

**TOWARDS A RESTORATIVE  
HERMENEUTIC:  
LOCAL CHRISTIAN COMMUNITIES  
RESPONDING TO CRIME AND  
WRONGDOING**

by

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## **ABSTRACT**

This study proposes a restorative hermeneutic and uses it to assess and evaluate the 'restorativity' of the responses of five local Christian communities to crime and wrongdoing. Its central contention is that they can become more 'restorative' by critically reflecting on their responses to crime and wrongdoing using the hermeneutic. In chapters I to III, the hermeneutic is established through a mutual critical dialogue between restorative justice and contemporary atonement theology. It has three core principles: 'radical participation', 'righting wrong in a morally serious way' and 'reintegration'. These principles are extrapolated from a definition of restorative justice and resonate with the key themes of contemporary atonement theology. In chapters IV and V the understanding, attitude and practical response of these local Christian communities to crime and wrongdoing are categorised and assessed. The findings are then systematically evaluated using the restorative hermeneutic. The final chapter articulates the main conclusion, that to achieve a more restorative response to crime and wrongdoing local Christian communities need to develop a sustained critical dialogue with secularisation theory, an even balance between addressing personal and structural types of crime and wrongdoing, and a critical understanding of the underlying causes of crime and wrongdoing.

**TO MY FAMILY**

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# I

## CONTEXT, HYPOTHESIS AND METHODOLOGY

This study assesses and evaluates how the responses of five local Christian communities to crime and wrongdoing can be called 'restorative'. Its central contention is that they can become more 'restorative' by reflecting on their praxis using a restorative hermeneutic; this study aims to develop such a hermeneutic. In line with Zehr's definition<sup>1</sup> it defines 'crime' as an action or omission punishable by law and 'wrongdoing' as the harm and conflict related to crime which attracts denunciation and disgust but is not punishable by law. Focussing on both crime and wrongdoing intentionally broadens the scope of the study in order to reflect the breadth of experience and concerns of the subjects of the case studies.

The first part of the study (chapters I-III) undertakes to establish what is meant by 'restorative' through a mutual critical dialogue between the principles of restorative justice and key themes of contemporary atonement theology. These dialogue partners both understand justice as repairing damaged relationships. They share a common concern for restoration within human communities, which they express using similar terminology, including 'apology', 'forgiveness', 'restoration', 'reparation' and 'reconciliation'. The hermeneutic which emerges from this mutual dialogue has three core principles: 'radical participation', 'righting wrong in a morally serious way' and 'reintegration'. In the second part of the study (chapters IV-VI) the hermeneutic is used to analyse the findings of the five case-studies: three congregations and two para-church groupings. In Chapter IV, the understanding,

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<sup>1</sup> Zehr, H. (3<sup>rd</sup> Edn, 2005) pp.184-5

attitude and practical response of these local Christian communities to crime and wrongdoing is described. In Chapter V, their responses are critically assessed and then the findings evaluated using the restorative hermeneutic. The main conclusion is that these communities are already, in a fairly unreflective way, doing restorative work. What is being asked therefore, in order to improve on the current situation, is that they critically reflect on their responses to crime and wrongdoing using the restorative hermeneutic. In Chapter VI, some of the challenges emerging from the study are highlighted; these need to be addressed if local Christian communities are to strengthen their response to crime and wrongdoing.

This opening chapter sets the context for the study, beginning with an exploration of the key factors contributing to anxiety about crime and wrongdoing in the UK, and to the perceived crisis of public confidence in the criminal justice system. It considers how, over the last thirty years, restorative justice theory and practice has emerged as an alternative approach to criminal justice and briefly states the vision behind restorative justice. It also articulates a working hypothesis and explores two methodological considerations: first, the importance of locating the study within the tradition of practical theology; second, the reasons for choosing the model of mutual critical correlation as an interpretative framework. It then offers a brief profile of each of the case studies before considering the research models, methods and tools used in the study for collecting and analysing data.

