented to the National Religious Leaders Consultations on Criminal Justice, September 13-15, 1981, in Claremont, California.

Milton Rictor, President Emeritus of the Council, explains in the foreword that "... in the beginnings of this country, churches had much to do with establishing the most inclusive, the harshest, and the most self-defeating system of criminal justice to be found today in any developed democratic society." (p.iv) Two of his other comments set the context for the timeliness of Mackey's study: "The social and economic consequences of contemporary criminal justice policy have themselves become more crime-producing." (p.v) Also, "Our overcrowded jails and prisons are totally at variance with our international posture on human rights." (p. v — belied in international action too, one might add.)

Mackey, for her part, explains the organizing principle for her material thus: "... the crucial 'fact' is the nature of God." (p.vii) She concludes, on the basis of scripture in all three religious traditions that God's overarching desire is *restoration* in response to wrongdoing, as opposed to *retribution*.

She also includes a helpful bibliography. The book ends with two sets of appendices, one detailing various official church denominational positions on criminal justice, and the second including responses from members of the three religious traditions surveyed in this book.

It is helpful, worthwhile, material.

Release to Those in Prison, A Humanitarian Approach to Offenders, William Klassen, Herald Press, 1977, 41 pp.

Klassen is creative and challenging throughout his booklet; he takes Jesus' words in Luke 4 to apply to the incarcerated. His study is punctuated by insights such as: "Recent studies of Biblical materials, however, make it clear that when the Bible is brought forward to support capital punishment it is misused and twisted to say something which fails to recognize the basic nature of the liberating act of God." (p.9) "The offender is viewed as sharing the sinful state of the Christian, but just as the Christian has received the grace of victory over sin, so too for the offender full forgiveness is available no matter how serious the crime." (p.19f) "During the second century no saying of Jesus is more commonly quoted as epitomising the teaching of Jesus than the saying that Christians love their enemies. It is only the ingenuity of modern scholarship that has discovered that the ethic of Jesus was not intended to be lived but merely to point to the kingdom or to drive us to our knees in humility!" (p.24) "For a cardinal point in both Hebrew and Christian faith is that only God can execute judgment or vengeance and that whenever man takes it upon himself to avenge a wrong he is taking a place which only God can take." (p.25) "One of the striking things about the way in which Jesus uses the Old Testament is the complete absence of the theme of vengeance in his references." (p.26)

The paper points inexorably to a restorative model of justice.

Religion and Culture in Canada, edited by Peter Slater, "Punishment vs. Reconciliation: Retributive Justice and Social Justice in the Light of Social Ethics in Canada," Patrick Kerans, pp 225-269, Canadian Corporation for Studies in Religion, 1977.

This is a modified version of a paper written in 1976 for the Church Council on Justice and Corrections. It was also published in 1982 by Queen's Theological College.

The author explores the question of whether the ideal of "... reconciliation is applicable only to our private lives; and if not, how it could be translated into political or even judicial terms." (p.226)

He begins by acknowledging that there is a problem in institutionalizing Christian ideals. These must, nonetheless, become the dominant images in a society, if they are to be institutionalized. Over against a strict retributionist image of justice, or an image based on the "disease" model, the author posits a biblical image of reconciliation in dialectic tension with elements of both. It is an image which recognizes "... a fundamental characteristic of the biblical image of the human: a complex vision of the person as free and responsible, whose freedom is a gift of the community." (p.232)

He takes Jesus as the central image of the human, arguing that in turn, "... kindness, forgiveness and reconciliation are values which are at the apex of the image Christians have of the human." (p.229) — values supremely modeled by Jesus, and reflective of God's saving activity throughout the Old Testament. Over against the vindictiveness often displayed in fundamentalism and wider Canadian society, the author argues that such views of justice draw more on alien philosophical systems than the Judeo-Christian tradition.

Kerans then discusses the idea of "the necessity of punishment" which has led Canadian society to affirm two theoretical models of punishment: retribution and rehabilitation. He discusses retribution first, noting that this notion is built upon an underlying theory of natural law, for which the metaphysical superstructure has been abandoned, but not the logical structure. This latter assumes that everyone operates under similar circumstances out of an identical mindset. Kerans proposes the opposite to be true, arguing that there is therefore one law for the rich, and another for the poor. He quotes an American criminologist tellingly: "The morality

which is enforced against the poorer people to preserve a system which benefits the wealthy is never equally applied against the wealthy to protect the interests of the poor." (p.247) He says therefore that "An examination of the prison population leads to the probable conclusion that it is largely drawn from the young, shabby, ill educated, often alcoholic, unemployed or unemployable already stigmatized poor. Criminality can be viewed as a culminating stigma almost always labeling those already stigmatized as deviant." His conclusion therefore is: "Retributive justice cannot be fully satisfied unless we work towards meeting the demands of distributive justice." (p.254) He believes this automatically takes us to the key goal of reconciliation.

Second, the notion of rehabilitation is, in the concept current at the time of writing, primarily a behavioural term, predicated upon a deterministic view of humanity. It appeals to the scientific method for legitimacy. But it is seriously flawed, primarily because "... of the contradiction involved in overlaying the perspective of treatment on an essentially punitive system, thus making it much more likely to be unjust." (p.244) He continues: "If the vision I am trying to build in this paper, namely of 'freedom as gift of the community', is valid, then the community's failed responsibilities are crucial to an adequate understanding of crime and how to deal with it. But on this point, the rehabilitative model fails utterly. ... In this sense, the rehabilitative model excludes the possibility of institutionalizing reconciliation." (pp 245 and 246)

The author finally discusses "Diversion: Institutionalizing Reconciliation." He argues that "Informal diversion has always been available to the more affluent and influential. Criminalization is largely a problem of the poor." (p.259) That is, when the police are called in to a conflict situation, their choice to label a matter "criminal" automatically precludes the possibility of reconciliation, since it is a choice to set in motion a highly adversarial system, which only perpetuates negative stereotypes of the "dangerous criminal." Over against this, "Diversion is essentially a

deprofessionalization off the management of crisis such that criminalization is often averted. ... When given a chance, diversion programs work." (pp 258 and 259)

Certainly the San Francisco model of Community Boards, replicated in many other cities, and Victim Offender Reconciliation Programs continue to bear witness to Kerans' contention, including the continued use of diversion in the courts.

