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Biblical justice as restorative justice: A critical-constructive analysis

Pieter De Witte*

Abstract

Christian proponents of the restorative justice movement often draw upon the concept of 'biblical justice' as a guiding principle for reforming the criminal justice system. This article delves into the meaning of biblical justice as espoused by advocates of restorative justice, exploring its application in theory and practice. Through an analysis of three recurring themes – overcoming division, justice as well-being and retribution – this article highlights the controversies and ambiguities surrounding these concepts from both theological and restorative justice perspectives. It proposes that adopting a virtue-ethical approach can offer a nuanced understanding of the relationship between biblical justice and restorative justice.

Keywords: Restorative Justice, virtue ethics, punishment, biblical justice.

1 Introduction

This article aims to achieve two objectives. Firstly, it seeks to provide an overview of how the concept of 'biblical justice' is utilised by advocates of restorative justice. Secondly, it attempts to identify some of the complexities and pitfalls of interpreting restorative justice processes through a biblical-theological lens, considering both theological and restorative justice practice perspectives.

While there is a vast amount of literature on restorative justice and its connection with the Christian tradition (Ballot, 2008), this study focuses on a select number of key texts. These include the foundational works of American restorative justice pioneer Howard Zehr (2014, 2015) and Dutch criminologist Herman Bianchi (1985, 1994)¹ and the books of New Zealand theologian Christopher D. Marshall (2001, 2012), which offer the most comprehensive analysis to date on the relationship between restorative justice and the biblical concept of justice. Despite differences in their theological and criminological views, as well as their religious commitments and interpretations of the relationship

* Pieter De Witte, Katholieke Universiteit Leuven, Belgium.
Corresponding author: Pieter De Witte at pieter.dewitte@kuleuven.be.

1 While the English version (1994) contains a reworked and sometimes strongly abbreviated text, we will, if necessary, also refer to the original Dutch book (1985).

between restorative justice and the existing criminal justice system, the article aims to demonstrate that a consistent portrayal of 'biblical justice' and its relevance for restorative justice can be gleaned from their works.

The contours of this image can be summarised in three propositions: firstly, 'biblical justice' seeks to overcome hostility and presents an alternative to the current adversarial criminal justice system. Secondly, it is characterised by a radical relational and welfare-oriented approach, in line with the Hebrew concept of *shalom*. Lastly, it takes a critical stance towards retributive justice. These three basic convictions are discernible – in various forms and degrees – in the works of the authors that are studied in this article. They are common in other works that attempt to seek common ground between restorative justice and the Christian tradition. Nikolaos Stamatakis, for instance, conducted a qualitative empirical research of two restorative justice projects in carceral contexts (Stamatakis, 2013). The connections he draws between biblical theology and his findings on the practice of restorative justice in prisons precisely concern these three points. He claims that (1) the theological concepts of forgiveness and reconciliation are the backbone of the Christian engagement with restorative justice; that (2) 'Torah law, as depicted in the Bible, was more concerned with the restoration of *shalom* (peace) and compensation for the damage caused to the victim than with the punishment of the offender' (p. 280); and that (3) 'the word "retribution" has no place in the Christian vocabulary' (p. 286).

While these three points form the crux of the narrative surrounding restorative justice and biblical justice, it is our conviction that they need further analysis and elaboration. The article therefore aims to highlight the complexity and sometimes controversial nature of each of these propositions. This critical move is not intended to dismiss the project of connecting restorative justice and biblical theology, but rather to underscore the conviction that a nuanced understanding of biblical ideas on wrongdoing and justice should inform current efforts to reform criminal justice institutions and practices. We are well aware of the theoretical nature of these reflections. Yet, theory and practice in restorative justice – as in many other fields – are closely interwoven. Practitioners benefit from theoretical reflections that question prevailing assumptions. It keeps them awake and prevents them from falling into a 'dogmatic slumber' (Kant). If this article contributes to this goal, it has accomplished its mission.

2 Overcoming opposition and division

While also subscribing to many other criticisms of our current criminal justice system, restorative justice proponents generally focus on the antagonistic nature of our justice system as one of the main causes of its inadequacy. The way court cases are staged, for instance, fosters hostility between victims and offenders. Nils Christie's famous article 'Conflicts as Property' is essentially an attempt to imagine a setting in which, in the aftermath of a crime, a true personal encounter is possible that allows stakeholders to deal with their conflicts (Christie, 1977). Instead of being side-lined by criminal justice professionals, they become participants in the

process. This creates the possibility of having ‘a thorough discussion of what could be done to undo the deed’. Moreover, the offender can explain their perspective to the other party and thus regain a possibility that has been lost in our adversarial criminal justice system: that of ‘being forgiven’ (Christie, 1977: 9).

The analogy with the biblical narrative seems clear. Marshall’s book *Compassionate Justice* is an extensive meditation on two parables from the gospel of Luke, in which the needs of a victim of crime are addressed (the Good Samaritan) and an offender is forgiven (the Prodigal Son). In both cases, the central event of the parable is a personal encounter in which the acting characters (the Samaritan and the father) are moved by compassion. This compassion trumps both the concerns about purity that had withheld the priest and the Levite from helping the robbed man and (more hypothetically) the legitimate feelings of being offended by the arrogance of a disloyal son. In other words, these stories portray situations in which personal encounters overcome legal, moral and religious obstacles that prevent the characters from taking satisfactory action. Moreover, the Bible seems to depict the relationship between God and man in terms of a personal bond (the covenant) to which God remains faithful, despite sin, even if this faithfulness involves overruling previous juridical and religious structures – such as legal commandments – that have become obstacles for personal encounter (Zehr, 2015: 136-138). The biblical narrative thus seems to prefigure restorative justice’s priority of personal encounter over institutions.

However, the scriptural analogy runs the risk of saying too much here. God’s unfaltering faithfulness to the covenant leads in many cases to reconciliation, which involves the forgiveness of sins. Even though Christie mentions the possibility of the offender being forgiven, the prospect of this result, which he does consider desirable, is not his main point. For Christie, the mere participation of stakeholders in the discussion is valuable, even if the encounter does not lead to forgiveness or reconciliation. Most restorative justice scholars are aware of the danger of theologically overstretching the expectations about encounters between victims and offenders. Howard Zehr emphatically dismisses reconciliation and forgiveness as primary goals of restorative justice practices (Zehr, 2014: 14-15). Most authors would say, like Christie, that a true personal encounter is more likely to lead to forgiveness and reconciliation than the adversarial settings of our criminal courts. Whether or not the participants in the conversation make use of this possibility is completely up to them. It should not be decided for them or imposed upon them from a biblical, theological or any other perspective.