## **A. Context of this Study**

### **i. The Problem of Crime and Wrongdoing**

According to *British Crime Survey* statistics for 2009/10, crime in England and Wales was at its lowest rate ever since the survey first began. However, these results also

show that whilst recorded crime is on the decrease public anxiety about crime has consistently grown since 1996.<sup>2</sup> Arguably, the confusing jig-saw of different statistics produced has left public confidence in their reliability low<sup>3</sup> but the film documentary, “The Fear Factory”, proposes another explanation. According to interviews with practitioners, former prisoners, politicians and journalists, the 60-minute documentary argues that fear and anxiety about crime since the late 1970s have been caused in equal measure by politicians and newspaper editors.<sup>4</sup> Political parties are engaged in a rhetorical arms race, each escalating its rhetoric on crime in order to appear to be tougher than the other on law and order. This generates fear and justifies increasingly punitive sentencing practices towards offenders.

An example of political rhetoric is the verbal attack by Jack Straw, Labour MP for Blackburn, against the Minister of Justice, Kenneth Clarke MP, over his proposals to reduce the prison population.<sup>5</sup> Defending his own track record as Minister of Justice (2000-2009) when the prison population increased, Straw argued that rising prison figures under his watch were the result of a policy that sought to be tough on crime and tough on the causes of crime. The implication of his attack was that Clarke was proposing a policy that that would be soft on crime and out of touch with public concerns about dealing with serious offenders. Martin Narey, a former prison service

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<sup>2</sup> “The 2009/10 BCS shows that the gap between perceptions of changes in national and local crime levels remains wide. The proportion of people who perceived an increase in crime nationally remained higher than those who perceived an increase in crime locally, and the same pattern was evident across crime types. The difference between perceptions of changes in the national and local crime level was particularly marked for knife crime (90% of people perceived an increase nationally compared with 27% locally) and gun crime (81% nationally compared with 13% locally). Half of people (51%) thought they lived in a lower than average crime area, 39 per cent believed crime levels in their area were about average and only ten per cent of people believed crime in their local area was above average. The 2009/10 BCS shows a disparity remains between people’s perceived likelihood of being a victim of crime and their actual risk. For example, 15 per cent of people thought they were fairly or very likely to be a victim of burglary in the next year compared with an actual risk of two per cent.” Home Office (2010) p.109

<sup>3</sup> Matheson, J. (2011) pp.9-21

<sup>4</sup> “The Fear Factory” (2010), directed by Joanna Natasegara and Richard Symons (*Spirit Level* film)

<sup>5</sup> Daily Mail article by Jack Straw (September 2010): <http://www.dailymail.co.uk/debate/article-1290758/Mr-Clarke-Lib-Dems-wrong-Prison-DOES-work--I-helped-prove-it.html#ixzz23YN9QVEa>

chief, described Straw's attack as self-interested and counter-productive to the building of a much needed new cross-party approach to law and order.<sup>6</sup>

The power of newsprint editors to incite fear can be illustrated by the way the riots of summer 2011 were reported. On 30 July 2012, just under one year after the riots, the Daily Telegraph printed an article by Hannah Furness expressing shock that so many of the criminals convicted for their part in the riots were already out of prison.<sup>7</sup> The article carried a dramatic picture reminding the reader of the mayhem on the streets caused by the rioters. It suggested that the release of prisoners would inflame fear that riots will recur, and quoted a Conservative MP, Andrew Percy, suggesting that the public have reason to be outraged.

The Fear Factory documentary cited above has spawned a network or coalition of institutions whose common aim is to work together to stop the so-called arms race in crime and disorder rhetoric, and to promote penal reform. This coalition's published objectives include: "[A] cross-party commitment to creating and implementing an effective, long term Criminal Justice strategy based on evidence...[and an] "Amnesty" on the "arms race" – ending policies driven by short-term political gain, media sensationalism and "tough-talk"."<sup>8</sup>

Whilst public anxiety about crime and disorder is real, a deeper underlying issue is the lack of public confidence in the criminal justice system's ability to deal with offenders in an effective way.<sup>9</sup> The unpalatable truth undermining the criminal justice system is that, while crime overall has been reducing every year since the mid-

