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Forgiveness and Restorative Justice Perspectives from Christian Theology

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Matthew J. Mills
Michael H. Taylor

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To friendship

PREFACE

This book is the latest output from a research project within the University of Oxford (UK), initiated by Myra Blyth, which began in 2014 with an interdisciplinary symposium exploring ‘The Place of Forgiveness in Restorative Justice Theory, Policy and Practice’. The keynote address, ‘What place for the “F” word?’, was given by John Braithwaite and contributors included a range of specialists in theology, philosophy and the social sciences, from the UK and overseas: Pamela Sue Anderson, Nigel Biggar, Anthony Bottoms, Alice Chapman, Tim Chapman, Antje du Bois-Pedain, Don Ferencz, Paul Fiddes, Ali Gohar, Greg Johnson, Beverley Jones, Daniel Philpott, Becci Seaborn, and Joanna Shapland. A selection of the papers presented to the symposium was prepared by Myra Blyth and Matthew Mills as a special collection in the *Oxford Journal of Law and Religion*, 5.1 (2016). It is gratifying that the contribution by Joanna Shapland (‘Forgiveness and Restorative Justice: Is It Necessary? Is It Helpful?’, pp. 94–112) continues to be listed amongst the Journal’s ‘most read’ articles. The symposium was vital in confirming our initial judgement that there was a forgiveness-shaped hole in studies of restorative justice, as well as interrogating and thereby clarifying our research question. The articles by Shapland, Fiddes (‘Restorative Justice and the Theological Dynamics of Forgiveness’, pp. 54–65), and others, have also ensured that a number of important issues were kept in view in the preparation of this book. These include whether forgiveness may be operating in restorative justice conferences even when the word itself is not used, what it means to describe forgiveness as a maximising ‘value’ within

restorative justice, whether forgiveness must be conditional or unconditional, and how forgiveness relates to reconciliation.

The symposium underlined the urgent need for: (1) data regarding perceptions of forgiveness, from across the range of stakeholders engaged in restorative justice conferences, and (2) further academic reflection upon its nature and significance. Michael Taylor joined the project in 2016 from the University of Birmingham (UK) to contribute to progress in these areas. Our fieldwork took the form of guided interviews with seven restorative justice practitioners, five harmers, and three victims; and the results are presented and analysed in Chap. 6 of this book. This research required, amongst other things, ethical clearance from the University of Oxford for a study involving human participants, followed by permission from the Home Office (UK) to work in prisons. Alongside this ‘practical’ strand of work, our academic study of forgiveness was spurred along by an invitation to present a series of public lectures at the Oxford Centre for Christianity and Culture (now ‘Religion and Culture’) in early 2018. Those lectures formed the basis of Chaps. 2, 3, 4, 5, 6 and 7 of this book, though the texts were substantially revised in the light of helpful discussions with attendees, including members of the public, students, academic colleagues, and restorative justice practitioners. Chapter 8, by Matthew Mills, was added subsequently in order to address the possible relevance of Christian eschatology for thinking about the concept of the ‘unforgivable’.

The publication of this book provides an opportunity to acknowledge many debts of gratitude accumulated over the last seven years. Particular credit for the smooth-running and success of the Oxford symposium must go to Isabella Bunn, Rosie Chadwick, our hosts at the Mathematical Institute, Oxford, and our sponsors: The Faculty of Theology and Religion, Oxford; Global Directions, Merton College, Oxford; Liz Carmichael and the Oxford Network of Peace Studies (OxPeace); and Westhill Endowment Trust. Of the symposium participants, Joanna Shapland and Paul Fiddes deserve particular mention for their encouragement, as well as for making themselves available to provide constructive and stimulating feedback, which improved the research as it developed. Peter Petkoff was instrumental in making it possible for us to publish the proceedings in the *Oxford Journal of Law and Religion*. In the early days of the fieldwork, Tim and Alice Chapman contributed valuable insights from Northern Ireland. Perhaps most significant in this regard was our partnership with Sussex Pathways, a criminal justice charity based

in Lewes, East Sussex, kindly facilitated by Tim Moulds, Shirl Tanner, and their colleagues. In turn, our academic work has derived inestimable benefit from the encouragement, curiosity and questioning, and practical support of the community of Regent's Park College, Oxford, which is also home to the Oxford Centre for Religion and Culture. Finally, we are grateful to Phil Getz, Senior Editor at Palgrave Macmillan, for guiding us patiently and graciously to the point of publication, despite complications created by the Covid-19 pandemic, and to those who shared their thoughts on the draft manuscript during the process of peer review.