But the author is pessimistic about seeing the institutionalization of reconciliation in the Canadian criminal justice system because of pervasive "possessive individualism" (so dubbed by C.B. MacPherson) on which basis our system operates. On this vision, "We have found a way to legitimate our system of retributive justice without having to open up the question of distributive justice." (p.263) But this vision of the human is in marked tension with the Judeo-Christian image. Kerans concludes his paper: "Once that tension is faced squarely, ... then people might understand that a call for reconciliation in criminal justice is not simply quixotic, but contains the seeds of fuller human development - indeed of liberation - for those who feel they benefit from our systematic individualism, but who, in the last analysis pay a terrible price for the benefits our society proffers." (p.263)

Kerans has issued a profound call for what has been dubbed a restorative justice model of crime prevention.

Shalom: The Bible's Word for Salvation, Justice, and Peace,
Perry B. Yoder, Faith and Life Press, Newton, Kansas, 1987,
154 pp.

The author is a professor of Old Testament. His book was refined through two visits of several-months' duration in 1984 and 1985 to base Christian communities in the Philippines - before Marcos' downfall.

It is an attempt to see how the biblical theme of **shalom** connects with others like creation, salvation, eschatology, etc. Much of the material does not directly relate to the question of criminal justice, but is all interconnected to many themes, as he ably shows. He begins by explaining that peace is the centre of our faith — but a peace not of mere nonviolence, which may prove to be the very antithesis of genuine peace.

He proceeds with a word study in both Testaments of biblical **peace**, arguing that it necessarily holds out for transformation of all relationships, structures, etc. not demonstrating biblical peace.

Then he discusses **justice** as basic to the quest for peace, endemic even to God's very being — over against other "gods" who do not act justly. That is, God acts justly by delivering the needy, transforming inequities, aiding those in distress, and generally setting things right. While retributive justice is found in the Old Testament, it is often in the context of shalom justice, whereby the motive for its being meted out is setting things right. And distributive justice is likewise in the Bible, but always in the direction of benefiting all, not the select few. This necessarily moves one past a response to the poor with charity to the challenging of sinful structures in society which creates the need for charity in the first place.

The author continues with a look at **salvation**, which is shalom justice in action. Salvation in the Bible is clustered around two central acts: salvation of the Israelites from Egypt, and the cross of Jesus. Yoder does a thorough word study of all salvation-related terms in both Testaments, and arrives at the startling understanding that salvation is primarily **liberation** from concrete political, material oppression. This includes the New Testament, in which he underlines that "... *salvation occurs mainly as a matter of dealing with physical, material problems. Rarely does it refer to internal, spiritual, moral defects or faults, like sin.*" (p.47) He points out that **salvation** is not most frequently associated with sin; rather, **forgiveness** is.

Chapter Five raises the question of the atonement. It is to be linked with the themes of salvation, justice and peace, permitting them to influence its understanding, not, as has been the norm, permitting a view of atonement based on pagan notions of justice to colour the biblical notions of justice, etc. Put succinctly, dominant Protestant and Catholic views of atonement place "... Jesus' death within the context of punishing justice (also known as retributive justice), rather than within the context of shalom justice." (p.56) This is the satisfaction or substitutionary theory of atonement, which, while it does have some New Testament support, is not its central thrust. He argues similarly concerning the moral influence theory and the classical theory, explaining each in terms of strengths and weaknesses. He opts for what he terms the "messianic view of the atonement," which sees "... justification not as punishing justice but as shalom justice — justification is liberation from sin in order that things may be right." (p.65) Therefore, "Love is what we experience in the example of Christ and just as God loved us in Christ, thereby setting things right; so, we too, motivated by love, set things right, struggle for justice." (p.67. Compare John Driver's *Understanding the Atonement*, reviewed elsewhere.)

Law in Chapter Six is an instrument, not for retributive justice, but for shalom justice. It is given in the context of God's salvation. Yoder believes that the linking together of liberation and law in both Testaments can be described as "... the indicative followed by the imperative. That is, in the Bible, first we find a telling of what God has done: the liberation which has taken place. This is the indicative. Then follows the command, the imperative, which instructs freed people on how to respond to their liberation." (pp 73 & 74) It is thus postliberation law calling for a response not of legalism, but of obedience. "Legalism views law as imposed obligation; obedience is a response to divine grace and freedom." (p. 74) Law, Yoder argues, is ever in the service of shalom justice — or as Meurer argues elsewhere in this essay, law is in the service of reconciliation and peace (the translated title of *Das Recht im Dienst der Versöhnung und des Friedens*).

There ensues a fascinating chapter on "the state, shalom, and justice," in which Yoder argues that "... the state does not have any divine mandate or legitimation in the Bible apart from the doing of justice which is to reflect the justice of the divine sovereign." (p.100) Another chapter discusses the prophets, the state, and shalom. The "Jesus: the Messiah of God" is considered, concluding with a series of searching questions: "... why has faith as belief come to replace doing? It is interesting that Jesus calls for repentance and doing, not intellectual assent. If being in Christ is doing the work of love through shalom justice, why has the mission of the church been so little involved in justice? Is the agenda of the church that of the kingdom?" (p.135)

He concludes the book with a chapter entitled: "Shalom Making Today." He mentions an old quip that Jesus proclaimed the kingdom but got the church! And what of the church? Too often, "Church leaders and members focus on the maintenance and growth of the institution. Evangelism becomes church growth rather than the good news of justice and liberation." (p.139)

The book speaks eloquently for shalom or restorative justice.

The Bible and Law, Occasional Papers No. 3, edited by Willard Swartley, Council of Mennonite Seminaries, Institute of Mennonite Studies, (3003 Benham Avenue, Elkhart, Indiana, 46517), 1982, 139 pp.