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<sup>6</sup> Former prison chief, Martin Narey, challenges Jack Straw MP over his penal reform stance: [www.guardian.co.uk/News/Politics/Labour conference 2010>28<sup>th</sup> September 2010](http://www.guardian.co.uk/News/Politics/Labour%20conference%202010/28th%20September%202010)

<sup>7</sup> Furness, H. (30<sup>th</sup> July 2012): Article in Daily Telegraph

<sup>8</sup> "The Fear Factory" Coalition website: [www.thefearfactory.co.uk/coalition.php](http://www.thefearfactory.co.uk/coalition.php)

<sup>9</sup> Cornwell, D.J. (2007) p.19

nineties, during that same time the prison population has grown year on year and is currently at the highest levels in Europe.<sup>10</sup>

David Cornwell (2007) suggests three possible causes for this situation: "...first, in spite of the overall trend downwards in terms of crimes reported there has been a growth in serious crime; second in response to public anxiety about crime there has been a drive by politicians to introduce increased severity in sentencing and third, due to new tougher legislation and court procedures an overuse of custodial sentencing has resulted".<sup>11</sup> His use of the term "crisis" arguably contributes to the sensationalising of the problem. Whilst Michael Cavadino and James Dignan (2004) recognise this danger they still opt to use the term, arguing that the failure of the prison system to prevent re-offending, coupled with the incarcerating of more and more people for lesser crimes has created a "...crisis of legitimacy in the criminal justice system".<sup>12</sup> This perceived crisis of confidence in the criminal justice system has made all the more necessary research into alternative responses to crime and wrongdoing, such as restorative justice.

## **ii. The Re-emergence of Restorative Justice and its Conceptual Roots**

Given the pivotal place of restorative justice theory in this study, and in preparation for establishing a dialogue between restorative justice and atonement theology, an overview of the origins and inspiration for restorative justice in the present time is necessary, including consideration of its core principles and conceptual roots. The

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<sup>10</sup> Cornwell, D.J. (2007) p.117: "The courts have repeatedly ignored the periodic pleas of governments to use custodial sentences more sparingly and the average daily prison population of England and Wales has escalated almost continuously over the past 25 years. At a record level of over 80,300 in March 2007 it has risen by more than 90.7 per cent since 1980..."; cf. also, p.117n9, p.20, p.20n11

<sup>11</sup> Cornwell, D.J. (2007) p.19

<sup>12</sup> Cavadino M. and Dignan J. (3<sup>rd</sup> Edn, 2004) pp.9-31

search for a consensual definition, and some of the basic tensions surrounding restorative justice theory and practice which have made its development difficult, will be considered in due course. With regard to the beginnings of the modern restorative justice debate, Theo Gavrielides (2007) credits articles by Nils Christie (1977), Randy Barnett (1977) and Albert Eglash (1977) as being "...amongst the first to speak of a crisis in the justice system and of a new paradigm..." for criminal justice.<sup>13</sup> Christie argues that the conflict between citizens has been stolen by the state. His point is that, by restricting criminal procedures and laws to the narrow legal definitions of professionals and specialists, society has been robbed of the opportunity to establish its own norms and procedures for dealing with conflict.<sup>14</sup>

The criticism levelled by Christie pertains to norm classification. The strength and appeal of restorative justice is that it seeks to reclaim the space necessary for victims and the wider community to participate in norm setting. In doing so it calls for a re-examination of the assumptions underlying the present system and proposes a new paradigm for justice based not on punishment but on restitution. Barnett spoke of the criminal justice system being in "...the death throes of an old and cumbersome paradigm, one that has dominated Western thought for more than 900 years".<sup>15</sup> Frustrated by the normal court system, Barnett started to experiment with new ways of dealing with crime and in the process realised that the needs of victims, offenders and the community were not separate but interdependent issues which the justice agencies needed to address together. In the UK one of the key early pioneers of restorative justice was Martin Wright (1996), who strongly emphasised the rights of

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<sup>13</sup> Gavrielides, T. (2007) p.21; cf. Christie, N. (1977); Barnett, R.E. (1977); Johnstone, G. *ed.* (2003) pp.1-19

<sup>14</sup> Christie, N. (1977) p.4: "Lawyers are particularly good at stealing conflicts. They are trained for it. They are trained to prevent and solve conflicts. They are socialised into a sub-culture with a surprisingly high agreement concerning interpretation of norms and regarding what sort of information can be accepted as relevant in each case."