This book is dedicated to friendship, not only as a reflection of the spirit in which we have sought to collaborate over recent years, but also in recognition of those relationships which flourish in and through working together. We remember with particular gratitude our friend and colleague, Pamela Sue Anderson (1955–2017), Professor of Modern European Philosophy of Religion, Oxford. Until her premature death from cancer, Pamela was a tremendous support to this project, including as a contributor to the *Oxford Journal of Law and Religion* ('When Justice and Forgiveness Come Apart: A Feminist Perspective on Restorative Justice and Intimate Violence', pp. 113–134). We have missed the many and valuable contributions she would have made, in a spirit of friendship, undoubtedly exhorting an even bolder vision and always mindful of those most at risk.

Oxford, UK

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CHAPTER 1

Introduction

Abstract The meaning of ‘forgiveness’ and its place within the theory and practice of restorative justice are contested. The rationale for analysis of these issues from perspectives within Christian theology is that insights from the story of salvation history and the doctrine of the faith can make a valuable contribution to the public debate. This book benefits from a diversity of opinion, since its co-authors approach forgiveness and restorative justice from different confessional and academic starting points, but also a consistent focus upon a number of central themes: the significance of grand or ‘meta’ narratives, communities as a locus of restorative processes, and an imperative for any restorative process to be morally serious, never to make light of, or seek to diminish, acts of wrongdoing.

Keywords Forgiveness • Restorative justice • Theological perspectives

A year after the genocide of 1994 in Rwanda, when at least half a million people were massacred, I visited that blighted land ... I told them that the cycle of reprisal and counter-reprisal that had characterised their national history had to be broken, and that the only way to do this was to go beyond

retributive justice to restorative justice, to move on to forgiveness, because without it there was no future.¹

The debate about how we structure our criminal justice system, whom it protects, how it addresses wrongdoing, and so forth, really matters; our answers speak for us and for our civilisation. Despite Desmond Tutu's famous dictum, 'no future without forgiveness', and the towering personal authority behind it, the place of forgiveness within the framework of restorative justice he envisioned can by no means be taken for granted. For some, forgiveness is a crucial underlying dynamic of conferencing processes; for others, it is an endpoint necessary for a 'fully restorative outcome'; but for many critics, it is too vague, or too religious, or it has nothing to do with 'reconciliation' (often seen as the objective of restorative justice), and any sense of an obligation to forgive is suspected of being dangerously coercive. In this book, as 'critical friends' of restorative justice, our aim is to interrogate this thorny topic in the light of Christian theology and experience, in dialogue with insights from the social sciences and philosophy. We also pay some attention to the wider theological canvas against which the concept of forgiveness is invariably defined, encompassing topics such as narrative, victimhood, love, sin, satisfaction, resentment, and justice.

There are many 'lenses' through which to analyse the values and practices of restorative justice, including the intersectional – combining insights about race, gender, and socio-economic status, for instance – and the 'indigenous' (i.e. in relation to communitarian models of justice developed in native cultures across the world).² This book, as its title indicates, offers a range of Christian views ('perspectives'), drawing particularly upon our backgrounds in the liturgical, social and historical fields. The significance of these different starting points will be evident throughout the book, as – perhaps – will our respective confessions: Baptist, Catholic and Anglican. For instance, whilst we all accept Michael Taylor's delineation of five 'roles' for theology in the

¹ D. Tutu, *No Future Without Forgiveness: A Personal Overview of South Africa's Truth and Reconciliation Commission* (London: Random House, 1999), pp. 206, 209.