Willard Swartley in the Introduction notes: "This issue of 'Occasional Papers' makes available the major papers presented at the Bible and Law Conference sponsored by the Institute of Mennonite Studies on the campus of the Associated Mennonite Biblical Seminaries, July 24-26, 1981. The conference was occasioned by the seminal work of Millard Lind and John Toews on the function of law in the Old and New Testaments respectively." (p.5)

Papers besides those noted were presented on law during the Reformation, a history of law and its influence on western society, and law and morality.

The orientation of the material is the restorative justice paradigm. There is much to reflect on and interact with - and run with further. The theological perspectives challenge long-held majority christendom approaches to the issues. In the best sense, the material is "seminal."

The Christian as Victim, Howard Zehr, Mennonite Central Committee, U.S., Victim Offender Reconciliation Program, Akron, PA, U.S.A., n.d., 27 pp.

"The booklet was written to address two issues - the neglect of victims in the criminal justice system and the Christian response to victimization." (p.3) In it, Zehr details various phases through which many victims of crime pass. He subsequently challenges us toward a "biblical understanding of crime" supplying us with a kind of "biblical yardstick" by which the Christian must respond to crime. A further section outlines "some guidelines and distinctions" to aid the Christian in contemplating an appropriate response to crime.

It points to a restorative paradigm, and is very helpful.

The Early Church and the World, A History of the Christian Attitude to Pagan Society and the State Down to the Time of Constantinus (sic), Cecil John Cadoux, Edinburgh: T&T Clark, 38 George St., 1925, 675 pp.

Another edition of this massive tome was produced in 1955. I wish it would be reissued today; I would gladly purchase a copy.

As the long subtitle indicates, it is an amazingly comprehensive study of virtually all extant Christian writings (in their original from the New Testament era to the time of Constantine!) together with an ongoing dialogue with scholarly interpretation of the writings. Six fairly-natural inclusive chronological periods are considered — of 30 to 75 years in length until 313 A.D., with a recurring treatment in each section of the “world” and the church, eschatology, general ethical principles, attitude to the state, war, the sexes and family, property, slavery and other customs, attitude to heathen society/learning, etc.

The author’s epilogue explains his purpose for the study: namely to glean from the early church history some application for today’s ethical concerns — at least in broad outline. His central thesis is that, albeit with “. . . a steady and serious falling-off from the high idealism of primitive times” (p.613) the pre-Constantinian church nonetheless “. . . let loose in human society a new policy for the conquest of sin — a policy that boldly abandoned the age-long and deep-rooted trust in coercion and retaliation.” (p.612)

Under the recurring heading of “Attitude to the State” Cadoux indicates much challenging material concerning the early church response to crime and punishment. In the main, the pre-Constantinian church conceded to the state the pagan role of punisher. Christians were, however, to be opposed to imprisonment, torture, execution of criminals, and any other form of retaliation and reprisal. “There can be no doubt at all that an unwillingness to be made parties to acts of violence and bloodshed was one of the most powerful factors in deterring Christians both from undertaking the duties of the magistrate, and from availing themselves of the lawcourts as plaintiffs.” (p.257). He notes again, “If it was unlawful for a Christian as an impartial magistrate or official to pronounce or carry out a sentence of punishment against

a criminal, it was also unlawful for him to seek the redress of his wrongs by demanding the punishment of his enemy in a court of law. . . . A dispassionate desire to protect society by this means from crime, as distinct from a desire for retaliation and restitution, was scarcely recognized — in early Christian circles at all events — as an adequate motivation for litigation. Christians rightly claimed that they were protecting society from crime by other and better means.” (pp.364f) These are two representative quotes from Cadoux’s review of the evidence, and are instructive for today’s church.

Cadoux’s work points the reader towards a restorative model of justice. I will leave him the last word, applicable to the issue of crime and punishment and a range of other ethical issues besides warfare: “But while we can no longer divide human beings sharply into Christians on the one hand and pagans on the other, we can still distinguish as clearly as ever the Christian ideal and principle from the pagan ideal and principle. . . . The Church of Jesus and of the martyrs readily allowed Constantinus (sic) to cure her of her strange aversion from the use of the sword; and it is his triumph that inaugurates the history of sixteen centuries of warfare [and violent response to criminals — compare my review of *Law and Revolution* in this book] waged by professing Christians.” (pp. 619 & 614)

The Interaction of Law and Religion, Harold J. Berman, Abingdon Press, Nashville, New York, 1974, 174 pp.

Chapter II, “The Influence of Christianity on the Development of Western Law” is the most important for the purposes of this essay. Otherwise, the work is an engaging book on the theme of the (historically) inseparableness of law and religion and the absolute inviolability of this union for the later massive volume, *Law and Revolution*, reviewed elsewhere in this bibliography.

The author posits that the first principle of Christian jurisprudence was "... the principle of civil disobedience: laws that conflict with Christian faith are not binding in conscience." (p.52) This act of civil disobedience in the early church was invariably in the direction of a restorative model of justice.

Another basic principle of Christian jurisprudence, argues Berman, from the early church era, was "... law reform 'in the direction of greater humanity.' "

It was the church in the Papal Revolution of the 11th century "... that first taught Western man what a modern legal system is like." (p. 59) All the secularizations emerge from the church's own initial codification and rationalization of law — away from the essential restorative model of justice practised by the early Germanic tribes. (This latter point is especially played out in *Law and Revolution*, and only hinted at here.)

The fly-leaf says: "... seeing a new era dawning, the author encourages us to go beyond law, beyond religion to a revitalization and synthesis of both because 'this is law's chief justification and also its chief purpose, namely to help create conditions in which love may flourish.' "

This book only indirectly supports the restorative paradigm of justice, but it is engaging and worthwhile reading.

The Ministry of the Church in Canada's Penitentiaries: A Theological Inquiry, Peter Hartgerink, A Master of Theology Thesis, Queen's University, Kingston, Ontario, sponsored and distributed by the Church Council on Justice and Corrections, November, 1979, 111 pp.

