***Marshall, Christopher: Compassionate Justice: an Interdisciplinary Dialogue with Two Gospel Parables on Law, Crime and Restorative Justice (Eugene, Or: Cascade Books, 2012)***

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Any book by Christopher Marshall is to be warmly welcomed. In 1990 the ground- breaking book *Changing Lenses*, by Howard Zehr, argued for a full- blooded engagement with restorative justice. Zehr’s book has been reprinted many times. He is a practitioner, both academic criminologist and consultant on restorative justice. He is also deeply informed by his faith as a Mennonite who lives in the Unites States. Zehr grounded his book in his account of biblical justice, which he saw focussed on the covenant, but inevitably the book was primarily focussed on the contemporary North American experience of crime, and the possibility of a paradigm shift in responding to it. Theologians were slow to respond, as were churches, but in 1996 Tim Gorringe published an attack on the correlation of theories of the atonement and penal strategies in *God’s Just Vengeance*, which he followed up in 2004 with his survey of criminal justice, entitled *Crime.* Gorringe set the tone for a re- examination of penal theory from a theological standpoint. At the same time churches began to respond, in such publications as the tribute to the Church of England Bishop, Bob Hardy, Bishop of Lincoln, and Bishop to Prisons. This was entitled *The Future of Criminal Justice* (ed Jones and Sedgwick, 2002). Bob Hardy had organized the influential Lincoln conferences in the 1990s on alternatives to criminal justice, at which Zehr had spoken. That was important because the audience included judges, prison governors, and politicians, as well as prison chaplains and academics. The tribute to Hardy included several articles on restorative justice. It was followed by the Church of England’s own publication *Rethinking Sentencing* (ed. Sedgwick 2004), which again included several articles on restorative justice and the reform of sentencing. Interestingly, however, and we will return to this at the end of the review, not all contributors were convinced. Lord Justice Laws continued to defend the retributive principle

The contribution of Christopher Marshall is important because he used his skill as a New Testament scholar to integrate the new emphasis on restorative justice into his Biblical work. In 2001, he published *Beyond Retribution*, which was commended by Howard Zehr. Here he analysed the Pauline understanding of divine justice, before moving into the debate about the purpose of punishment. What is striking about Marshall’s account of retributivism is that he makes some pertinent observations about measuring the seriousness of crime, the commensurate penalty, and the measuring of guilt. He also argued that retribution could easily be confused with revenge, since punishment must be a transaction between persons, and he denies the validity of the retributivist case that punishment is a vindication of an impersonal moral order which the crime has broken. However what he failed to do was to engage deeply either with the criminology debate on the purpose of punishment, or with the philosophical account of the nature of law, crime and a moral order. Instead the book made some references to this debate, but largely followed Zehr.

 it is no surprise, therefore, that the rest of the book explores the Biblical theme ‘ vengeance is mine’, followed by an account of capital punishment in the Bible, and the eventual triumph of forgiveness in the ministry of Jesus as the consummation of justice. The first Christians experienced in Christ an understanding of justice as a power that heals and reconciles, and they lived this out in their faith communities. Marshall is a subtle thinker. He does not see the Bible as a template to be applied to social policy today, and he also knows that Christians must work in the public arena, where Christian witness is but one voice among many. Nevertheless, his book showed what a New Testament vision of human relationships could be like in contemporary society, and that was a powerful message.

The current book builds on these arguments. The heart of the book is a close study of two Lukan parables, Luke 10:25-37, the parable of the Good Samaritan, and Luke 15:11-32, the parable of the Prodigal Son. In the first chapter he looks at the use Martin Luther King made of Luke 10, before moving on to a discussion of the law, and the practices of lawyers, victimization, the response of the Samaritans, and the relationship of love to law. These chapters are a tour de force, in two ways. They show how a detailed engagement with the New Testament can yield huge rewards, much as James Brownson’s recent detailed exegesis of Romans 1: 24-7 on homosexuality has also achieved. They also show how there can be a theological reading of altruism, victims and legal theory which is grounded in biblical hermeneutics. Zehr is cited in his work on victims (pp 87-8), but so too is the effect of the bystander’s position, where people see, hear but do nothing. The issue which this raises is the relationship of religious faith to the practice of altruism (pp. 101-110). Another topic which Marshall considers in depth is that of the debate about criminalizing ‘bad Samaritans’, which has happened in Vermont, and Australia’s Northern Territory, but nowhere else. Marshall has an extensive survey of western jurisprudence, which he argues reflects western liberalism, with its emphasis on personal liberty, and antipathy to symbolising social responsibility.