The Bible bears witness to the fact that forgiveness and reconciliation are not obvious outcomes of personal interactions. They are always the result of unpredictable divine and human agency. God’s own actions exemplify His persistent will to overcome separation and division, but not automatically and not at any price. The will to unite and reconcile does not necessarily trump considerations of justice. God often brings about reconciliation, but not always and not for everyone. He opens a new future for Noah and his family, but all other human beings are considered unjust and are erased from the surface of the earth. Jesus announces the good news of the Kingdom of God, but He makes it clear that not everyone will be part of it. This biblical emphasis on free agency seems to resonate well with the

reluctance of restorative justice proponents to let ideals of forgiveness and reconciliation predetermine the participation of stakeholders in restorative encounters. Restorative justice is a matter of opening the space for personal decisions, but it is up to the persons involved to make that decision.

This could be the point where restorative justice and the biblical narrative meet. Confronted with instances of wrongdoing, they both demonstrate how new spaces for free agency can be created. This concern for freedom implies a criticism of our current criminal justice system, which can be labelled 'diabolical' because it separates people and suppresses their potential for constructive action. However, the alternative for this diabolical system is not a vision or a practice in which all relationships are restored and all sins are forgiven. It is rather the restoration of free interpersonal interaction where stakeholders can also decide, for instance, that the right thing to do involves never seeing each other again. It is clear that such a separative decision can be the positive outcome of a restorative justice encounter. It is equally in line with the Bible, where, since the beginning of creation, the possibility of separation is the price paid for personhood and freedom.

Theologians may find this possibility disconcerting because, seen from the perspective of the divine-human relationship, it evokes the theological idea of final damnation. Marshall struggles with the possibility of ultimate failure ending up in ultimate separation, which he admits is widely attested in Scripture. His analyses of the New Testament passages about a Final Judgment are deeply ambiguous (Marshall, 2001: 175-197). On the one hand, he arrives at the only possible conclusion one could draw from a reflection on the biblical material: the possibility of ultimate damnation is a consequence of divine sovereignty and the human freedom to refuse God's love (Marshall, 2001: 189). On the other hand, he does a considerable effort to make this possibility as small and insignificant as possible. The main point of his reference to human and divine freedom is to show that even eternal damnation is done 'out of love', a love which implies a respect for the freedom of the person who stubbornly turns away from God. Marshall mainly polemicalises here against a retributive interpretation of the Final Judgment and against the idea of an eternal infliction of pain, but at the end of his extensive argument, he realises that these polemics do not decide the issue. It is the very idea of a final and irrevocable breakdown of the human-divine relationship that contradicts his conciliatory view of biblical justice in which all negative experiences ultimately serve a future redemption and restoration (Marshall, 2001: 195). He then offers his final argument: that the Final Judgment is both unique and beyond our knowledge, so that the idea of eternal damnation should not become a central aspect of the Christian concept of justice.

Discussions about the Final Judgment may seem highly speculative when we are talking about something as concrete as restorative justice practices and criminal justice reform, but the question of how we should view the reality of relational brokenness beyond repair does seem crucial for a correct understanding of the practice of justice. In that sense, the reality of the Final Judgment is not as 'unique' as Marshall thinks, for it is related to the way we see human judgment. The theological aversion to the eschatological possibility of damnation may impact how one evaluates concrete instances of non-reconciliation in the aftermath of

crime: when victims and offenders are *not* reconciled, do *not* reach an agreement, do *not* meet each other's needs, are *not* able to demonstrate any compassion or are *not* prepared to meet each other in the first place, so that the case must be referred to a more oppositional system of criminal justice. Branding such instances of non-reconciliation as problematic or improper outcomes of restorative justice processes may turn restorative justice into a place of what Annalise Acorn has called 'compulsory compassion' (Acorn, 2004). The compassion of the Good Samaritan and the father of the Prodigal Son become a paradigm for restorative justice encounters, thus putting pressure on victims of sexual violence or domestic abuse to be 'benevolent' towards their perpetrators.²

Marshall takes issue with Acorn's critique of restorative justice. He says she misconstrues the practice of restorative justice and that her concern about compulsory compassion is 'manufactured' (Marshall, 2012: 319). Yet, a couple of pages later Marshall concludes his book with the statement that even though restorative justice

is not, strictly speaking, a doctrine of forgiveness, since forgiveness is a voluntary affair of the heart ... restorative justice paves the way for forgiveness to occur. *And when, by grace, it does occur, the ship of justice reaches homeport.* (321, italics mine)

It is difficult to imagine how one can avoid the conclusion here that a non-forgiving victim – presumably due to a lack of grace – prevents the ship of justice from reaching its destination. The relevance of Acorn's concern about secondary victimisation seems to be confirmed in Marshall's idea that forgiveness is the 'consummation of justice' (Marshall, 2001: 255-284). Marshall's repeated reference to 'stunning displays of compassion' by parents whose children were killed (Marshall, 2001: 255-256, 2012: 284-285) simply affirms Acorn's fear that in a certain interpretation of restorative justice, supererogatory deeds become paradigms of justice, thus urging victims to overcome their negative emotions and undergo an internal transformation to become 'good' victims (Acorn, 2004: 69-77).

What is theologically at stake here is the relationship between love and justice. Acorn rightly suspects that an illegitimate conflation of both concepts lies at the root of the danger of secondary victimisation in restorative justice. If the concept of justice is fully subsumed under the concept of love, all desires and judgments that tend towards separation in the name of justice can be dismissed as uncharitable and, therefore, arising from a wrong notion of justice. It may be true that Acorn's criticism misrepresents restorative justice practices (Archibald, 2004; Braithwaite, 2006). Yet, theological interpretations of restorative justice that centre around the concept of love may contribute to such misrepresentations or, worse, misguided restorative justice practices if they are influential at grassroots level.

It is wise, therefore, to wonder in what way theological notions of love and justice are best used when theologians engage in discussions about criminal justice. There are at least two possibilities. They can be seen as divine attributes or as

2 The danger of secondary victimisation is a real issue for restorative justice practices (Garbett, 2016).

human virtues. In the former approach, there are sound theological reasons to 'subsume' justice under love. Aquinas points out that God, in His actions towards humans, is always righteous against the background of His prior love and mercy. Creatures can be given what they deserve only insofar as they have formerly received their existence from the abundance of God's goodness (*Summa Theologiae* Ia Q. 21 art. 4). Moreover, God's saving grace culminates in the justification of the sinner, the revelation of a divine righteousness that is indistinguishable from divine love. If a theological interpretation of restorative justice is primarily informed by love and justice as divine attributes, there is a serious risk of ending up in compulsory compassion.

