

# **Satisfying Justice:** *Victims, Justice and the Grain of the Universe*

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## **Introduction:**

In biblical and Jewish tradition, care for the poor and weak – for those in situations of extreme need or vulnerability, such as widows and orphans, immigrants and prisoners, the sick and the destitute – is one of the primary obligations laid on God's people. The biblical writers repeatedly declare God's unwavering concern for the poor, and God's insistence that those on the margins of the covenant community be afforded special provision and protection. An aspiration for what we call “social justice” permeates biblical law, and its neglect by those in positions of authority provokes enraged protests from the Hebrew prophets.<sup>1</sup>

The obligation to care for the needy also pervades the New Testament. If anything the emphasis is heightened. Not only does Jesus add to the *Shema* (Deut 6:4-5) an obscure verse from Leviticus about “love of neighbour” (Lev 19:18) to characterise the goal and fulfilment of God's law,<sup>2</sup> he radically expands the scope of neighbour-love. Those outside the covenant community, including even national enemies,<sup>3</sup> as well as the most disreputable elements within the community, such as tax collectors, prostitutes and sinners,<sup>4</sup> are counted as neighbours to whom the duty of love is owed. Jesus even suggests that how we respond to the most desperate and the

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<sup>1</sup> For biblical references and commentary, see C.D. Marshall, *Crowned with Glory and Honor: Human Rights in the Biblical Tradition* (Telford Pa: Pandora Press, 2002), 68-86. See also C.D. Marshall, *The Little Book on Biblical Justice* (Intercourse Pa.: Good Books, 2005).

<sup>2</sup> Mark 12:28-34; Matthew 22:34-35; Luke 10:25-26, cf. also Romans 13:9-10; Matthew 7:12; Luke 6:31. Jesus is the only one in Jewish tradition specifically to link or juxtapose these two OT commandments. Sometimes Leviticus 19:18 was quoted as summarizing the Law and sometimes the thought of loving God and neighbour was expressed. But the uniting of these two commandments is only attested in the gospels, where it serves to generate new meanings. Love of neighbour now becomes inseparable from love of God. See further M. W. Patrick, “Understanding the ‘Understanding Distance’ Today: The Love Command of Jesus”, in L.D. Richesin & L. D. Bouchard, *Interpreting Disciples. Practical Theology in the Disciples of Christ* (Fort Worth: Texas University Press, 1987), 101-29.

<sup>3</sup> In the Old Testament, “neighbour” usually designates fellow members of the covenant community, although resident aliens are also owed love and respect (Deuteronomy 10:18-19; Leviticus 19:33). Later Jewish tradition included proselytes in the classification of neighbour. But Jesus universalised the category to include Samaritans and even Gentile enemies (Matthew 5:43-44; Luke 6:35; Luke 10:29-37)

<sup>4</sup> Jesus was notorious as a “friend of tax collectors and sinners”, e.g., Mark 2:15-17/Matthew 2:13-17/Luke 5:27-32; Matthew 11:19; Luke 15:1-2; 19:1-10

disadvantaged of our neighbours will serve as a criterion of eschatological judgment. “For as much as you have done it to one of the least of these my brothers and sisters”, Jesus declares, “you have done it to me”.<sup>5</sup>

It is important to note that the standard here is not that of *feeling* care for the needy but of *doing* care – clothing the naked, feeding the hungry, welcoming the stranger, visiting the prisoner, and so on. On a similar note Jesus' most famous parable on the ethics of care, the Parable of the Good Samaritan, ends with the injunction: “Go and *do* likewise”.<sup>6</sup> Interestingly this parable describes varying responses to a victim of serious crime. The Samaritan demonstrates the meaning of neighbour-love when, contrary to his cultural instincts, he acts to rescue and restore the Jewish recipient of a vicious beating. By contrast the two religious characters in the story, the priest and the Levite, put concerns about ritual purity above their social responsibility to care for victims of injustice. The story concludes with Jesus telling the lawyer, who approached him with a question about the real intent of God’s law, to emulate the actions of a hated foreigner towards a crime victim rather than espouse the piety of religious professionals in his own community. Practical care for the victims of violence, the lawyer learns, is a better satisfaction of the law’s true purpose than is devotion to ceremonial holiness.

The lesson remains applicable today. In many ways the religious community still struggles to respond appropriately to the plight of victims, and the legal community still has much to learn about satisfying justice, in both senses of the phrase – what truly satisfies the demands of justice, and what form of justice brings most satisfaction to the parties involved, particularly to victims. In this article I first offer some reflections on the nature of victimisation and on why the presence of victims poses particular challenges to the faith community. I then turn to consider restorative justice, which is one of the most promising justice alternatives to emerge in recent times. I propose that there are theological as well as practical reasons for why restorative justice merits our support and confidence as a satisfactory, and satisfying way, to address the justice needs of victims, as well as those of others caught up in the tragedy of crime.