<sup>15</sup> Barnett, R.E. (1977) p.280

the victim and the importance in situations of harm and injury for mediation between victim and offender.<sup>16</sup> However, the first comprehensive account of restorative justice as an alternative paradigm to the traditional justice system is widely attributed to Howard Zehr (1980). Zehr's seminal book, *Changing Lenses*, suggests that justice needs to be viewed through a restorative rather than a retributive lens. The retributive lens views justice as abstract and impersonal whilst the restorative lens views justice as relational and focuses on harm done to people rather than to the state. He uses the simple metaphor of changing lenses to demonstrate how restorative justice principles challenge to the core the philosophical basis of the modern justice system. In stark terms he compares the two perspectives as follows:

<b>RETRIBUTIVE LENS</b>	<b>RESTORATIVE LENS</b>
Crime defined by violation of rules (i.e. broken rules)	Crime defined by harm to people and relationships (i.e. broken relationships).
Harms defined abstractly	Harms defined concretely
Crime, seen as categorically different from other harms	Crime recognised as related to other harms and conflicts
State as victim	People and relationships as victims
State and offender seen as primary parties	Victim and offender seen as primary parties
Victim's needs and rights ignored	Victim's needs and rights central
Interpersonal dimensions irrelevant	Interpersonal dimensions central
Wounds of offender peripheral	Wounds of offender important
Offense defined in technical, legal terms	Offense understood in full context: moral, social, economic, political.

Zehr, H. (2005): *Changing Lenses*, pp.184-5

In the light of this alternative vision of justice Zehr called for a different way of addressing and approaching the problem of crime and punishment. From his vision of justice, three core principles can be extrapolated which will be foundational to this study. They can be summarised as: 'radical participation', 'righting wrong in a

<sup>16</sup> Wright, M. (2<sup>nd</sup> Edn, 1996) p.132

morally serious way' and 'reintegration'. The first principle, 'radical participation', reflects how in restorative justice the offender, victim and community are participants not spectators in the judicial process. The second principle, 'righting wrong in a morally serious way', puts the focus less on punishing wrongdoing and more on establishing and maintaining right relationships; it seeks to establish what happened, to name the harm done and to agree what is needed for the hurt to be repaired and for victim offender and community to be restored. The third principle, 'reintegration', underlines that restorative justice is forward looking and transformative, looking to re-integrate the lives of those affected by crime and wrongdoing back into mainstream society, in ways by which they can live unhindered by the past.

On the British national scene under New Labour (c.1989-2010) the debate about restorative justice as an alternative to prison sentencing was given some prominence. In 2002 the Justice Minister, David Blunkett, outlined Labour's support for restorative justice programmes. The backdrop to the white paper, *Justice for All* (2002)<sup>17</sup>, was Tony Marshall's (1999) report in which he reflected on American research into the power of social capital ("collective efficacy") in reducing crime:

Restorative Justice Programmes mobilise community resources (voluntary organisations, volunteer mediators), enhance community capacities for social control (conflict-resolution, education, prejudice reduction experience of collaborative problem solving etc) and directly create opportunities for offender support and reform (e.g. conferencing programmes). This approach has at least found validity as a way of tackling the root causes of crime, which are known to reside in the community and in early social experiences. Traditional approaches have removed crime control more and more from the community, and these have demonstrably failed to prevent a growth in civility. The rebuilding of community cannot be regarded as an easy task in modern society, with its emphasis on individual freedom and competition, but there is little disagreement with the proposition that crime will only be controlled ultimately by creating a greater sense of social responsibility and a caring society.<sup>18</sup>

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<sup>17</sup> Home Office (2002): *Justice for All*