The danger is probably warded off if love and justice are treated as virtues. This approach is not farfetched, as participants in restorative justice processes are, of course, humans. Moreover, restorative justice assumes that these participants are what John Braithwaite calls 'virtuous actors' (Braithwaite, 2002: 32). A sense of justice and a certain type of love (as 'benevolence beyond merit') are among the virtues that are constructive elements of restorative justice encounters. Virtues are not principles from which desirable action can be deduced. They are moral attitudes that often oppose one another in our daily lives. A victim may be inclined to be both generous and vengeful towards an offender. To bring these moral attitudes into practice, practical wisdom is required. Virtue ethics, therefore, emphasise the importance of the virtue of prudence (*prudentia*) – the capacity to wisely engage one's virtues in concrete situations.³ Even if the inclination to forgive and reconcile is a laudable predisposition, it is necessary to consider whether it is sensible to forgive or reconcile in a given situation (Horowski, 2019). A virtue-ethical 'prudential' account of justice and love respects the participatory character of restorative justice and protects against erroneous theological interpretations of human action in which unity *always* takes precedence over separation.

3 Shalom: justice beyond merit

Perhaps the most central aspect of most writings on 'biblical justice' in relation to restorative justice is their reinterpretation of the concept of justice. The shortest formulation of that reinterpretation is that divine justice in the Bible is restorative justice (Marshall, 2001: 45-59). There are at least two aspects to this idea. Firstly, biblical justice is relational justice. Justice takes place in the context of a relationship, primarily that between God and humans. It is 'covenant justice' (Zehr, 2015: 129-157). In the ancient Near East, covenants were usually made between peoples. Gods were invoked to seal these covenants. Only in Israel was God one of the parties in the covenant (Zehr, 2015; Brague, 2007). The biblical concept of justice refers to the responsibilities within the divine-human relationship, which include obligations among humans.

3 For a classical exposition of the virtue of prudence and its central place among the virtues, see Pieper (1937) (English translation: Pieper, 1965: 3-40).

Secondly, and more importantly, biblical justice is about the restoration of this relationship. Even though people often fail to live up to their covenantal commitments, God remains faithful by making things right again. Almost all authors writing on biblical justice and restorative justice refer here to the biblical concept of *shalom*, which denotes a situation of physical, social and moral 'all rightness' (Zehr, 2015: 133-136; Marshall, 2001: 48-49; Bianchi, 1994: 29; Consedine, 1999: 149-151). Justice is all about realising this peace in the sense of 'true harmony and concord, people living together in the right order that God intended' (Colson, 2001: 115).

This biblical concept of justice is often contrasted with the Greek idea of justice. Bianchi quotes Aristotle's definition of justice, to 'give everyone his due', which is further specified in the tradition as '*the constant intention to give everyone his due*' (Bianchi, 1994: 6).⁴ Bianchi and others point out two crucial differences between this view and biblical justice. Firstly, biblical justice is outcome-oriented. Bianchi believes the classical Western definition of justice implies, by contrast, a 'primacy of intention over result' (Bianchi, 1994: 7). It is all about wanting to react in an appropriate way to a crime, rather than taking concrete steps to solve the problem that has arisen. It is no wonder that this frame of mind culminates in a modern criminal justice system that is full of good intentions to do the right thing, but one that fails dramatically to really make things right.

A second difference concerns the idea of 'giving somebody one's due', which is related to notions of 'meriting' or 'deserving' something. The Greek philosophical concept of justice tends to generate systems of punishment and reward. Zehr calls this 'tit-for-tat justice' (Zehr, 2015: 140-141). It determines the way both social and criminal justice have developed in our culture. Social or distributive justice would be a system of rewards that allocates goods according to the accomplishments of the citizens. Similarly, criminal justice is seen as a system that gives criminals their just deserts. Even though Zehr acknowledges that merit-based justice is sometimes necessary, it needs to be limited by the biblical approach to justice. The 'tit-for-tat justice must be tempered by *shalom* justice, and *shalom* justice, like God's salvation, concerns itself with need, not merit' (Zehr, 2015: 141). The needs of people should be the central focus of both social justice and criminal justice. This is an important connection with restorative justice practices, in which the needs of victims, offenders and communities are central (Zehr, 2014: 13-18). Justice means here precisely actively taking care of 'the welfare of one another' (Zehr, 2015: 151).

Before delving into the theological aspects of the biblical concept of justice, it is important to question the adequacy of the sharp contrast drawn between biblical and 'Greek' justice. Josef Pieper has written extensively on the virtues, and his main source of inspiration are the Greek philosophers (especially Aristotle) and Aquinas. Pieper's definition of the virtue of justice in the Aristotelian-Thomistic tradition concurs with Bianchi's description of 'Greek' justice, but the alleged primacy of intention is absent in Pieper's definition: 'Justice is a habit (*habitus*), whereby a man renders to each one his due with constant and perpetual will'

4 The second description is actually the traditional definition of justice as *virtue*, which is found, for instance, in Aquinas (Pieper, 1965: 44).

(Pieper, 1965: 44). Pieper emphasises that the external act of bringing about justice is essential in both Aristotle's and Aquinas' understanding of justice. The idea that one could be called 'righteous' by merely intending to render others what they deserve without actually doing it is absurd in the 'Greek' concept of justice (Pieper, 1965: 59-63).

Another criticism against the notion of 'Greek' justice is that it is perceived as tit-for-tat justice. While it is true that the classical definition of justice is based on the ideas of merit or desert, Pieper argues that the fundamental layer of meaning of justice in this classical sense is that it is a virtue that directs us towards others. In other words, all the good things we do for others can be considered just. Aquinas would likely be perplexed by Zehr's assertion that *shalom* 'concerns itself with need, not merit'. Others 'deserve' that I am sensitive to their needs. It is an erroneous reading of the classical definition of justice to interpret the aspect of merit in terms of an impersonal, business-like transaction. Rather, the idea of merit attests to the deeply personal and relational nature of the classical definition of justice. It encompasses our obligation to show respect, empathy, care and assistance towards one another, all of which are integral to the philosophical virtue of justice.