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<sup>5</sup> Matthew 25:31-46

<sup>6</sup> Luke 10:37

### **Victims and the Religious Community:**

Attending to the needs of victims is never easy. This is partly because victims make us feel anxious and unsure. We all need to believe that the world is a safe and predictable place, that we have some measure of control over our lives. But the randomness of crime challenges that perception. Victims remind us of our vulnerability and insecurity. In witnessing their suffering, doubts arise about our own safety. Victims frighten us. This accounts for the widespread tendency to blame victims, especially rape victims, for their predicament. If we can explain the victim's experience in terms of their own foolishness, we reassure ourselves that it might never happen to us – so long as we avoid their mistakes.

Because victims evoke such anxieties in others, we try to keep them at a distance. This is why, despite outpourings of vicarious rage on their behalf in the popular media, victims typically feel isolated and alone. One might hope that things are different for victims who belong to faith communities, such as churches, since such communities strive to be places of hospitality and support. But this is not always the case. In fact, in some ways victims constitute an even more threatening presence in the religious community than they do in the wider community. For the stark reality of their victimisation raises profoundly unsettling questions about faith – questions about the origins of evil and God's presumed control of the world, about the arbitrariness of suffering and the effectiveness of prayer, about the value of spiritual commitment when God seems to fail those who trust in him. The inadequacy of stock answers to such questions is threateningly exposed by the hard facts of the victim's experience.

In their shattered state, victims don't easily feel at home in polite religious company. Nor do other believers find their presence very edifying! Many are uneasy with "the coarse, unedited feelings that spew from deep inside the one who has been victimised – the pain, anger, despair, grief, and desire for revenge".<sup>7</sup> Such raw emotions are hard to hear, and trite responses are common. As Howard Zehr observes, "The Church should be a place of refuge, but often we have not known how to listen, how to be present to victims. We have told them that their anger is wrong, that they need to move on, to forgive, to forget. We have denied them their right to mourn and instead have laid new burdens on them. All this is understandable – as part

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<sup>7</sup> L. Barnes Lampman & M. D. Shattuck, "Finding God in the Wake of Crime: Answers to Hard Questions", in idem, *God and the Victim: Theological Reflections on Evil, Victimization, Justice, and Forgiveness* (Grand Rapids: Wm B. Eerdmans, 1999), 6.

of our effort to distance ourselves from pain and vulnerability – but not at all helpful.”<sup>8</sup>

If the faith community is to be more helpful, two things are needed. One is a recognition of how alienating to victims our natural coping mechanisms of detachment, blame and superficial pleasantries really are, and how detrimental the pat theological answers we give. The other requirement is a much fuller understanding of the distinctive needs and experiences of crime victims (including their need to lament, something alien to the blandness of so much contemporary worship).<sup>9</sup> The precise configuration of these needs will, of course, vary from person to person and offence to offence. But research shows that victims experience many common reactions and have many similar struggles. The trauma of victimisation upsets the normal physical, emotional, mental, social and spiritual equilibrium by which people live their lives, and can cause acute problems in each of these areas. One American victims’ organisation has identified nine categories where victims require support:<sup>10</sup>

- *Physical Problems:* Including bodily injuries, nightmares, insomnia, extreme fatigue, impotence, weight loss or gain, and exaggerated “startle response”.
- *Mental Problems:* Including flashbacks, anxiety, memory loss, the struggle to make sense of what has happened and to get answers to questions.
- *Spiritual Problems:* Including a re-evaluation of religious beliefs, a loss of faith, a sense of guilt and self-blame.
- *Emotional Problems:* Including loneliness, depression, sadness, fear, self-pity, helplessness, a sense of purposelessness, a tendency to withdraw from people, or a drive to exact revenge on the culprit
- *Relational Problems:* Including reduced parenting skills, divorce, family violence, over-protectiveness, chemical dependency, and so on.
- *Financial Problems:* Including the costs of medical treatment, funerals, counselling, replacing lost property, meeting court costs, insurance costs etc.

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<sup>8</sup> H. Zehr, “Restoring Justice,” in Lampman & Shattuck, *God and the Victim*, 151.

<sup>9</sup> On the place of lament in responding to crime and victimisation, see C.D. Marshall, “Crime, Crucifixion and the Forgotten Art of Lament,” *Reality* 9/49 (2002), 16-22.