<sup>18</sup> Marshall, T. in, Home Office (1999) p.21

*Justice for All* took its final statutory form in the Criminal Justice Act, 2003. In his guide to the Criminal Justice Act, Bryan Gibson (2004) explains that the government identified five objectives in criminal justice policy: to reduce crime; to prevent crime; to reduce fear of crime; to tackle the public perception of crime; to build public confidence in the system. It sought to achieve its objectives via a multifaceted approach combining legislation and central government directives. Gibson describes the Criminal Justice Act (2003) as the epicentre of a “brave new world” of criminal justice which the government sought to construct.<sup>19</sup> Quoting the consultation document *Justice for All* Gibson explains that the act sought “...to rebalance the system in favour of victims and the community”.<sup>20</sup> In spite of a promising start, New Labour’s progressive commitment to promote restorative justice ideas did not significantly translate into new legislation and practices in 2000-2010, although what did unfold was support and backing for a number of significant pilot schemes such as the Thames Valley Police restorative cautioning initiative.<sup>21</sup> Over the first three years of this initiative 1,915 restorative conferences took place at which victims were present. In a further 12,065 restorative cautions, the views of any absent victims were relayed by the cautioning officer. This represents the largest-scale restorative justice programme in the UK to date.

The Minister for Justice in the Conservative-Liberal Democrat coalition government, Kenneth Clarke, presented a Green Paper to Parliament in December 2010 which particularly highlighted the need to address the problems of a failing prison system.<sup>22</sup> Clarke’s document raises the problems of increased reoffending and

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<sup>19</sup> Gibson, B. (2004) p.vii

<sup>20</sup> Gibson, B. (2004) p.vii

<sup>21</sup> Cf. Hoyle, C. *et al.* (2002)

<sup>22</sup> In December 2010, the Ministry of Justice published its criminal justice reform Green Paper, *Breaking the Cycle: Effective punishment, rehabilitation and sentencing of offenders*, which sets out

a rehabilitation framework which does not meet the needs of victims. He explicitly recommends restorative justice approaches to solving these problems:

We are committed to increasing the range and availability of restorative justice approaches... A substantial minority of victims would consider meeting their offender by way of a restorative justice process and those victims who do report high levels of satisfaction. The evidence suggests that the approach may also have a positive impact on the offender's likelihood of re-offending in the future.<sup>23</sup>

Clarke's document even proposes a role for restorative conferences in the judicial processes proper: "...restorative conferences carried out pre-sentence for offenders who admit guilt and who agree to participate, could be reported to the court with the victim's consent as part of presentence reports. They could therefore inform the court's decision about the type or severity of sentence handed down."<sup>24</sup>

As with New Labour twelve years before the early signs with the coalition government were very positive towards sentencing reforms and the use of restorative justice measures. Some commentators, including Martin Narey, saw a unique opportunity emerging for cross party co-operation: a ray of hope that policy making might move beyond the "arms race" of the last twenty years. However the riots in the summer of 2011 and the strong reaction of the courts and politicians suggest such optimism may have been premature.

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the Government's ambition for all criminal justice services to be delivered according to payment by results principles by 2015. Cf. also, Collins, J. (2011), which describes the proposals contained in the Green Paper to implement a process of payment by results across the Criminal Justice System, examines some existing examples of payment by results-based projects, and discusses some of the key questions that need to be resolved in the development of this new approach.