² See, for instance, A. P. Melton, 'Indigenous Justice Systems and Tribal Society (Indian Tribal Courts and Justice: A Symposium)', *Judicature* 79.3 (1995), pp. 126–133; C. A. Hand, J. Hanks and T. House, 'Restorative Justice: The Indigenous Justice System', *Contemporary Justice Review* 15.4 (2012), pp. 449–467; T. Gavrielides, 'Bringing Race Relations Into the Restorative Justice Debate: An Alternative and Personalized Vision of "the Other"', *Journal of Black Studies* 45.3 (2014), pp. 216–246; A. Fallon 'Restoration as the spirit of Islamic justice,' *Contemporary Justice Review* 23.4 (2020), pp. 430–443.

public square – to inform, inspire and give meaning, and to be a voice of authority and conviction – we lay different emphases upon the epistemic value of the Christian metanarrative.³ The preparation of this book, as each chapter was presented and discussed, revealed a continuum between our respective positions on the constructedness, contingency, and contestability of the Christian tradition. Broadly speaking, despite a common openness to alternative discourses, Taylor (Anglican) might be situated at the more ‘liberal’ end, whilst Matthew Mills (Catholic) might be considered more ‘conservative’.

Individuation, rather than divergence as such, will be particularly evident from a comparison of each chapter’s references. Again, in broad terms: Myra Blyth’s contributions privilege a combination of sources from twentieth-century Protestantism, and the social sciences, as well as data collected from interviews with stakeholders in restorative justice conferences; Mills draws upon a range of theological sources, especially from the medieval and Catholic traditions, as well as modern philosophy (both ‘continental’ and ‘analytic’); Taylor engages with literature from the social sciences, especially criminology, and twentieth-century theology from across the denominations. Our different choices in this regard reveal our inclinations as theologians and the influences upon the shape of our arguments; these differences lie behind the range of perspectives on offer throughout the book. At the same time, we have found a powerful impetus to constructive dialogue in a common core of influential works, including those of restorative justice advocates, Howard Zehr and John Braithwaite; theologians, including Timothy Gorringer and Christopher Marshall; and sceptics, like Annalise Acorn.⁴ Many of these have been all the more important to us because their authors combine academic rigour with moral purpose.

Perhaps inevitably, for a book which emerged from a lecture series involving multiple contributors, the range of topics addressed here is broad and, again, reflects our different interests. In Chap. 2, Blyth – a practical theologian, specialising in liturgy – explores how the stories by which we live (both universal and particular) give meaning, inspire moral

³ See Taylor, Chap. 7.

⁴ See H. Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottsdale, PA: Herald Press, 1990); J. Braithwaite, *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press, 1989), *Regulation, Crime and Freedom* (Aldershot: Ashgate, 2000), and *Restorative Justice and Responsive Regulation* (Oxford: Oxford University Press, 2002); T. Gorringer, *God’s Just Vengeance: Crime, Violence, and the Rhetoric of Salvation* (Cambridge: Cambridge University Press, 1996); C. D. Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime and Punishment* (Grand Rapids, MI: Eerdmans, 2001); A. E. Acorn, *Compulsory Compassion: A Critique of Restorative Justice* (Vancouver: UBC Press, 2004).

character, and open up new possibilities for relationship. In particular, she proposes a critical conversation between the Christian eucharistic ordo and the conference script used by practitioners of restorative justice, identifying ways to enhance their potential as rituals of restoration to repair harm and transform conflict.

In Chap. 3, Mills offers the first of three reflections in light of historical theology, including the writings of Anselm of Canterbury, whose substitutionary theory of the atonement has been criticised by some advocates of restorative justice as initiating a shift in the western intellectual tradition (and subsequently, jurisprudence) towards retribution and the marginalisation of victims. Mills' essay is concerned with giving stakeholders 'reasons' to engage in a restorative justice conference in the first place, arguing for the mutual recognition in victims and offenders of sinfulness and belovedness; in other words, that mutual acknowledgement of a common humanity can be the starting point for criminal justice processes.

In Chap. 4, Taylor asks whether forgiveness is a Christian idea, as feared by some who would deny its place within the principles and practices of restorative justice. In fact, he argues, forgiveness is incredibly difficult to define and there is no distinctively Christian concept, even though Christian faith may motivate its adherents to be forgiving. In Chap. 5, Mills then takes a different but complementary tack: whilst forgiveness could be described as a demand placed upon the victim and/or the restorative justice process, he explores what it is that victims have a right to demand from wrongdoers. He argues that victims ought to be able to expect some satisfaction to be made for what they have lost through an act of wrongdoing, but that satisfaction should not be defined in punitive terms, but rather as a token of amends or 'just enough'.