<sup>10</sup> H. D. Trulear, “Go and Do Likewise: the Church’s Role in Caring for Crime Victims”, in Lampman & Shattuck, *God and the Victim*, 80-82.

- *Employment-Related Problems:* Ranging from an inability to concentrate at work to severe workaholism
- *Privacy Problems:* Either a loss of privacy due to intense media attention , or excessive feelings of isolation and aloneness from a lack of public interest.
- *Legal Problems:* Including the strain associated with judicial processes, unfamiliarity with criminal justice system, pain and shame at encountering the offender in court, resentment if the crime is not solved by the police, and so on.

Given such wide-ranging problems, the challenge is to provide the kind of services and resources that will help victims cope with their trauma, both in the immediate aftermath of the offence and over the long haul. Organisations like Victim Support, Rape Crisis, and Women's Refuges do excellent work in this respect, despite limited resources and volunteers. There is ample room for the involvement of religious believers in such organisations, as well as for the development of faith-based parallels.

But perhaps even more than practical support and a listening ear, what victims most need is a sense of justice. They want to know that the wrongs they have suffered have been acknowledged and that those responsible for them have been held to account. This allegedly is what the criminal justice system exists for. Yet too often victims' involvement in the justice system turns out to be a damaging, even re-victimising, ordeal.

### **Victims and the Justice System:**

Historically the Western criminal justice system has given scant attention to the needs of victims. The overwhelming emphasis has been on the punishment of offenders and the preservation of the state's interests. Victims are almost incidental to the judicial process since, technically speaking, the designated "victim" of the offence is the State, not the actual person injured. The role of the injured party is simply to give evidence on behalf of the prosecution. Furthermore the sanctions imposed on the criminal are not intended to help the victim but to uphold the rule of law and reinforce the State's authority. It should not be surprising, then, that when victims look to the formal justice system to deliver them a sense of justice, they are frequently disappointed. They often end up angry and bewildered, feeling that the system has cheated them of what they need most.

Public sensitivity to this problem has been heightened by the so-called “victims movement”. The movement emerged in the U.S. some 30 years ago and has since spread around the world. One strand of the victims movement has been “needs-focused”. It has concentrated on rendering practical and emotional support to victims as they deal with the consequences of the offence. Another strand has been “rights-focused”. It has agitated for institutional and legislative change to give victims specific legal rights, such as the right to be informed of their case, to participate in hearings, to be consulted about sentences, and even, in some American jurisdictions, to witness punishments.<sup>11</sup> In New Zealand the victims movement has certainly encouraged some positive changes. Victim advisers have been appointed in courts and new legislation, such as the Victims’ Rights Act and changes to the Sentencing Act and the Parole Act, have given new entitlements and protections to victims.

Unfortunately, however, there is a temptation in the political arena to play the needs and rights of victims off against those of offenders. In the U.S., public sympathy for victims has been exploited by conservative “law and order” lobbyists as justification for the state coming down harder on offenders. In New Zealand too, rights-based groups, like Sensible Sentencing, tend to have a markedly punitive orientation, arguing for harsher penalties and the reduction of services to prisoners. Yet it is a mistake to think that what is given to victims must be taken away from offenders. It need not be a “zero sum”, “I win, you lose” kind of game. After all one of the primary needs of victims is reassurance about their future safety – a guarantee against repetition – and the best way to provide this is by working to secure the transformation of offenders. It also needs to be remembered that many offenders offend as a direct result of their own prior victimisation, especially in childhood. They hurt others because they have first been hurt themselves. They have been victims before becoming victimizers. If, then, we are to deal effectively with their criminal offending, we must address their needs as past victims of human malice, neglect or brutality.

This leads to an important observation. As unwelcome as it may sound, what victims often need most, if they are to deal adequately with the destructive legacy of their experience, is direct engagement with the one who has offended against them. This is not widely recognised in the community, and many would deny it is true. But

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<sup>11</sup> On this, see H. Strang, “The Crime Victim Movement as a Force in Civil Society”, in H. Strang and J. Braithwaite, *Restorative Justice and Civil Society* (Cambridge: Cambridge University Press, 2001), 69-82.

arguably the bitterest feature of victimisation is that victims are thrust, against their wills, into a profound relationship with the person who has harmed them. It is an uninvited, unhealthy, and deeply resented, relationship – but it is still a relationship, one born of the criminal event itself. As well as coping with the impact of the crime, victims also need to cope with the relational bond it has created with the offender.