The caricatural depiction of Greek justice sets the stage for a remarkable theological move, namely, to implicitly connect restorative justice's focus on the needs of the stakeholders to God's salvific action. The willingness of participants in a restorative encounter to be sensitive to each other's needs and to consider the possibility of somehow mending the relationship is an emulation of God's restoration of the covenant after grave human failure and of His commitment to give His people what they need to live their lives in *shalom*. This seems to be the overarching story in the work of Marshall as well. Ultimately, the possibility of restorative justice is rooted in acts of love similar to those of God overcoming sin and re-establishing the covenant. This love is emphatically beyond merit or desert. Therefore, Marshall refers to stories in which the care for others and for relationships trumps merit, such as the Laborers in the Vineyard (Mt 20:1-16) and, of course, the parable of the Prodigal Son (Lk 15:11-32) (Marshall, 2001: 192; 2012: 178-245). Undeserved love is the paradigm for restorative encounters.

In a similar fashion, Marshall connects restorative justice's ambition to make relationships 'right' again to the biblical motif of justification by faith (Marshall, 2001: 53-59; 2012: 311). Nowhere in the Bible do we find a stronger questioning of the idea of merit than in the passages in the letters of Paul about justification by faith. We are justified not by meritorious works of the law, but by what God has accomplished in Jesus Christ in an act of undeserved grace, which we receive in faith. Thus, the 'righteousness of God' is revealed (Rom 1:17; 3:21, 22, 25). The highest manifestation of divine justice coincides with the ultimate demonstration

of undeserved love. This has led several authors to claim that the biblical concept of justice to a great extent overlaps with unmerited mercy or love.⁵

Before we deal with the question of whether this idea of unmerited love offers a meaningful contribution to understanding restorative justice, we need to ask whether it is an adequate interpretation of 'biblical justice'. The reference to God's salvific action 'beyond desert' as a supreme model for understanding biblical justice perfects the alleged contrast between Hebrew and Greek justice. Just like the 'classical' merit-based concept of justice was stripped of its personal and relational character (erroneously, as it turned out), so is the biblical concept of justice stripped of its aspects of merit and desert. There are reasons to believe that this claim is equally debatable, although this article does not have the ambition to decide this matter.

The concept of merit is controversial in theology. It was a divisive issue in the Reformation era, and it has been the focus of ecumenical dialogues and agreements, for instance, between Catholics and Lutherans (De Witte, 2012). However, none of the Christian churches that were involved in controversies over merit has ever claimed that the idea of merit has lost its theological significance because of God's unmerited act of salvation in Jesus Christ. The only controversial question was in what way and to what extent merit has an enduring role in the life of the believer. Even the Lutherans, who have been deeply critical of Catholic ideas about the meritorious nature of good works, have always emphasised that we can only understand the amazing grace of God's unmerited love against the background of the fact that the sinner *actually* deserves eternal damnation (De Witte, 2017). Both Catholics and Lutherans have read the Bible in this way: the sovereignty of God's decision to forgive our sins for the sake of Jesus Christ can only be fully appreciated if we see the enduring reality of merit and desert.

Marshall reads the Bible differently. Many of his exegetical efforts aim at demonstrating that concepts of merit and desert are largely alien to the biblical language of justice. Obviously, he needs to enter into dialogue with the traditional view that unmerited justification by faith should be understood against the background of a belief that God could have given sinners their just deserts (and that this possibility is also part and parcel of the biblical concept of justice). Therefore, he must deal with biblical fragments about the wrath of God and texts that seem to speak of divine retributive punishment. His attempts to interpret these passages in a way that avoids the notion that sinners somehow 'merit' wrath

- 5 Bianchi writes: 'Mercy cannot replace justice. In a *tsedaka* model, justice *is* mercy, the two being completely interwoven, the one nonexistent without the other' (Bianchi, 1994: 48). In Bianchi, it is not clear whether the concept of mercy carries the strong theological connotations it has in Zehr and Marshall. Bianchi calls it a 'willingness for human interaction', which is quite similar to what Pieper identifies as the heart of the classical 'Greek' definition of justice. Zehr says: 'Love and justice are not opposites, nor are they in conflict.' He continues with the somewhat complex formulation: 'Instead, love provides for a justice that seeks first to make right' (Zehr, 2015: 141). Zehr also tends to define 'love' in down-to-earth terms, as 'a conscious act of looking after the good of another' (141-142), which also reminds us of Pieper's definition of classical justice. However, Zehr makes it clear that the liberation that biblical justice brings 'does not happen because it is merited, but because it is needed' (142).

or punishment should be assessed carefully in terms of their exegetical qualities by scholars with the right competences.

We can only suggest here that these hermeneutical efforts are implausible, by briefly referring to one of Marshall's main arguments against a retributive interpretation of God's wrath. He claims that the execution of God's wrath can be interpreted in terms of God exposing sinners to the immanent consequences of their own deeds, rather than as 'retributive punishment' (Marshall, 2001: 62, 122-123, 171-175, 193). Commenting on Rom 1:18-32, a passage on God's wrath against sinful humanity, Marshall writes that

God's act [to 'give them up'] is not so much a matter of direct, individually tailored punitive intervention as it is a matter of measured withdrawal of his protective influence and control, a refusal to intervene to stem the deleterious effect of human rebellion. (Marshall, 2001: 173)

However, concluding from the idea that God deliberately lets sinners suffer the consequences of their sins that there is no concept of 'desert' implied here is a clear *non sequitur* and utterly implausible. The passage explicitly speaks of 'God's decree that those who do such things deserve to die' (1: 32).⁶

Attempts to downplay the scriptural importance of merit and desert are dubious in view of the biblical data. Presumably, such attempts are made in support of the restorative alternative to our current desert-based criminal justice system. Yet, there are at least two reasons why this effort is detrimental to the very project of restorative justice. Firstly, it misapprehends the personal and relational aspects of the merit-based Aristotelian-Thomistic concept of justice, namely, the willingness to be responsive to others and to give them what they deserve as human beings. This idea is not absent from the Bible. The story of the Good Samaritan is basically about a righteous man – shockingly a Samaritan – who does what he must do: giving a suffering human being the care he deserves. There is nothing supererogatory in this act. Just doing one's duty is often hard and admirable enough. Restorative justice encounters require that participants listen to one another. Everyone has a story to tell and deserves to be heard. Still, it is incredibly hard to listen to the other side when one is involved in a conflict. Overcoming one's own resistance in such instances is not a case of giving unmerited love, but of being fair. Only if we see the value and the challenges of this 'natural' level of morality, we can fully appreciate the fact that in some cases people are capable of acts of exceptional ('supernatural') love beyond merit or desert. Restorative justice initiatives ideally set the stage for