The writer begins by examining in Part I certain aspects of incarceration as they obtain within Canada's penitentiaries (he limits his study to speaking from this perspective). He points out from the outset, however, that "... the very existence of prisons must be seen as a symptom of sin" (p.3) — a state of affairs contrary to biblical justice. The system is "... basically an evil, oppressive phenomenon." (p.4) He takes this as a starting-point for his theological inquiry.

He quotes Karl Barth in recognizing that in biblical thought, "... the judge is not primarily the one who rewards some [distributive justice] and punishes others [retributive justice]; he is the man who creates order and restores what has been destroyed " [what Perry Yoder calls shalom justice in his book *Shalom*, reviewed elsewhere]. (p. 8) And so even capital punishment was designed with not a punitive, rather a restorative, motive, in the Old Testament. (C.F.D. Moule argues similarly of God's vengeance in the New Testament. See the review of his paper in this essay).

He also treats the question of individual and communal responsibility in much the same manner as both Thomas R. Neufeld and Patrick Kerans do in their papers reviewed elsewhere.

In Part II he discusses "Common Approaches to Prison Ministry, Past and Present." In the past, chaplains seemed to be far more moralistic than aware of God's grace, and without understanding of the communal and individual aspects of crime.

He proceeds to examine several approaches to chaplaincy over the past one hundred and more years. This is reminiscent of the typing Mark Hurst does in his essay on chaplaincy, reviewed elsewhere. In essence, he discovers four: 1) moral rehabilitation of inmates; 2) healing and caring for inmates; 3) spiritual transformation or conversion of inmates; 4) a prophetic role vis-à-vis the prison institution. He proceeds to examine each theologically, praising and critiquing various aspects of each category.

Part III moves "Towards a Theological Basis for Prison Ministry." He continues discussing the four categories mentioned. The first three belong primarily to the "individual salvation" camp, while the last to the "social activist" camp. He argues that both camps must be brought together, which he does under the heading: "A New Testament Vision: Salvation in Community." (p.40) There is some very rich mining done in this section, drawing from many diverse New Testament theologians, and much New Testament material. He goes on to discuss four dominant themes under the heading, "Liberation to the Prisoners": 1) the gospel breaks down dividing walls; 2) liberation from enslaving powers; 3) "revolutionary subordination" to the powers (drawing on a term of J.H. Yoder); 4) non-violence and non-retaliation. Again, his discussion of these is very rich. He finishes this section by re-examining how positive aspects of each of the four approaches to chaplaincy may be ascertained in light of a "... vision of liberation in community. ..." (p.58)

Part IV is entitled "A Ministry for the Church in Canada's Penitentiaries." He grounds this ministry in the church's call first "... to be true to its identity as the community of the faithful, who by faith live the new life of reconciliation and liberation even in the midst of a world of hostility, division, and oppression." (p.62) This is along the lines of Mark Hurst's ideal type in his paper. He further discusses the role of the volunteer, and of prison staff and inmates. He argues for the primacy of **reconciliation** amongst all these persons.

There is a very extensive bibliography and there are two appendices.

This is highly recommended for everyone interested/involved in prison ministry, and would be beneficial far beyond Canadian, penitentiary, or chaplaincy boundaries.

The Theological Foundation of Law, Jacques Ellul, translated by Marguerite Wieser, The Seabury Press, New York, 1960, 140 pp.

Ellul is not a systematic thinker. But he is seminal (a highly appropriate term for him, even if overused), and this brief book confronts the reader with many significant thoughts.

The five divisions of the book, broken further down into subheadings, are "Natural Law Considered as a Fact of History," "The Divine Law," "Natural Law and Divine Law," "Divine Law and Human Laws," "Law, State and Church."

Some of his pithy *pensees* are: "Whenever God pronounces judgment, mercy is unfailingly present." (p.40); "Before God's righteousness all human justice is unjust. All that is not his righteousness is injustice." (p.40); "Jesus Christ, through his incarnation, is the point at which the righteousness of God meets the justice of man." (p.43); "We cannot, then, understand law without the cross of Christ [atonement] at the centre ... The ultimate manifestation of God's justice reveals God's will to restore. This thought is extremely important for the understanding of justice. When God judges, He does so in order to restore what has been distorted, the relationship between God and man and among men themselves." (p.51); "... the idea of restoration ... [is] ... essential for the understanding of divine law." (pp.52f); "The Law of God cannot provide the foundation of natural law any more than it can coincide with natural law ..." (p.67); "Whereas natural law is exclusively concerned with creation, divine law is rooted in the doctrine of creation and eschatology." (p.69); "For each time God judges he also pardons ... justice known by man in the judgment of God is grace. It is a gift." (p.88); "... under no conditions can we accept as normative law as it exists or the situation created by this law." (p. 100); "Law cannot be separated from compassion. It is in itself part of God's mercy and it is called to manifest this mercy" (p.118).

A Christian prison guard friend of mine, quite resistant to the biblical teaching on restorative justice, expressed disappointment in Ellul's book. Understandably. It is a further challenge to see restoration, not retribution, as the end-goal of justice, and well worth reading.

Transformation of Justice: From Moses to Jesus, Millard Lind, MCC U.S. Office of Criminal Justice, MCC Canada Victim Offender Ministries, 1986, 24 pp.

Earlier versions of this have appeared in *Crime is a Peace Issue* and *The Bible and Law*, both reviewed elsewhere in this essay. This is given as part of the "New Perspectives on Crime and Justice: Occasional Papers" series. The writer is a professor of Old Testament.

Lind begins with a definition of biblical justice as "... that norm of behaviour which arises out of the relationship of God and people, and out of the interrelationships of God's people with themselves and others." (p.1) Therefore, "Justice in the Bible is not the opposite of mercy but is a parallel to it" (p.1), both of which arise out of the covenant relationship of God and people.

Under Moses, the community of faith broke with the state law of the surrounding nations, stressing rather just-community relationships. Law developed to express justice — the norm of behaviour for God's people, presented within the covenant relationship. This contrasts with other ancient near-eastern law, set within the context of the coercive power of kingship. In contrast likewise to surrounding state law, it concerned itself with divine-human and not merely interhuman relationships, and was person — not property — oriented.