### **The Bond of Victimization:**

When one person intentionally injures another, both victim and perpetrator are unavoidably bound together by their common experience. Both are chained to the same transgression and its aftermath. One is bound by guilt and shame; the other by bitterness and pain. Because they are bound together to the event, victim and offender *need* each other to experience liberation and healing from the continuing thrall of the offence. If the offender is to change, he needs the victim to trigger or sharpen his contrition, to hear his confession, to acknowledge his guilt, and to affirm his ability to start afresh. But the victim also needs the offender. To be the victim of some conscious malice or violation by another person can have a profound impact on the person's sense of self-worth and psychological well-being. The deeper the injury or the more violent the transgression, the greater the impact. Victims can feel debased, dishonored, disrespected or shamed. They may become irritable or depressed, even suicidal. They can find their freedom constricted by fears and anxieties, by anger and bitterness, by hatred and resentment, not only for the offender but also for themselves (self-loathing and self-blaming are a common result of victimization). The pain of the offence or the person of the offender thus comes to exercise continuing power over the victim's entire life.

For this situation to change, the victim needs his or her relationship with the offender to be transformed. There are different ways this can happen, such as through counseling or cognitive therapy. But arguably the most effective way for it to happen is through *a direct encounter with the offender*. For, ironically, it is the person who has most deeply injured us who is most empowered to trigger restoration in us. Frequently, what victims most need is for their abuser to hear of their pain, to answer their questions, to absorb their resentment, and to accept their dignity. We might wish this were not so, and there will always be exceptions. But very often it is an inescapable component of the bond of victimization. Both parties are bound together by their co-participation in the criminal event, and hence both need each other to transform their relationship. Each holds the key to the other's liberation.

This is where restorative justice has something special to offer. Restorative justice seeks to bring together those who have been most affected by an incident of wrongdoing, in a safe and controlled environment (usually with trained facilitators), to name the wrong done, to describe how they have been personally affected by it, to speak about the material and emotional needs it has created, and to resolve together how best to repair the harm and to prevent recurrence. From modest Mennonite origins in the early 1970s, restorative justice has grown into an international social movement for the promotion of collaborative and peacemaking approaches to conflict resolution. It has had an impact on judicial thought and practice in many countries, most notably in New Zealand. In 1989, New Zealand re-organised its youth justice system along restorative lines, becoming the first country in the world to incorporate restorative justice conferencing into national legislation, with very encouraging results. Little was done however to extend the same provision into the adult system. Then in 2001, a four year long restorative justice pilot scheme for serious adult offenders was launched by the government in four district courts around the country. In 2002, a major revision of the Sentencing and Parole Acts came into force. This legislation, while coming down harder on serious offenders, makes some remarkably explicit, and internationally unique, provisions for the employment of restorative justice mechanisms. The Ministry of Justice is soon to publish policy guidelines for managing the relationship between the provision of community-based restorative justice services and the public justice system.

But what actually is “restorative justice”? What distinguishes restorative justice from other theories of justice, and especially from the notion of retributive justice that undergirds much of the conventional criminal justice system?<sup>12</sup> And what warrants us placing confidence in restorative justice as an important complement, and corrective, to current retributive practices?

### **The Character of Restorative Justice:**

Restorative justice is known by a variety of names, and takes many different forms. Some call it “transformative justice”; others “relational justice”; still others prefer “community justice” or “collaborative justice,” or simply “real justice”. Whatever it is called however, advocates of restorative justice insist that it is not simply a minor variation on the current justice system, a way of helping it become

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<sup>12</sup> On this, see my larger study, *Beyond Retribution: A New Testament Vision for Justice, Crime and Punishment* (Grand Rapids: Eerdmans, 2001), esp. 97-144.

more effective or more humane. It is an alternative model, a “third way” between the retributive and rehabilitative models which have dominated penal philosophy, a distinctive way of thinking about crime and punishment, a different “paradigm”, to use Howard Zehr’s term, to conceptualise criminal justice.<sup>13</sup>

For some, the distinctiveness of the restorative paradigm lies in its *process or practice*. Restorative justice is a particular process in which all those affected by an incident of wrongdoing come together to share their feelings and resolve together how to deal with its aftermath. For others, the distinctiveness of restorative justice lies in its *values or commitments*. Restorative justice is different because it prioritises the values of healing and respect, participation, truth-telling, mutual care, reconciliation and peacemaking. Of course, there is no need to set these “process-” and “values-” conceptions against each other. Both must be held together, for it is the values that determine the process and the process that makes visible the values.<sup>14</sup> If restorative justice privileges the values of respect and truth, for example, it is crucially important that the practices followed in a restorative justice meeting exhibit equal respect for all parties and give ample opportunity for everyone present to speak their truth freely. On the other hand, as long as these values are honoured, there is room for a diversity of processes and a flexibility of practice.<sup>15</sup>

So restorative justice is both a distinctive process and a distinctive set of values, with each requiring the other. Having said that, what is most important to the success and the future of restorative justice, especially as it becomes more professionalised and more embedded in the State justice system, is that restorative values are nurtured and promoted in the community. Restorative justice does have much to offer our ailing justice system, and to do so it needs to be embraced by the various components of that system (the police, the courts, the prisons, the legal fraternity, and so on). But there is a real danger that, in the course of becoming respectable, restorative justice will be co-opted by the State, and, bit by bit, forced to

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<sup>13</sup> H. Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottsdale PA.: Herald Press, 1990). See also Zehr’s *The Little Book of Restorative Justice* (Intercourse PA: Good Books, 2002).