6 Another problematic exegetical strategy is Marshall's assertion that certain retributive sayings in the prophets should be seen as 'rhetorical', considering that they are immediately countered by promises of forgiveness and compassion (Marshall, 2001: 126-7). One can wonder, however, if the same thing can be said of Paul's peculiar use of 'righteousness' and 'justification' in Romans and Galatians, on which the interpretation of 'biblical justice' as unmerited *shalom*-bringing love hinges. It is a highly rhetorical use of those words in a very specific context (polemics about circumcision, the story of Abraham), and Paul uses the more familiar, 'merit-based', concept of righteousness elsewhere (e.g. 1 Cor 6, 9-11). Why does Marshall not consider this possibility? There seems to be some partiality here in his dealing with the material.

both merit-based justice and unmerited love. Interpreting justice in terms of unmerited love simply obscures this distinction. Once more, approaching justice and love as separate human virtues, rather than as enigmatically intertwined divine attributes (as in the doctrine of justification), proves to be a more fruitful way of relating the biblical narrative to our contemporary reaction to crime.

The second reason why it is not a good idea to seek a concept of justice that is completely alien to the classical Greek idea is that it prevents us from making any moral sense of the idea of retribution. This will be investigated in the next section. The theme of retribution is closely related to the issue of merit and desert. It concerns the question of whether and to what extent *pain* can be deserved. The polemics against retribution are prominent in the discourse of biblically inspired restorative justice proponents. Moreover, the topic of retribution constitutes some distinctive challenges for restorative justice theory and practice, such as the reality of vindictive feelings and attitudes of victims and the coexistence of restorative justice with punitive state-administered justice. Therefore, it requires a separate and more extensive analyse.

4 Beyond retribution

In *Changing Lenses*, Zehr contrasts the new ‘restorative lens’ he wants to promote with the ‘retributive lens’ that is characteristic of the existing criminal justice system (Zehr, 2015: 187). The retributive paradigm is portrayed in the vein of Bianchi’s description of the *modern* criminal justice system as ‘State inquisition’: an adversarial, rule- and state-oriented system that ignores the interpersonal dimension of wrongdoing. This raises the question of whether retributivism is impersonal *per se*, or only its modern form. Bianchi does seem to suggest that retribution has turned into an obstruction to justice to the extent that it became the principle of a modern ‘bureaucratic system of pain infliction’ (Bianchi, 1985: 33; 1994: 29-31). Before that time, and also in what he calls the biblical *tzedakah* model, ‘retribution’ referred to negotiated forms of conflict resolution that could even – when no solution was reached – end up in private retaliation restrained by the principle of proportionality. Marshall, by contrast, considers the idea of retributive justice inherently impersonal, even before the rise of the modern legal system. It belongs to the ‘Greco-Roman tradition’ and is ‘based on the notion of an abstract moral order [that] imbalances must be righted and each person receive precisely what each is due’. This stands in opposition to ‘a Hebraic concept of covenant justice based on relationship’ (Marshall, 2001: 43).

Once again, we need to investigate the claim that retribution is intrinsically impersonal. Some critics of retributivism claim that retribution is simply a disguise for irrational feelings of rage and hatred or a desire for revenge.⁷ There is a lot one can say about these feelings and desires, but not that they are impersonal. The concept of retribution can be condemned both for its ‘cold’, rational and impersonal

7 A moderate version of this criticism is defended in the neo-stoic account of Martha Nussbaum (2016).

balancing of crime and punishment and because it is an 'overheated', irrational and all-too-personal response to lawbreaking. Marshall is aware of this paradox, but he attributes it to the confused concept of retribution. He suggests that retributivists theoretically defend punishment by referring to an 'impersonal moral order' while in reality, this often works out as a practice based on 'unmitigated hostility' (Marshall, 2001: 115; Zehr, 2015: 78-81). The idea of retribution as an 'overheated' practice wrapped in a 'cold' ideology does not tell us the whole story. The point of Christie and others is precisely that the modern criminal justice system is a 'cold' practice, no matter how much it may be sustained politically by an 'overheated' penal populism. It is because of this 'coldness' that conflicts must be brought back to the 'warmth' of personal encounter. Bianchi's reference to an earlier retributive practice that was personal and that could end up in moderate retaliation even suggests that traditional retribution took place in the context of such 'warm' encounters, while even taking the risk of slight 'overheating'.

So, there is no consensus about whether the personal and relational qualities of 'biblical justice' are lacking in the idea of retribution as such or only in its modern form. Most authors do agree, however, that retribution as the intentional infliction of pain contradicts the other crucial feature of biblical justice: that it aims at creating *shalom*. Even Bianchi, who did not exclude the possibility of limited private retaliation, is critical of the idea that the punitive imposition of pain or suffering can somehow produce desirable outcomes. He is convinced that suffering can have a purifying effect, as many religious traditions acknowledge, but only in the case of unavoidable suffering. Deliberately causing suffering leads to rebellion, hatred and counterviolence, as exemplified in our modern criminal justice system (Bianchi, 1994: 34). More importantly, retribution as the infliction of pain does not serve *shalom* because of its utter impotence to offer anything positive to the victim or to the relationship between the victim and the offender (Marshall, 2001: 120; Zehr, 2015: 84-85). Pain-inflicting retribution is so concerned with punitive action that it completely loses sight of the needs of the victim. If delivering pain to an offender does not yield any good results, it is simply immoral to do it.

The question seems decided then. There is no place for intentional pain infliction in this interpretation of biblical, *shalom*-oriented justice. We will not attempt to weigh this radical conclusion against the massive evidence for a strong retributive strand in biblical theology. Rather, we will ask how appropriate it is to use this non- or anti-retributivist interpretation in support of restorative justice practices. We will suggest that it may run the risk of neglecting crucial constituent elements of restorative justice, as well as its close connection with retributive justice. We will first confront the authors we investigate with the challenge Antony Duff poses to anti-retributive interpretations of restorative justice. Next, we will reflect on the role of remorse in restorative justice practices.