In Chap. 6, Blyth addresses issues raised by the conference experience and offers some initial analysis of the findings of empirical research from 2018 and 2019, which was undertaken alongside the writing of this book. Drawing together contemporary theological ideas on the dynamic of forgiveness and insights gained from the experiences of conference participants, she contends that the practices of restorative justice will be enriched by adopting a more fluid understanding of forgiveness as defined by participants, and by conceiving forgiveness as a process/journey-oriented practice, i.e. a dynamic and integral component necessary for a process to be 'fully' restorative.

The final Chaps. 7 and 8, make a turn ‘outwards’, away from the conferencing process and towards the social context, and the eschatological context which must, Christians have traditionally believed, offer some kind of endgame. In Chap. 7, Taylor asks whether restorative justice carries any responsibility for establishing a more just society; that is, transforming the social reality which gives rise to many of the problems which the conferencing process is meant to address. As the former leader of an international charity (Christian Aid), he reflects upon how Christians can best contribute to debate and cooperate with others in the public sphere. In turn, in Chap. 8, Mills offers a speculative thought experiment concerning the afterlife as a context for restorative justice. Considering both a victim’s right to withhold forgiveness and the limitations of restorative justice for addressing acts of wrongdoing which are regarded as ‘unforgivable’, he considers the possible dynamics of a future in which all things are reordered and revisioned in light of a revelation of the archetypal victimhood of Jesus Christ.

Not only is there a processional aesthetic to the ordering of these contributions – before, during, and after the conference – but a number of themes also run like threads throughout the book. All three of us refer to ‘metanarratives’ or all-embracing stories. Metanarratives give expression to the meaning of life; for Christians, the creative and redemptive drama of which we are a part, and to which we contribute for good or ill, is what life is all about. The metanarrative provides a context and rationale for various teachings or doctrines as they ‘fill out’ the details of the story. For example, doctrines of atonement, some more punitive than others, which try to explain how our redemption was brought about, only make sense within the bigger picture which explains why the redemptive act of the crucifixion was necessary in the first place.

A second common theme is ‘community’, which is important for restorative justice as a whole. It is communities, not just individuals, that need to be ‘restored’ when the moral rules, and with them mutual trust, have been broken; trauma is social. It is communities that are bound together by shared values, reinforce them, and build solidarity. It is communities, not just victims, that should have a say as to how wrongs can be righted and may be best placed to do so. It is communities that have a vital, supportive role to play along the road to the restoration of offenders. And it is communities that may or, as many fear, may not be adequate to the task; more of a utopian ideal than a reality.

Thirdly, we all regard ‘moral seriousness’ as essential to the task of restorative justice. The reality of offending, the harm done, the responsibility of the offender, and the need for reparation, must be fully acknowledged and confronted – by way of shaming, for example – and reflected in all attempts to deal with offending in a restorative way. Social policies, for instance, must be realistic and take into account what might be called the darker side of human nature, or what the Christian tradition refers to as ‘sin’, lying at the heart of its metanarrative about redemption and its rituals of baptism, confession, and eucharist. Besides being a costly endeavour, restorative justice involves confrontation with evil, clear-eyed judgement, and an inflexible love.

Writing from a Christian point of view, most of our arguments in favour of restorative justice are made on Christian terms. We state the case, not ‘aggressively’ but convinced that ours is ground upon which others might come to stand as well. We also claim that religious traditions are worth engaging in dialogue, since they offer weighty insights, tried and tested by long experience, into topics highly relevant to restorative justice which may well enrich the wider discussion. Yet, even when one has difficulties with the metanarrative and doctrine of Christianity, perhaps in the life, ministry and martyrdom of Jesus of Nazareth, inspiration and justification may still be found. This could help those partners in criminal justice processes – police, prison services, probation officers, social workers, criminologists, lawyers, and the public – to understand where Christians may be coming from.