<sup>14</sup> Strang & Braithwaite rightly insist that a combination of values and process conceptions should be seen as a “normative ideal” for restorative justice, “Restorative Justice and Civil Society”, 13.

<sup>15</sup> On this, see C.D. Marshall, J. Boyack & H. Bowen, “How Does Restorative Justice Ensure Good Practice? A Values-based Approach”, in H. Zehr and B. Toews (eds.), *Critical Issues in Restorative Justice* (Palisades NY: Criminal Justice Press, 2004), *forthcoming*.

conform to an alien set of values, such as the need to process cases as quickly and cost-efficiently as possible, to employ only paid professionals to handle them, and to bury the magic of restorative justice beneath a mountain of official paper work.

But if restorative justice is to make a difference to the prevailing system, its practitioners must be “in the world but not of the world”.<sup>16</sup> They must become trusted participants in the public justice system, yet self-consciously drink from a different stream, and cherish a different set of values. Of course values do not exist in a vacuum; they are held by flesh and blood people who belong to particular historical communities. If it is to flourish, then, restorative justice must be anchored in alternative “communities of value”, that is, in communities of people who accord the highest importance to the values of mutual care and accountability, honesty and compassion, confession and forgiveness and peacemaking.

One such community in which this ought to be the case is the Christian church. After all Christians boast a religion that centres on repentance and forgiveness and reconciliation, convictions that lie at the heart of restorative justice. One would therefore expect Christians to be vigorous supporters of judicial and penal reform in a restorative direction. Sadly this has not been the case historically (with some notable exceptions), and is not often the case today (again with notable exceptions). Perhaps part of the mission of the restorative justice movement is to remind the Christian church of what it supposedly believes and ought to practice more consistently.

Restorative justice, then, can be understood as a set of practices that give expression to a set of values, and that the constant articulation and affirmation of these values in communities of support is of supreme importance if restorative justice is to deliver what it promises – namely, a way of handling wrong-doing that brings satisfaction to victims, to offenders, and to the needs of wider society. But perhaps there is even more to it than this. As many participants will attest, the practice of restorative justice, especially within indigenous communities, is a profoundly spiritual affair. (Indeed recognition of the inherent spirituality of doing justice is one of the major contributions indigenous peoples have made to the restorative justice movement, certainly in New Zealand.)<sup>17</sup> Furthermore many of the key values of

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<sup>16</sup> Cf. John 17:15

<sup>17</sup> On the indigenous contribution to restorative justice, see J. Consedine, *Restorative Justice: Healing the Effects of Crime* (Lyttelton: Ploughshares Publications, 1995), e.g., 81-89. See also Church Council on Justice and Corrections, *Satisfying Justice: A Compendium on Initiatives, Programs and Legislative Measures* (Ottawa: CCJC, 1996).

restorative justice are deeply rooted in the Judeo-Christian tradition, and can be best appreciated when they are seen in the context of this wider religious world view.

From a theological perspective, restorative justice can be viewed as much more than an effective democratic process and a laudable system of values. It is as a manifestation of something far deeper than that, something that helps explain both the power of restorative justice and its cross-cultural applicability. Restorative justice, theologically understood, is grounded in something beyond human devising. It has an objective, metaphysical basis. It is a practice aligned with the grain of the universe. It is an phenomenon that makes visible the way reality really is, the way God has made human beings, and the wider moral order, to function. This, of course, is an audacious thing to say in a post-modern context. But for those who believe that the Christian story is objectively true, such a conclusion is inescapable.