While many restorative justice advocates are deeply critical towards the idea of retribution, largely for the reasons that were already spelled out, there is an ongoing debate about pain that has, even among secular authors, theological overtones. Antony Duff has defended the idea of retributive punishment as 'secular penance' (Duff, 2002, 2005). The reaction to wrongdoing ideally involves a two-way communication between the offender and the society. Society needs to express its

disapproval of the offence in a way that cannot easily be ignored by the offender. Offenders for their part should communicate their regret and repentance to society (including to the victims, if there are any). Both sides of the communication process are made possible by the imposition of something painful or 'burdensome' on the offender. The pain ensures that the condemnation of the crime is not easily brushed aside. It also allows offenders to show to society that they are serious about their regret. The last point, an externally imposed pain that becomes expressive of one's remorse as an offender, may seem somewhat strange. Yet, feelings cannot be forced; nor can they be tested for their authenticity. So, the only way to let those feelings play a role in the public sphere is to ritualise them, and the only way to genuinely 'stage' remorse is by means of something that is really burdensome. Retributive punishment can be thus seen as an 'apology ritual' the offender has to take part in (Bennett, 2008).

Duff is convinced that this communicative form of retribution is a condition for attaining the goals that are central to restorative justice: repairing the damage of wrongdoing and restoring relationships. Restorative justice has often focused on the 'harms' that are caused by crime, because it assumed that this is the best way to address the needs of victims (Zehr, 2014: 22-23). However, Duff points out that the problem of wrongdoing is not only and not primarily the *harm* it creates, but rather it is the *wrong* that it does.⁸ Therefore, 'restoration' requires first and foremost that this wrong be addressed, and this is appropriately done through some form of apology or an expression of remorse, things that are inherently painful for the offender. This implies that both restitution and compensation are inadequate concepts to fully grasp what is at stake in restorative processes. They tend to focus exclusively on the harm and not on the wrong that has occurred.

Firstly, we need to investigate whether the crucial difference between harms and wrongs plays a role in the discourse of biblical justice as restorative justice. Zehr is mindful of the distinction. He repeatedly speaks about the need of victims to be 'vindicated' (Zehr, 2015: 107, 143, 192-196). Restitution is important, but it is often 'a symptom or sign of a more basic need, the need for vindication' (Zehr, 2014: 15). He points out that the biblical term for vindication has the same root as *shalom* (Zehr, 2015: 143; Bianchi, 1994: 28-31). In order to restore peace and just relationships, there must be a clear recognition of the wrongness of the crime and an effort by the offender to make things right again. For Zehr, this shows that there is an essential commonality between restorative justice and retributive justice, as both

acknowledge a basic moral intuition that a balance has been thrown off by wrongdoing. Consequently, the victim deserves something, and the offender owes something. Both approaches argue there must be a proportionate relationship between the act and the response. (Zehr, 2014: 59)

8 Other theorists also refer to this distinction in their attempt to make sense of the idea of retribution (Hampton, 1992).

In this view, the ideas of merit and desert clearly do not belong to the features that distinguish restorative justice from retributive justice. Rather, the difference concerns the role of pain in what is owed and deserved. Zehr recognises that the things that are required from the offender in order to vindicate the victim (offering apologies, showing regret, repairing damage) can be painful and could even be understood as ‘punishment’ (Zehr, 2015, 209). But once again these painful and ‘punitive’ requirements are desirable, not *because* they cause pain, but to the extent that they are at the service of *shalom*.

Similarly, the distinction between harm and wrong is not elaborated conceptually by Marshall, but largely implied in his overall approach.⁹ One could say that if harm was the only issue in our response to crime, then he could have limited himself in *Compassionate Justice* to the parable of the Good Samaritan. The harms done to the robbed man were adequately taken care of by the helpful stranger. If they had caught the muggers, they could just as well have let them go because everything had already been settled thanks to a benevolent Samaritan. But this is an illegitimate inference from the story, for crimes are also wrongs. Therefore, Marshall needs to talk about the Prodigal Son as well. In Marshall’s explanation of the parable, he captures elements of vindication of the victim that Zehr mentioned (apology, responsibility, change of heart) in the notion of repentance. The Prodigal Son regrets his offence, openly admits his inexcusable wrong and tries to take responsibility for his hurtful behaviour (Marshall, 2012: 205-214). Again, all these elements are potentially deeply burdensome, but they are only valuable as stages on the way to reconciliation. The pain of repentance has no value in itself, as it has in many retributive theories, but is part of a process that aims at restoring relationships and bringing *shalom*.

Apart from the conceptual distinction between harm and wrong, the theory of Duff poses an important challenge to the practical application of the idea of non-retributive biblical justice. Can the reconciliation-oriented repentance of the Prodigal Son be a paradigm for the obligations of offenders in view of restoration? In the parable, the contrition of the son is inextricably bound up with a pre-existing family relationship (with the father), and the authenticity of his remorse and his desire for transformation is taken for granted (Marshall, 2012: 208). Victims and offenders of crimes do not always have personal relationships prior to the offence. Duff would say they usually have ‘civic relationships’ as members of the same polity. While he recognises the vital importance of repentance also for the restoration of these relationships, it is more difficult than in personal relationships to assume spontaneous and authentic repentance after wrongdoing. As explained, this is for Duff the reason why society should impose something painful or burdensome on the offender, both as censure and as a ritualised penance. One can hope that the penitential ritual expresses or generates authentic repentance and

9 In his description of the retributivist theory, Marshall explains the aspect of proportionality in that theory as follows: ‘The penalty exacted should be proportionate to the harm done’ (2001: 110). If the distinction between harm and wrong was part Marshall’s conceptual framework, he would arguably have used a different formulation (e.g. that the penalty should be proportionate to the severity or wrongfulness of the crime).

behaviour change, but even if this is not the case, the imposition of a painful communicative punishment is meaningful.

The challenge for a restorative practice that is somehow inspired by biblical stories such as that of the Prodigal Son is twofold. Firstly, related to the offender, any restorative initiative will have to deal with situations in which repentance is absent or marred with self-interest and ambiguity or where repentance does not lead to any real change in the wrongful conduct of the offender. Secondly, related to the relationship, repentance is not always part of a reconciliation process. Sometimes, the repentance is met with indifference or scepticism; sometimes, there is no clear or living victim; and, most of all, often there is no personal relationship to restore. Even though Marshall and others are aware of these challenges, they seem to think that organising personal encounters instead of adversarial court settings will go a long way in addressing these challenges and bringing about a biblically inspired justice exemplified by the stories of the Good Samaritan and the Prodigal Son.¹⁰ However, these issues are not merely effects of an antagonistic criminal justice system but are rather the consequences of the type of relationship that is at stake in criminal offences, namely, 'civic' relationships. It is not obvious to consider the reaction of the father to the return of the Prodigal Son as a paradigm for dealing with the muggers in the story of the Good Samaritan.