The final section of the book examines Luke 15, the parable of the Good Samaritan, where again there is a good discussion of honour, shame, and ‘deviance labelling’, drawing on Zehr, Braithwaite and other criminologists. What is striking in this is how much Marshall is a master of Lukan scholarship, where every exegesis is weighed, considered and then put in place. The section on this parable ends with a discussion of compassion its place in public life, and in the criminal justice system. In particular, Marshall engages with victim impact statements (which he finds dangerous) but above all with the critique offered by Annalise Acorn’s *Compulsory Compassion: A Critique of Restorative Justice* . This critique is paradoxical. Acorn’s book has been praised by John Braithwaite, doyen of restorative justice, as the most beautifully written book on restorative justice, and yet it is “the most foundational critique.” (p.303). Marshall sees Acorn as rejecting restorative justice because the demand to achieve right (i.e. totally forgiving relationships) relationships as the crux of restorative justice is manipulative, corrupting and dangerous. Marshall’s answer to Acorn ultimately turns on an appeal to Christian love. “Participation in God’s love alone can empower the full measure of compassion.”(p.320)

The difficulty with Marshall’s work is not his brilliant engagement with the New Testament, nor with his commitment to restorative justice. It is, rather, that the academic discussion of punishment continues to be critical of restorative justice theories. There are after all other critiques than Acorn’s. This is shown most notably in Michael Tonry’s 2011 *Why punish? How much? ,* which contains essays by the main participants in the debate, such as Scanlon, Duff, and Feinberg. In this debate the retributivists are not simply out argued by the proponents of restorative justice. Rather the arguments are initially between consequentialist, (formerly known as utilitarian), thinkers, and retributivists. The implosion of consequentialist thought came with the decline of indeterminate sentencing in the 1970s. Procedural unfairness and lack of transparency, combined with doubts about the efficacy of the rehabilitative role of punishment, led to a series of criticisms of consequentialism, and the subsequent rise in retributivist thinking. Only after the argument between consequentialists, and retributivists, does the debate shift to those who criticize traditional theories of punishment. Thus the challenge to retributivism is both from those that advocate restorative , or community , justice, but also from those that adopt a much more therapeutic, or medical model of intervention, such as is shown by the great increase in ‘ drugs courts’, with the sentence contingent on how effective the therapeutic intervention has been. Restorative justice is far more productive in its literature than therapeutic intervention, but in practice no more common (perhaps less so) than therapeutic models in the practice of criminal justice, certainly in the United Kingdom. Restorative justice proponents see crime as more like conflict: the aim of punishment is to reintegrate the conflicting parties, and to rebuild relationships. For one of the other critics of restorative justice, Paul Robinson, restorative processes must be distinguished from restorative justice. In Robinson’s view, restorative processes refer to such practices as victim-offender mediation, sentencing circles, and family group conferences Restorative justice, however, is much more ambitious agenda. Robinson characterizes it as an anti-justice agenda

Paul Robinson, Anthony Duff, Tim Scanlon, Joel Feinberg and others set the terms of the contemporary debate, far more than Acorn. Duff in *Answering for Crime* (2007) defines the criminal law, and punishment, as “an institution through which a liberal polity defines a realm of public wrongdoing, and calls those who perpetrate (or are accused of perpetrating) such wrongs to account.” It is here that the judiciary, such as Lord Justice Laws mentioned above, and those who administer the criminal justice system, find the justification for continuing to hold a retributivist account of punishment. I find Marshall, and indeed Zehr on whom he so much relies, as very compelling. What is needed however is to engage not only with those who once believed in restorative justice, but have now abandoned it, such as Annalise Acorn. Tonry’s collection of essays sets the debate between consequentialists, retributivists, and the new proponents of restorative and therapeutic justice in a philosophically well-argued way. Marshall offers a profound and theologically cogent reading of the Lukan parables, and argues the case for restorative justice. My problem is that those he critiques are the straw dogs of legal theory. The big beasts remain unconvinced, and so I had a feeling as I finished Marshall that it was wonderful - and yet the leading moral and legal philosophers had not been answered. Perhaps Marshall will reply that that is their problem, and yet for two decades now restorative justice has failed to make the breakthrough which its proponents so much long for. The danger then with Marshall’s book, which sets up the Biblical case, provides a good discussion of the experience of crime, and engages with the practitioners of restorative justice such as Zehr is that this account of criminology, or what is in effect a profound political theology, simply marginalises itself. But this feels ungracious. What this book offers is a superb reading of the Lukan parables , as though the reader had come across them fresh, never having heard them before. That is an extraordinary achievement. It sets new standards for biblical hermeneutics. What it does not do is establish the case for restorative justice, against its critics.

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