### **Two Truth Claims:**

The Christian story rests on two fundamental claims, which it holds to be objectively or publicly true, not just a matter of personal preference or private taste. First, it claims that the Creator God is made most fully known in the person of Jesus Christ. “If you want to know what God is *really* like”, the New Testament authors submit, “then look at Jesus”. He is the supreme benchmark for our understanding of Deity. “He is the image of the invisible God”, the apostle Paul writes, the one in whom “all the fullness of God was pleased to dwell”.<sup>18</sup> “He is the reflection of God’s glory and the exact imprint of God’s very being”, Hebrews declares. He is also the one “through whom God created the worlds”.<sup>19</sup> “All things came into being through him”, John’s Gospel begins, “and without him not one thing came into being. What has come into being in him was life, and the life was the light of all people”.<sup>20</sup> “For in him all things in heaven and on earth were created, things visible and invisible, whether thrones or dominions or rulers or powers – all things have been created through him and for him”.<sup>21</sup> Jesus, then, is both the human embodiment of God’s very being, and the one through whom and or whom God created the universe.

The second truth claim Christianity makes is that this God has acted uniquely in the life, death and resurrection of Jesus to restore the world to its originally intended

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<sup>18</sup> Colossians 1:15, 19, cf. 2 Corinthians 4:4

<sup>19</sup> Hebrews 1:2-3

<sup>20</sup> John 1:3-4

<sup>21</sup> Colossians 1:16).

state. In Jesus, God has entered fully into the human condition, shackled as it is to the power of sin and subject to the scourge of suffering and death, and has acted through him to defeat the power of evil and reconcile its victims to himself. “He has rescued us from the power of darkness”, Paul rejoices, “and transferred us into the kingdom of his beloved Son, in whom we have redemption, the forgiveness of sins...For through him God was pleased to reconcile to himself all things, whether on earth or in heaven, by making peace through the blood of his cross”.<sup>22</sup>

Not only is “the blood of his cross”, by which Paul means his violent death on a Roman gallows, the decisive event that defeats evil, it is also the definitive revelation of what God is really like. Christian faith asserts that God is never more truly God than he is in the dying of Jesus. In the cross, as the gospel writers put it, the veil of the temple is torn in two and God stands revealed. God’s *justice* also stands revealed.<sup>23</sup> The cross shows that God’s justice is a peace-making justice,<sup>24</sup> a reconciling, restoring and healing justice. The God who is made climactically known in the cross of Christ is a God who secures justice for both the victims and perpetrators of evil by pouring out his own life in suffering love to free them from their predicament and restore them to relationship with himself and with each other.

These, then, are the two mind-boggling assertions the New Testament authors make. They dare to propose that Jesus of Nazareth is the human face of God, and that the true character of this God, and the justice of this God, are nowhere more evident than in his death and resurrection. But this is not all. From these two claims, they arrive at a critically important deduction – *that what we learn of God in the story of Jesus is the key to understanding the meaning, inter-connectedness and destiny of all created reality*. As Ephesians states, “All things have been created through him and for him. He himself is before all things, and in him all things hold together”.<sup>25</sup> In him, God has made known his “plan for the fullness of time, to gather up all things in him, things in heaven and things on earth”.<sup>26</sup>

What an astonishing assertion this is. All things have been created for, they are sustained by, and they find their ultimate meaning in, the crucified and risen Christ. From this it follows that the central principle of creation is not naked power or

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<sup>22</sup> Colossians 1:15, 20

<sup>23</sup> Romans 1:16-17; 3:20

<sup>24</sup> Romans 5:1

<sup>25</sup> Colossians 1:16-17

<sup>26</sup> Ephesians 1:10

control, or order, or balance, but vulnerable, passionate, reconciling, self-giving love, a love which subverts evil, not by an overwhelming display of coercive force, but by acting in amazing grace to redeem offenders and to heal sin's victims, and at great cost to itself. In short, according to the Christian worldview, *restoring love is the ground of the universe*.<sup>27</sup>

All this seems counter-intuitive, even outrageous, in a world of violence and vengeance. But if we can believe it, it has enormous implications for appreciating restorative justice. If the cross reveals God's redemptive *modus operandi*, and discloses the basis on which creation itself is sustained, this explains why restorative justice "works". And it *does* seem to work. Two researchers have recently noted, "If we have been waiting for the research to prove restorative practices work, we need wait no longer. Collaborative, problem-solving approaches have a history of success in families, communities, organisations and international relations. The social science research is overwhelming, consistent and clear. In the vast majority of situations, restorative practices work better than punishment or treatment approaches".<sup>28</sup> But *why* do they work? Restorative practices work because they accord with the way God has made us; they work because they are consistent with what Ephesians calls "the plan" of the universe. In seeking healing for victims and redemption for offenders, restorative justice reflects the very heart of the Christian God, and it is charged with the power of God. No wonder then that restorative justice meetings can be so potent. No wonder that grace and truth, mercy and compassion, are so often evident. God is anonymously present whenever people honestly confront the consequences of evil and seek to deal with it in redemptive ways.