The controversy seems to revolve around the question of whether a restorative revolution in the criminal justice system will make true repentance and the ensuing reparation of harm the standard ways of vindicating the victim or whether the structural uncertainty concerning this repentance, which is typical of civic relationships, compels society to ritualise the repentance through the imposition of something painful. There is, however, still a deeper question lurking underneath this one. Why should remorse (or 'contrition' as Marshall calls it) be part of the reparation process in the first place? In a non-retributivist approach, the pain of remorse is valuable because it is the labour pain at the birth of something new. It is the pain of conversion, responsibility, reparation or reconciliation. However, there is an intellectual tradition that has a different – less consequentialist – interpretation of remorse. Aristotle, for instance, wonders why we are less angry at the one who has humiliated us when this person is sorry. His answer is clear: 'we accept their grief at what they have done as satisfaction.'¹¹ The idea is that the pain of remorse may satisfy the desire for retribution that is implied in anger.

This is a point that needs further clarification if we want to make sense of restorative justice practices. Remorse is the pain an offender feels when thinking

10 The closest Marshall comes to acknowledging the concerns of Duff is in his account of the 'symbolic' theory of punishment. However, the concept of punishment that is defended in this model entails, on the one hand, the idea of 'symbolizing' the immanent moral consequences of the offence for the offender, and, on the other, the invitation to change one's behavior and to take responsibility. Hence, it is 'symbolic' in the sense that it derives its substance from the realities it signifies (immanent justice, conversion, reparation). By contrast, in Duff's account, repentance needs to be 'symbolized' or 'ritualized' because in civic relations these realities do not necessarily exist apart from the ritualization (Marshall, 2001: 135-40).

11 *Rhetoric* 1380a. For a reflection on Aristotle's definition of anger in relation to retribution and restorative, see: De Witte & Zuijdwegt, 2019.

about the offence (and all that it entails). If that pain is only valuable as a part of something else (conversion, reparation, reconciliation), then the moral expectation that the offender is remorseful seems to be structurally bound up with expectations regarding those other things. The question is then what this means for the desire of victims and communities to see a remorseful offender. In a consequentialist approach, this desire is (or ought to be) part of a larger desire for 'restoration'. The pain of remorse should not be willed for its own sake but rather because it is an element of a larger constructive process of healing and repair. The Aristotelian approach, by contrast, offers a more straightforward interpretation of the desire for remorse. It is simply a manifestation of the human desire for retribution.

Which of these accounts is more plausible? The Aristotelian interpretation possesses *prima facie* plausibility. If a beloved person is murdered, or if I become the victim of a violent and humiliating crime, the least I will expect is that the offender feels pain when thinking about their horrible deed. It is possible that I have other (more constructive) desires as well. I may hope that the offender will never again commit similar crimes, that my own material and psychological harm is dealt with, that the offender discloses what has happened, or that my relationship with the offender is normalised. All these desires exist and are attested in victimological research (Vanfraechem, Bolívar & Aertsen, 2015). However, it is utterly counterintuitive to claim that the importance of the offender's remorse is necessarily connected to or dependent upon these other desires. Would I like to see the murderer of my sister feel bad about the offence because that would prevent them from making other victims in the future? Presenting stories like the parable of the Prodigal Son as paradigms for restorative encounters is likely to create the impression that such connections are necessary or natural. On the descriptive level, this may strengthen the debatable idea that these desires are usually associated. On the normative level, it may convey the somewhat moralistic message that the desire to see the pain of the offender is illegitimate when detached from other, more 'beneficial' desires.

The attempt to subsume everything that is 'retributive' (including the reality of remorse) under a narrative of restoration and reconciliation is clearly motivated by the conviction that the mere desire for retribution is morally problematic. It is either intrinsically wrong, as a form of hatred or sadism, or useless because it has no positive or only negative consequences. As was mentioned, this is not the only possible approach. The Aristotelian-Thomistic tradition considers retributive desires as manifestations of deep-seated moral intuitions. These desires are potentially but not necessarily morally problematic. This approach tries to honour the enigmatic fact that people generally feel that justice is only done when an offender goes through some form of pain because of their offence. In the Thomistic version, the retributive inclination, which is apparent in human anger over humiliating transgressions, is a manifestation of the 'natural law'. To be legitimate, this inclination needs to be tempered by reason. Anger should not slide into hatred (*Summa Theologiae*: IIaIIae Q.34 art.6). The virtue of just vengeance is clearly distinct from the vices of 'brutality' and 'cruelty' (IIaIIae Q.108 art.2 ad3). Moreover, the retributive aspect of punishing wrongdoers does not exclude consequentialist goals of punishment, such as correction and deterrence

(Koritansky, 2012). And yet, justice is not done without some form of retributive action.

Nils Christie expresses a similar idea in 'Conflicts as Property'. His imagined 'victim-oriented court' includes a stage of intentional pain infliction in addition to the pain of restitution. Sometimes, little can be done in terms of compensation and repair. In these cases, 'neighbourhoods might find it intolerable that nothing happened' (Christie, 1977: 10). Christie is not referring to natural law but to intuitions that local communities may have about justice. If we really want to give conflicts back to the people, we must take into account their moral sensitivities, also when they include retributive feelings that some theorists may find disturbing. This is an important point because anti-retributive proponents of restorative justice will highlight the danger of a punitive 'apriorism', thus suggesting that the alleged need for retributive punishment is based on a theoretical principle that is both implausible and harmful (Walgrave, 2005). While they may be right about the danger of a one-sided ideological retributivism, Christie's proposal hints at the opposite possibility of an anti-retributive 'apriorism' that brushes aside on intellectual grounds the real moral intuitions of stakeholders and communities.

In view of the many retributive elements in the biblical writings, one could formulate the hypothesis that non- or anti-retributive interpretations of biblical justice are inspired not only by a genuine moral concern about the excesses of retributivism but also by an intellectual 'apriorism' that fails to distinguish between reasonable and destructive forms of retribution and, more importantly, that undermines restorative justice's aspirations to deal with wrongdoing in ways that reflect people's fundamental intuitions about justice. There are reasons to have serious misgivings about this anti-retributive 'apriorism'. We already mentioned the danger of a certain anti-retributivist moralism. Victims may get the implicit message that the unmistakable retributive aspect of their desire to see the offender's remorse is morally problematic or only legitimate when it is accompanied by more conciliatory attitudes. A well-intended attempt to eradicate hazardous retributive inclinations may, once again, easily lead to secondary victimisation.