The *lex talionis* or law of retaliation, even when interpreted most negatively, is not primarily characteristic of Hebrew law: the motive/model clause is — i.e., because of God's saving acts and character. Jesus' words, "You therefore, must be perfect, *as your heavenly Father is perfect*" (Matt. 5:48) epitomizes such a characteristic. And "The characteristic purpose of the law was to redeem, not to punish . . . not merely individual but social redemption, aimed at redeeming the entire society." (p.8) The prophets, in whose tradition Jesus stood, especially bear witness to this. "With the advent of Jesus, 'to each his due' was no longer to be the measure of justice for this world. Christian missionaries called humanity to a new norm of justice, a new norm which relates human behaviour to the model clause of God's act in Christ." (p.9)

Lind concludes his paper by discussing four different ways Christians have related the new, transformed model of justice to the justice systems of the world.

First, there is withdrawal, which he dubs a "Strategy of Unfaithfulness." For "... the character of Yahweh's justice is aggressive . . . A strategy of justice which primarily withdraws into isolated communities denies this aggressive character of Yahweh's justice." (p.13)

Second, there was the Constantinian strategy, dubbed one of capitulation. For it is a flight backwards to secular state law, and in some respects even worse.

Third, the strategy of the Enlightenment was one of denial. What emerged was law developed under "democratic totalitarianism" (p.17) — and contrary to biblical justice.

Finally, there are strategies for faithfulness wherein congregations recognize their own legal autonomy within the structure of covenant. They must develop means first of all of handling internal resolution of disputes, and also ways of addressing their justice

perspective to the wider political structures. They must actually demonstrate alternative, workable models of doing justice.

He summarized his thesis succinctly: "Worldly justice is defined as 'to everyone his due,' and is centered on the state. Biblical or covenant justice is defined 'to each according to the norm of Yahweh's relation to God's people, and the relationship of these people to each other in the light of that norm,' and is centred in the congregation." (p.20)

Lind does not waste any words, and the result is a powerful challenge to pursue aggressively the biblical path of justice. He concludes: "And let us have faith that the same transforming power is at work today in us, through us, beyond us and in spite of us. By this transforming power, we can draw secular law into tension with the gospel." (p.20)

Tsedeka-Justice, Herman Bianchi, Review of Philosophy and Theology, Central Printing Co., Nijmegen, The Netherlands, September 1973, 12 pp.

Herman Bianchi was the head of the Criminological Institute of the Free University of Amsterdam. He is a noted historian of criminal law and has actively pursued alternatives to the present western repressive criminal justice system in his writings and actions. This paper catches some of the essence of Bianchi's *Ethiek van het Strafen* (1963) — The Ethics of Punishment — which has not appeared in English, and *Gerechtigheit als Vrijplaats* (1985) — *Justice as Sanctuary* — which likewise has not yet appeared in English.

Bianchi's thesis is that "tsedeka-justice" — as the Old Testament understands it and the Rabbis interpreted it — has been largely lost to gentile theology and almost unknown to legal thought in the

western world. It was applied exclusively only to the relationship between God and humanity in western theology, but never seen to apply to interhuman (legal) relationships.

The essence of biblical ("tsedeka") justice, to string several quotes together, is that it is "... an action that results in an input of care, commitment and concern . . . , the human action should be judged after its results: is there righteousness, then justice has been done, if not, there is nothingness . . . tsedeka has to result in *acquittal* (italics in original) . . . this idea can also be expressed in the language of western philosophy and theology in terms like absolution, justification, retribution and perhaps a few more . . . If tsedeka is real it leads to acquittal, whereby both debtor and creditor become tsedek . . . The Hebrew idea of retribution was quite simple. The word . . . was usually a term derived from the root sh.l.m. from which also stems a word like shalom . . . and therefore the only translation possible of the word is not retribution but peacemaking . . . For if there has been tsedeka, it will result in acquittal and peace." (pp. 310, 311, 312, 314, 315, italics in original)

Hence Bianchi can say: "Tsedeka-justice is the bottle that contains the spirit of retribution and punishment. As long as it is in the bottle it can be useful. If left [sic — let] out, it is just an evil spirit. This happened when Christian doctrine . . . introduced the biblical concept of retribution without tsedeka into the European legal system. The results of this have simply been a catastrophe." (pp. 308ff) (Compare *Law and Revolution* reviewed in this book.)

For Bianchi then, "The basic idea of a biblical legal system is: tsedeka has to be achieved, actually and actively and has to result in peace, peace for all those who are participating in the legal system . . . a peace where all, including the social deviants can live in peace together." (p.315)

This is of course a far cry from our retributive model of justice currently practised in the West, and is a challenging, closely argued

call to a restorative justice paradigm from a noted European historian and criminologist.

Understanding the Atonement for the Mission of the Church, John Driver, Herald Press, Scottdale, Pennsylvania/Kitchener, Ontario, 1986, 286 pp.

This is a genuinely exciting reappraisal of the doctrine of the atonement for all who see it as quintessentially a peace initiative from God, rather than propitiation of an angry Judge.

C. Rene Padilla sets the tone in the "Forward" by saying: "Unfortunately, Western Christianity has been so conditioned by Constantinian presuppositions that it has failed to take into account the centrality of the crucified Messiah. It has been far more preoccupied with worldly wisdom and worldly power than with faithfulness to the gospel of the kingdom. It has concentrated on the salvation of the individual soul but has frequently disregarded God's purpose to create a new humanity marked by sacrificial love and justice for the poor . . ."

"I do not know of any other book on the atonement that does so well in showing the intimate relationship between the suffering of the crucified Messiah and the suffering of those who bear his name, between the saving work of Christ and his power to transform every aspect of life, between a theological understanding of the cross and an epistemology of obedience. . . ."