Now this attempt to identify a metaphysical grounding for restorative justice may seem far-fetched to some. But we need to remember that traditional notions of retributive justice have also appealed to metaphysical claims (indeed current post-modern scepticism towards justice having a metaphysical basis is unique in the history of human thought).<sup>29</sup> According to classical retributivism, the moral universe operates on the principle of "just deserts". Justice is about giving people their due, balancing deed and desert, in accordance with the law of nature. When people do

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<sup>27</sup> One theologian who takes this seriously is C. H. Pinnock, *Most Moved Mover: A Theology of God's Openness* (Carlisle: Paternoster, 2001).

<sup>28</sup> T. Wachtel and P. McCold, "Restorative Justice in Everyday Life", in Strang & Braithwaite, *Restorative Justice and Civil Society*, 123

<sup>29</sup> See D.B. Forrester, *Christian Justice and Public Policy* (Cambridge: CUP, 1997), 45, cf. 187-88.

wrong, they *deserve* punishment, and it is punishment that vindicates and restores equilibrium to the moral order. What is bold about my claim is not that restorative justice reflects a transcendent order, but the kind of order it reflects, an order that turns, not on the perfect balance of deed and desert (as in retributivism), but on redeeming, restoring inter-personal love. Retributive justice seeks to check and punish evil, believing that the pain of punishment compensates for the pain of wrongdoing, and that somehow by achieving an equity of suffering the moral order is upheld. Restorative justice focuses on the relational consequences of evil, believing that the moral order turns on relationship, so that when relationships are violated by crime, ultimately it is only healing and reconciliation that can affirm what the world is really all about. Punishment may be necessary in the process (for a variety of good reasons),<sup>30</sup> but it is not the pain of punishment itself but the restoration of peace to human experience that truly vindicates justice.

### **Satisfying the Needs of Victims:**

I began this article by discussing the needs of victims and the peculiar threat victims pose to the religious community. Victimisation upsets the normal equilibrium by which people live their lives and raises profoundly unsettling questions about the meaning of life and the state of the world. I then went on to speak about restorative justice, characterising it as a democratic process which gives expression to particular restorative values, values which derive their potency from the fact that they reflect moral truth and the character of the God who made us. It is now time to bring both these themes together by asking what restorative justice specifically has to offer victims. Is restorative justice any better equipped than conventional justice to help crime victims reorient their lives following the disorientation of victimisation? There is good reason to think so. Indeed many would argue that restorative justice conferences between victims and offenders are better suited than traditional court room processes to meet at least seven crucial needs of victims.

First, the restorative justice conference offers victims a safe space to speak of their experience. It is a place of both physical safety and of emotional safety, a place where victims can express their anger and fear without judgment or blame or scepticism. In the normal court process, the victim's story is often subject to hostile interrogation by defence lawyers, and must be narrated within strict legal parameters.

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<sup>30</sup> See *Beyond Retribution*, 97-144.

Victims feel neither safe nor sound. Yet learning to feel safe again in an unsafe world is one of the most basic needs victims have, something which restorative justice can help to deliver.

Second, restorative conferences offer victims validation and vindication. Contrary to what most people believe, victims usually want vindication more than vengeance or even punishment. They want the wrong they have suffered to be acknowledged and their dignity to be affirmed. They want their offender to admit his or her responsibility for causing them harm, and to be reassured that they did not bring it on their own heads.

Thirdly, restorative justice conferences afford victims answers to their questions. Victims desperately want to know precisely what happened, and why it happened, and what the offender was thinking about at the time, and whether he will do it again. Victimisation invariably raises such questions in the minds of those who have suffered, and answers to these questions are needed for them to restore order and coherence to their lives. Regular court hearings do not usually permit victims to ask all the questions they have.

Fourthly, restorative justice offers victims genuine truth-telling. Truthful speech is essential if justice is to be done. Conventional justice works on this basis as well, with the court system existing to establish the “truth, the whole truth, and nothing but the truth”. But, in practice, the truth in question is often limited to clarifying facts and establishing guilt. A narrow notion of legal truth supplants the fuller moral, spiritual and experiential truth surrounding crime, and even the legal truth is often obscured by technical language, plea bargaining, sharp lawyering, and legislative loopholes.<sup>31</sup> Restorative justice, by contrast, seeks to make space for full truth-telling. Time is given for offenders and victims, and for their friends and supporters, to name the evil done, to describe how it has affected them, and to speak about the needs it has created.<sup>32</sup> Truth-telling requires offenders to accept genuine responsibility for the harm they have caused and the obligation it brings to put things

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<sup>31</sup> “Throughout the Anglo-American adversarial system and the inquisitorial system of continental Europe as well, victims are consistently reported to be angry and bewildered, expecting to be able to turn to the police, to prosecutors and the courts for assistance and advice, and invariably finding that they are regarded by each of these agencies as outside of their area of responsibility”, H. Strang, “The Crime Victim Movement as a Force in Civil Society”, in Strang & Braithwaite, *Restorative Justice and Civil Society*, 72.