A second danger of this apriorism is that it fails to make moral sense of the enduring role of the state in the pursuit of justice. Most authors writing about biblical justice and restorative justice recognise the fact that stakeholder-oriented restorative initiatives require a complementary system of state-administered criminal justice to guarantee both the proportionality and the impartiality of our response to wrongdoing (Marshall, 2012: 318).¹² Based on which principle should the state be engaged in the aftermath of crime? If retribution is morally discredited, there are only two possibilities, and it is unclear which one is worse. The state can merely intervene for non-retributive, consequentialist reasons, such as deterrence, incapacitation and rehabilitation. However, state-imposed coercive measures that aim at certain tangible results (crime prevention, behaviour change) tend to turn

12 In his 'Reflections Twenty-Five Years Later', Howard Zehr observes a fruitful tension between the 'legal' and the 'restorative' approach (Zehr, 2015: 239). Colson speaks about the necessity of a dialectic between a 'cold application of law' and a "passionate" understanding of justice, which emphasises compassion and the protection of the weak' (Colson, 2001: 114).

offenders into objects of relentless technical interventions that are both degrading and disproportionate to the crime committed (Lewis, 1953). A merely consequentialist approach compromises both the core aspiration of restorative justice (a personal approach to justice) and the reason why it needs the state in the first place (proportionality). The other possibility is that the state does administer a system of retributive punishment, but one that restorative justice proponents can only look at with deep ambiguity. We could call this the possibility of the 'hangman state'. From the perspective of restorative justice, the state does a 'dirty job' but one that 'needs to be done'. The necessity of retributive punishment is acknowledged, but no positive moral value is ascribed to it. The only way to avoid these two deeply problematic possibilities is to acknowledge that a retributive response to wrongdoing is morally valuable when administered in a reasonable way. The Bible offers ample resources for further elaborating this position.

We can conclude that restorative justice does offer a perspective 'beyond retribution'. A space for creative and unpredictable personal responses to wrongdoing is created, and retribution ceases to be the sole and automatic reaction to crime. Other, more constructive actions are encouraged. 'Beyond retribution' should not mean, however, that a new automatism is set into place, one that banishes all retributive elements from justice practices. The moral intuition that retribution is part and parcel of justice will continue to play a role, both within restorative justice processes and in the complementary system of state-administered justice.

5 Conclusion: the complexity of justice

Marshall contrasts impersonal Greek justice with the *shalom*-oriented Hebrew view by referring to the respective images of blindfolded Lady Justice with scales and justice as 'a mighty, surging river' (Amos 5:24), symbol of the power of God's 'saving action ... that recreates *shalom* and makes things right' (Marshall, 2001: 53). While the blindfold and the scales may indeed be symbols of mechanical or bureaucratic ways of administering justice, the image of being overwhelmed by a wave of justice may equally have something impersonal about it when it implies that stakeholders are forced or nudged into adopting a concept of righteousness that is alien to their own sense of justice. When biblical justice is seen as a set of principles (reconciliation is better than remaining irreconciled, and retributive punishment is inappropriate) from which the correct response to wrongdoing is to be deduced, the mighty river of justice runs the risk of side-lining and overpowering victims and offenders just like the existing criminal justice system.

Our critical approach somehow attempted to rehabilitate the image of Lady Justice insofar as it evokes the task of carefully weighing one's options in the aftermath of a crime. The blindfold aside, she can be seen as an image of *prudentia*. The virtue of prudence is of vital importance in situations where no set of principles can conclusively tell us what we ought to do. Any reader of the Bible will be struck by different and, sometimes even contradictory, moral claims when it comes to wrongdoing. Perpetrators are to be held accountable for their acts, but we are also

invited to attend to their needs and to treat them mercifully. Instead of turning the biblical narrative into a hierarchical system of principles, we should appreciate the complexity of its moral vision and the ensuing need for individuals to wisely apply that vision in concrete circumstances.

We have repeatedly referred to the Aristotelian-Thomistic tradition of virtue ethics precisely to recover the complexity of the biblical narrative which necessitates prudential discernment. The virtue-ethical approach addresses some important concerns in the field of restorative justice, such as the protection of victims against secondary victimisation and the need to make sense of the enduring significance of state-administered criminal justice. Some writers would claim, however, that the amalgamation of 'Athens' and 'Jerusalem' that is typical of Christian virtue ethics obscures the radicality and novelty of biblical justice. The astounding generosity of the divine righteousness would be at odds with the calculating nature of Greek merit-based justice. We have not denied the uniqueness of biblical justice and its distinctive role as a source of inspiration for the restorative justice movement. It would be a mistake, however, to ignore the unmistakable presence of 'Greek' elements in the Bible, such as merit and retribution, without which the unique features of the biblical justice would even be incomprehensible. We have suggested that an antithetical interpretation of the different concepts of justice (*Hebrew v. Greek*) runs the risk of offering a one-sided and selective reading of the Bible. Conversely, the virtue-ethical approach is more likely to accurately represent the complexity of the biblical notion of justice.

If it is true that both biblical theology and the practice of restorative justice justify the complex vision of justice we have proposed here, it is desirable to further specify the three propositions that were the starting point of our reflections: (1) biblical justice should inspire us to overcome the largely divisive nature of our current criminal justice system and to promote a system that is more likely to restore the civic relationships between victims, offenders and society. In this system, stakeholders should have not only the space to act in unexpected conciliatory ways but also the freedom to take a distance from others and thus become nothing more than members of the same polity. (2) From a biblical perspective, a just response to wrongdoing involves a reaction that holds offenders accountable for their acts and that is 'deserved'. This idea of merit should not be confused with or misrepresented as a mechanical and impersonal allocation of penalties. Giving offenders what they deserve takes place within a relational context and is never separated from the care for the well-being of offenders, victims and communities. (3) The Bible does not question the deeply ingrained moral intuition that offenders sometimes deserve pain as a matter of justice. The significance of pain infliction is not fully explained by the possible positive results of the inflicted pain for society (rehabilitation and deterrence) or for relationships (reconciliation). Retribution is an integral part of the biblical vision of justice, but it should be moderate and proportionate to the crime ('an eye for an eye') and, once more, it has its proper place in personal (intimate or civic) relationships where the pain can have the quality of remorse and where there is room for care and clemency. Finally, the issue of retribution should remind us of the limits of using the Bible for criminal justice reform as some of the New Testament images of reconciliation

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tend to reflect the reality of private relationships, whereas civic life (especially in modern large-scale societies) also requires a retributive justice that is to some extent 'a cold application of the law'.

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