"Driver's book is an invitation to look at the cross, not merely as the source of individual salvation, but as the place wherein begins the renewal of creation — the new heavens and the new earth that God has promised and that the messianic community anticipates. May many readers heed its message!" (pp 9 & 10)

For his part, with reference to previous significant evangelical works on the atonement such as *The Apostolic Preaching of the Cross* by Leon Morris, while acknowledging their helpfulness, Driver says: "This vision [of the book] seeks to be more fully freed from the presuppositions of Constantinian Christendom which have so influenced the doctrinal understandings of the atonement and more fully in accord with the biblical missionary context. It is a vision which seeks to reflect more faithfully the pluralism of the New Testament." (p.11)

I wish I could go into great depth in summarizing this work. But that would be beyond the scope of this essay. However, I will sketch the outline of the book through allusion to chapter titles, and focus in on key parts of some chapters. Driver begins with "A Radical Evangelical Approach to the Doctrine of the Atonement" (Chapter 1) in which he states, "To understand law as basically a system of just retribution and sin as primarily guilt which deserves punishment is to read the New Testament from the post-biblical perspective of Roman law and a Western sense of guilt.

"With the christening of the entire society [after Constantine], law was dislodged from the context of grace which had always characterized biblical covenant law. Therefore it became relatively natural to transfer the legal concepts of punishment and guilt from secular society to the church's self-understanding."

"In the biblical perspective of God's gracious covenant which provided the context of his saving relationship with his people, God's wrath was in reality his response to covenant violation in the interests of protecting this merciful and loving relationship. However, with the fading of the biblical vision of covenant, God increasingly came to be viewed in terms of the ancient Greek and Roman deities whose wrath called for appeasement and whose anger must be placated by religious means." (p.33. This is echoed by other studies, such as Bianchi's and Berman's.)

Chapter 2 is a "Review and Critique of Principle Theories of the Atonement." He argues strongly that the theory developed by St. Anselm in the 11th century (which "... has become the most influential view for understanding the atonement among western theologies.", p.50) is shot through with pagan — primarily Greek and Roman — notions of justice, extremely alien and usually antithetical to biblical teaching. Driver says, "While Protestants have rejected the penitential system as such, they have accepted Anselm's application of its conceptual basis to their understanding of the saving work of Christ." (p.61) This of course is greatly ironic, and also tragic, for how Protestants likewise understood justice vis-à-vis crime.

In Chapters 3 to 12, he discusses principle biblical images of the atonement in great detail. He had already argued in the first chapter that "Rather than defining the church by means of dogmatic statements, the New Testament describes the church through the use of a series of complementary images. . . ."

"The New Testament describes the atoning work of Christ in a similar way." (pp. 16 & 17) Further, these images have both a *metaphorical* and an *ontological* thrust. The danger is in pressing one or the other category, as in the Christian west, where the ontological is overstressed.

Chapter 3 handles the "Conflict-Victory-Liberation Motif" — chapter 4, "Vicarious Suffering" — chapter 5, "Archetypal Images" — chapter 6, "Martyr Motif" — chapter 7, "Sacrifice Motif" — chapter 8, "Expiation Motif and the Wrath of God" — chapter 9, "Redemption-Purchase Motif" — chapter 10, "Reconciliation" — chapter 11, "Justification" — and chapter 12, "Adoption-Family Image." Each is a rich lode which the author explores deftly and insightfully.

In chapter 8 Driver says: "The biblical understanding of God's wrath is deeply rooted in the loving covenant relationship which

God has established with his people. The salvific relationship is the centre around which the biblical view of wrath is oriented." (pp 156 & 157) This is a key insight. He goes on to say that "God's wrath can also be understood as jealousy, as the response of the wounded love of the Lover of Israel." (p.157) This is in contrast to wrath in other religions, seen as primarily irrational and unmotivated. The New Testament continues with this same understanding of wrath. He says, "As in the Old Testament, so also in the New Testament divine wrath comes upon people not so much for individual infractions of the divine will as it does for rejection of covenant love and the despising of God's saving intention as this has been made known." (pp 161 & 162)

The above obviously takes us far from any notion of penalty as an end response to crime. (Compare Berman's description of such teaching in *Law and Revolution*, reviewed elsewhere.)

In the discussion of Reconciliation (Chapter 10), Driver points out that "Although to atone meant to reconcile originally, it has come to mean to expiate, or even to propitiate. . . . To atone for something carries the idea of making a wrong right by suffering, by laying on oneself a penalty. *This is certainly not the biblical meaning of the term which is generally translated 'to reconcile.'*" (pp. 177 & 178, emphasis mine) Its "... primary concern appears to be the reestablishments of relationship." (p.182) And it is not first nor primarily an individual reality. Rather, it is "... first of all a community event which cannot happen to an individual alone." (p.186 — that is, it is cosmic in scope!)

Justification is a final term I will highlight from Driver's discussion. In the previous chapter, he has already indicated that "... justification, a legal term of primary importance for understanding the atonement, and reconciliation are in reality parallel concepts . . ." (p.179) Again, therefore, it is not essentially an *individualistically* oriented notion. Nor is it mainly a matter of God's declaring one justified, though this was the classic post-

Reformation formulation over against the works-righteousness of the Catholic teaching. This idea only renders justification of legal fiction. He says, "The extraordinary development and popularity of the juridical image for understanding the work of Christ in Christendom probably owes more to the Roman Empire and the legal procedures of the Justinian Code than it does to Paul and the source — the Old Testament — from which he drew the juridical imagery which he used." (p.191) Bluntly stated, justification is rightly seen as a forensic term, but its primary content since the Reformation has been wrongly based on pagan justice notions. This was no less the case for Catholicism: "The sacramental-penitential practice of medieval Catholicism as well as the *solafideism* of Protestant orthodoxy have both found the juridical metaphor especially compatible for explaining the work of Christ." — both, he argues, due to their Constantinian view that the church and society were coterminous. (p.191) Over against both understandings, justification "... has to do with the establishment of a new situation characterized concretely by God's righteousness." (p.195) And again, "God's righteousness is not merely the declaration which pardons the individual, *but that power which establishes a whole new world, the force which brought the kingdom of God into being.*" (p. 203, emphasis mine) And of course the kingdom is characterized by a loving response to the enemy, including the criminal.