<sup>32</sup> Research indicates that the average time taken in court hearings is 10 minutes; the average length of a restorative justice conference is 45 minutes.

right. It also allows victims to be discharged of the self-blame and shame they so often suffer from.

Fifth, restorative justice grants empowerment to victims. Victimization itself is an experience of disempowerment on the one hand (a loss of control over one's life) and of disconnection of the other (a loss of relatedness with other human beings). These feelings are often exacerbated by the court system. Victims can feel that the criminal justice system robs them of their experience, reinterprets it in foreign legal terminology, and turns it over to trained specialists to deal with. They are rendered spectators on their own pain. This is why research shows, all over the world, that crime victims often end up feeling as much hostility toward the judicial system as they do towards their own offenders. By contrast, in restorative justice processes victims themselves are the central players. Victims are empowered by being fully involved in the disposition of their case. They understand what is taking place, and are able to participate in securing outcomes that meet their needs.

Sixthly, restorative justice offers victims restitution or reparation. Conferences usually aim to arrive at outcomes by which the offender agrees to make good, insofar as possible, the harm inflicted. Part of this restitution will be emotional (by way of explanation and apology) and part will be material (by way of financial recompense or practical help). But, whatever form it takes, restitution addresses a fundamental need of victims. As Howard Zehr explains, "Restitution symbolizes a restoration of equity, and it states implicitly that someone else – not the victim – is responsible. It is a way of denouncing the wrong, absolving the victim, and saying who is responsible. Accordingly, restitution is about responsibility and meaning as much as or more than actual repayment of losses".<sup>33</sup>

Finally, restorative justice offers victims hope, the hope of a better future no longer blighted by bitterness and resentment. Hope is an essential ingredient for a healthy life, and a healthy society needs a shared sense of social hope to remain confident and purposeful. But hope has been deemed the rarest of all modern virtues.<sup>34</sup> A vague sense of hopelessness pervades much of contemporary culture. Nowhere is this more apparent than in the criminal justice system, with prison being perhaps the most hopeless of all modern institutions. We speak euphemistically of a "correction system", but, as statistics show, it does little to correct offenders and even

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<sup>33</sup> Zehr, "Restoring Justice", 145

<sup>34</sup> See Forrester, *Christian Justice and Public Policy*, 246-59.

less to restore victims to a state of well-being. By contrast, restorative justice conferences, for all their emotional intensity, can be the most hopeful of places, so much so that some sociologists are suggesting that the true social significance of restorative justice lies in its capacity to restore hope to a hopeless society.<sup>35</sup> Because it seeks not simply to penalise past criminal actions but to address present needs and to equip for future life, restorative justice provides hope: the hope of healing for victims, the hope of change for offenders, and the hope of greater civility for society at large.

### **Conclusion:**

These then are some of the ways in which restorative justice renders assistance to victims of crime. Ill-informed critics sometimes claim that restorative justice is simply a way of being soft on offenders. But this is far from the case. Restorative justice is, first and foremost, a means of empowering victims to confront their abusers, with whom they have been locked into a prison house of pain and shame, and to do so in a way that holds them genuinely accountable for their actions and brings satisfaction to victims' needs. For that reason, restorative justice deserves the full support, as well as ongoing critique, from those dedicated to the plight of victims.<sup>36</sup>

It also deserves the full support of the faith community, for restorative justice is profoundly compatible with Judeo-Christian values, virtues and beliefs about the nature of ultimate reality. These values, virtues and beliefs should not be confused for fuzzy sentiments or romantic ideals. They are costly commitments, fashioned in the furnace of human suffering and attested in full face of the ambiguities and contradictions of human life and of the sheer tenacity of evil. They are also the values and commitments that give human life its meaning and beauty, that put us in touch with the divine, and that inspire us to seek a better world, a world in which we do justice with a restoring face. God's word to the religious community, as to the legal community, remains the same as it was to the lawyer to whom Jesus addressed the parable of the Good Samaritan: "Go and do likewise".

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<sup>35</sup> Strang & Braithwaite, "Restorative Justice & Civil Society", 7.

<sup>36</sup> For victims' criticisms of restorative justice, see H. Mika, M. Achilles *et al.*, *A Listening Project: Taking Victims and Their Advocates Seriously* (Akron Pa.: MCC Office on Crime and Justice, 2002).