A final section of the book deals with Contemporary Implications, including "The Work of Christ and the Messianic Community" (chapter 13); "The Work of Christ and Cosmic Restoration" (chapter 14); and "Missiological Reflections and Implications" (chapter 15).

I will almost give him the final word:

"Peace and justice are rooted in the atoning work of Christ and are therefore integral to the gospel. Nonresistance to evildoers is not a denominational distinctive, nor an optional doctrine which is

espoused by a few minority groups or heroic individuals throughout Christian history but inapplicable to the Christian church as such. In light of the global perspective which emerges from the multiplicity of motifs for understanding the meaning of the work of Christ, kingdom ethics which radically address the questions of economics, prestige, and power are restored to the sphere of the gospel.

"The cross of Christ is the essential organizing centre from which the kingdom ethics emerge. . . . The death of Christ is a model for what Christians do about enemies, evil powers, the temptation to dominate [and, one could add, criminals]. . . ."

"In light of the meaning of the work of Christ, evangelists must, by the nature of the gospel they proclaim, be peacemakers; peacemakers, in the interests of the authenticity of the peace they seek, should be evangelists." (pp 248 & 249, emphasis mine)

Now I can get excited about that kind of doctrine!

Chaplaincy

Prison Ministry — a collection of readings/Ministère Carcéral — recueil de lectures, compiled by The Rev'd. Canon J.T.L. James, Consultant on Chaplaincy Training, Chaplaincy Division, Correctional Service of Canada, August, 1986.

This is a very eclectic collection of essays, with an overall theme evident in the papers' relationship to prison ministry. They are organized alphabetically according to the authors' surnames. As might be expected, thirty-nine articles, making up about 200 pages of material, are extremely varied in subject matter, style, theology, and quality.

Tom James in his Introduction mentions that a computer search was carried out by The Ministry Library of the Solicitor General of Canada in order to prepare a helpful bibliography of books, graduate theses, and (longer) articles on prison ministry. It appears at the beginning of the essay collection and is limited to chaplaincy oriented prison ministry. Conspicuously missing however, is one of the best works on chaplaincy, reviewed elsewhere in this book, *The Ministry of the Church in Canada's Penitentiaries: A Theological Inquiry*, by Peter Hartgerink.

Rev. James further indicates that the objectives of the project was to supply chaplains in the Correctional Service of Canada (CSC) with a collection of helpful essays otherwise difficult to access. This is similar to the purpose of *Crime is a Peace Issue*, reviewed elsewhere. He invites readers to pass on to the CSC, Chaplaincy Division, other helpful papers, presumably with a view to publishing another collection sometime.

He observes further that some of the essays reproduced are "... insightful to a degree one might not expect, but wisdom is not always related to size." (p.1) This is the best way to characterize

many of the papers reprinted. Many are worth reading for challenge, inspiration, and encouragement.

Many also, because they are attempting to be faithful to biblical theology, are reflective of a restorative justice approach to prison ministry.

We're waiting for a sequel, Tom!

The Prison Chaplaincy: An Anabaptist/Mennonite Perspective, Mark S. Hurst, A Master of Arts in Peace Studies Thesis, Associated Mennonite Biblical Seminaries, October, 1987, 96 pp. (unpublished)

The author wishes to "... present a theological model for the prison chaplaincy that is consistent with Anabaptist/Mennonite theology and practice." (p. 1) He juxtaposes this model with two other "types" he admits are ideal, and therefore individual chaplains can certainly overlap in their fitting into various categories. His categorizing is not unlike what is done in two other works reviewed under this heading.

He begins by outlining two views of justice: drawing on Howard Zehr's often-quoted two tables juxtaposing retributive and restorative justice.

His first chaplaincy type is the institutional chaplain, who follows a retributive model of justice. He has accepted the Constantinian marriage of church and state. He therefore seems at odds with a view of God who heals while working for a system which destroys.

The evangelical chaplain follows. Retributive justice is again accepted without question. As well, "The Evangelical chaplain ... favours the orthodox penal substitution theory of

atonement which emphasizes the judgement of God. This carries over to a view of justice that supports revenge, punishment, and even support for the death penalty." (p.37) He concludes: "The Evangelical chaplain would benefit much by having a new social vision developed from the gospel and the rich evangelical heritage of the early revivalist leaders. Understanding the social implications of the Christian faith and applying them to the criminal justice system could bring about a revival among Evangelical chaplains and their volunteers." (p.42)

His final category, the Peace Church Chaplain, does not correspond to an existing group of chaplains. He argues that "... the Peace Church chaplain holds a restorative justice view that sees crime as 'a rupture, a wound in the health of the community that must be healed.' " (p.47) Such a chaplain has an obvious prophetic role to fulfill, including several ongoing tasks delineated on p. 53. He cannot individualize the gospel, rather bears witness to its communal dimensions.

Such a person cannot bring the way of Jesus together with the way of incarceration. A system change is called for. He or she follows an understanding of atonement at variance with the appeasement of a vengeful God. Rather, the understanding operated from "... comes from seeing a work restoring creation and the 'theology of the cross is a theology of restoration' with the cross and resurrection as the 'ultimate symbols of God's restorative nature.' " (p.69)

Such a role is necessarily subversive of the criminal justice system. There is a good bibliography. While the "types" are too neatly drawn, the work points obviously to a restorative justice paradigm.

The Statement of the Correctional Service of Canada Values and Biblical Perspective for the Role of Chaplain, Pierre

Allard, A Project Presented to the Faculty of the Northern Baptist Theological Seminary in Partial Fulfillment of the Requirements for the Degree Doctor of Ministry, April 1986, 192 pp. (unpublished)

Allard explains that the project began because of his fourteen previous years of experience in chaplaincy, during which he has attempted to understand the relationship of the mission of chaplaincy to that of the Correctional Service of Canada (CSC in his paper), and vice versa.

Chapter I is an interaction with "The Statement of CSC Values," and is not directly relevant to the purposes of this book. Likewise Chapter II, "Interaction and Reaction" can be ignored for this essay. And the third chapter, "An Historical Perspective" may also be bypassed, except to note the interesting role perspectives on chaplaincy which have obtained throughout church history. This is similar to two of the other works reviewed in this essay on chaplaincy.

Chapter IV is entitled "Biblical Justice." He begins by noting the development in the west away from a biblical notion of justice to one primarily Greco-Roman.

He gives a word-study of justice, drawing into the discussion various "harmonics" — related concepts — from both Testaments. He draws mainly on an earlier draft of Millard Lind's *Transformation* (reviewed elsewhere), for the Old Testament understanding. Then he discusses the New Testament, asserting: "Only in the light of Christ can we begin to comprehend fully what biblical justice really means. Biblical justice is indeed a dynamic attempt at reconciliation. It finds its fullest expression in forgiveness: 'Forgiveness is an act of judgement in which the justice of God is fully vindicated.' [quote from the Theological Dictionary of the New Testament]." (p.79)

He argues that the application of these truths for the chaplain can become a wellspring of renewal and hope. In summary he says: "Properly understood it [biblical justice] emphasizes justice as reconciliation and restoration rather than punishment and retribution." (p.81)

Chapter V discusses the theme of "*Imago Dei*." In his application of this fundamental image of the human, Allard stresses that one cannot be treated impersonally without undergoing the destruction of the essence of what is human in a person.

Chapter VI is entitled "The Wall," and deals with the deep divisions between persons, in particular the alienated inmate. He concludes: "The good news is that there is unbelievable hope offered through Christ when looking at the wall of hostility between prisoners and society. Mankind's broken unity, so strongly symbolized by the wall, can be restored." (p.104)

Chapter VII is entitled "Reconciliation." The theme is a rich lode in the New Testament, which Allard fully discusses. He summarizes: "The theme of reconciliation shapes a chaplain's ministry and involves him in one of the most rewarding tasks given to man, particularly in the area of the problem of crime: He becomes an instrument in the re-creation of God's original plan of love and order for all people." (pp. 124 & 125)

Chapter VIII is the "Conclusion." His key statement is, "As a result of this study, the chaplain would like to suggest that the mission of chaplaincy is the working out of biblical justice through reconciliation." (p.128)

There are several appendices, and an extensive bibliography. This is obviously restorative justice oriented.

Capital Punishment

Acts of Synod 1981, "Capital Punishment," Board of Publication of the Christian Reformed Church, 3859 Kalamazoo Ave., S.E., Grand Rapids, Michigan, 1981, pp. 72, 73, 448-491.

The paper was a report prepared by an interdisciplinary group of North American Christian Reformed scholars for the 1981 Synod of the Christian Reformed Church of North America.

It is a thorough biblical discussion of the issue organized around three main questions, preceded by some prolegomena on the state, crime, and punishment. The questions are:

- I Is capital punishment *mandatory*? That is, is the state unconditionally required to execute every person found guilty of murder in the first degree?
- II Is capital punishment *permissible*? That is, is the state, under appropriate conditions, authorized or licensed to deprive a citizen not merely of his liberty, but also of his life?
- III Is capital punishment *desirable*? Is it, when all things are taken into consideration, desirable that capital punishment be routinely inflicted upon persons guilty of murder in the first degree? (p.455, italics in original)

Their answer to the first consideration is a definitive NO — with all pertinent scripture under review, especially Genesis 9: 1-7 which receives a lengthy treatment. Their answer to the second question is YES, invoking the classic Reformation position that the state is part of God's good created order, and has therefore a "God-given role as his agent here on earth." (p.488) There is no interaction with the Anabaptist view here, or with the problematics of such a position in light of state monstrosities in history. The third question receives a NO to "routinely inflicted," but exceptions are allowed for.

Overall, the thrust of the paper is in the direction of a restorative model of justice, and well worth studying. It makes one very uncertain about any argument for a state mandate to inflict capital punishment.

Capital Punishment Study Guide: For Groups and Congregations with Supplementary Readings, Victim Offender Ministries, Mennonite Central Committee, Winnipeg, 1985, 62pp.

Several persons were involved in preparing this material. An Introduction presents a very helpful checklist of sorts for arriving at a biblical hermeneutic vis-à-vis this question.

There follow five sessions designed to make the student deal with some of the psychological, sociological, theological, and (Mennonite) church leadership considerations of the issue. These are well organized and helpful.

Then follows a "Supplementary Readings" section, some of which was alluded to in the five sections, all of which is designed to shed further theological or practical light on the issue.

Finally, two bibliographies are enclosed, one annotated and both helpful.

Death as a Penalty, A moral, practical, and theological discussion, Howard Zehr, M.C.C., Canada, n.d., 30 pp.

The author begins with a statement of the problem, then proceeds with answering numerous questions, organized around "The Issues of the Evidence" and "A Biblical Perspective." It concludes with a challenge to the Christian that one must make a choice.

A helpful bibliography completes the presentation.

The author has developed the thesis that Christians must commit themselves to a restorative model of justice. This is reflected in this publication and in others presented by Zehr. It is challenging.

The Christian and Capital Punishment, John Howard Yoder, Institute of Mennonite Studies Series Number 1, Faith and Life Press, Newton, Kansas, 1961, 24pp.

John Howard Yoder needs little introduction as a leading Mennonite spokesperson for a peace theology, and therefore of a restorative paradigm approach to crime and punishment issues.

Under a series of headings: "The Basic Christian Testimony about Human Life," "Killing and the Moral Order," "Killing and the Function of the State," "Killing and the Christian Influence upon Society," "The Death Penalty as a Deterrent," "The Fallibility of Penal Institutions," and "The Christian Response," Yoder argues against the death penalty, and for the Christian's active witness to the state against this institution.

It is a significant paper to interact with.

Issues of the Occasional Papers

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Bianchi, Herman. **A Biblical Vision of Justice.** Issue No. 2.

Klaassen, Walter. **Peoplehood and Law.** Issue No. 3.

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Harris, M. Kay; Van Ness, Dan; Zehr, Howard. **Justice: The Restorative Vision.** Issue No. 7.

Northey, Wayne. **Biblical/Theological Works Contributing to Restorative Justice: A Bibliographic Essay.** Issue No. 8