<sup>23</sup> Ministry of Justice (2010) p.22

<sup>24</sup> Ministry of Justice (2010) p.22

## **B. Methodological Considerations**

### **i. Locating this study within the tradition of Practical Theology**

Practical theology is concerned with the relationship between Christian ministry and theological discourse.<sup>25</sup> It is not a new discipline but one where the focus has evolved and changed over time in response to pastoral needs. For example, Graham notes that in the first two centuries the exercise of ‘practical theology’ was confined to the members of the community itself, caring for and edifying one another in the faith. Two instances can illustrate this: the letter ascribed to Clement, addressed from the church in Rome to the church in Corinth, seeks to resolve a dispute amongst their leadership; and the letter of Ignatius to Polycarp, which is primarily concerned with conserving the unity of the church.<sup>26</sup> Ignatius focuses particularly on the Bishop as a symbol of unity. As the church evolved, particularly in the Middle Ages, and the organisation of community care came to be regulated by clergy under the authority of the Church, the focus of practical theology was the sacramental ministry of the Church. In the 18<sup>th</sup> and 19<sup>th</sup> centuries practical theology was conceived as a sub-discipline within theological enquiry. Using a deductive approach, Friedrich Schleiermacher (1768-1834) maintained that the purpose of practical theology is to make systematic and biblical theology clear, applied and practically relevant.<sup>27</sup> Whilst helpful in some respects this approach contributed to making practical theology the poor relation within theology faculties and it was dismissed by many biblical and systematic theologians as lacking intellectual rigour and historical roots.<sup>28</sup> In the 20<sup>th</sup> century practical theology moved from the pre-war situation of being a

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<sup>25</sup> Graham, E. *et al.* (2007) p.2

<sup>26</sup> *I Clement* 63.2 and Ignatius: *Letter to Polycarp* 6 ([www.earlychristianwritings.com](http://www.earlychristianwritings.com))

<sup>27</sup> Cf. Schleiermacher, F. (1830): ‘Brief outline on the Study of Theology’ in, Tice, T.N. *ed.* (1960)

<sup>28</sup> Graham, E. *et al.* (2007) p.3

totally clergy centred and largely un-theoretical subject to being a sophisticated discipline within theology faculties. The shift is reflected in the change in terminology from ‘applied theology’ to ‘theology of practice’, akin to the evolution “...from hints and helps to hermeneutics”.<sup>29</sup>

Elaine Graham *et al.* (2007) define practical theology as “...critical reflection on faithful practice in a variety of settings”.<sup>30</sup> The intention behind this definition is to offer a more “integrated and dialogical relationship between the practice of ministry and the resources of theological understanding”.<sup>31</sup> Building on this definition, Graham *et al* suggest that practical theology explores three overarching questions. The first concerns human identity: what does it mean to be human and what is distinctive in the response of Christian theology to this question? The second concerns community: what does it mean to live faithfully and authentically as the “body of Christ”? The third concerns the engagement of faith with wider culture: “In what ways are Christians called to be signs of God’s activity in the world? How are the demands of “Christ” and “culture” to be reconciled in the way that faith is proclaimed and lived?”<sup>32</sup> In short, contemporary practical theology is no longer conceived as a sub-discipline within theology but rather as having “...the status of a primary theological discipline”.<sup>33</sup>

A wide range of theological reflection methods, old and new, are employed by researchers and these have been categorised by Graham *et al.* into seven models. Model I focuses on the interiority of human experience, to reflect theologically on God; journaling autobiography and psychotherapeutic accounts of the self are typically the tools used in this method. Model II focuses on scripture as an

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<sup>29</sup> Pattison, S. and Lynch, G. (3<sup>rd</sup> Edn, 2005) p.408

<sup>30</sup> Graham, E. *et al.* (2007) p.1

<sup>31</sup> Graham, E. *et al.* (2007) p.1

<sup>32</sup> Cf. Graham, E. *et al.* (2005) pp.10-11

<sup>33</sup> Graham, E. *et al.* (2007) p.8

authoritative narrative “augmented and challenged by the voices of alternative experiences”; in this approach voices inside and outside scripture are able to interweave in a dynamic way. Model III is more ‘classic’ in approach, focussing on scripture as the canonical story which shapes and forms Christian identity, individual and corporate. In model IV the life of the worshipping community, its liturgies and disciplines and the language used to describe itself are the raw materials for theological reflection. Model V seeks to establish a critical conversation between faith and surrounding culture on the grounds that human reason offers raw material for Divine disclosure. Model VI is characterised as love in action; mirroring the incarnation, faithful discipleship is about integrating faith and action in solidarity with the poor and oppressed. Finally, model VII focuses on how the metaphors and values of local cultures provide unique material for theological insight into the Christian life. In this study it is a combination of model V – using the method of critical correlation – and model VI, integrating faith and social action, which will be specifically employed.<sup>34</sup>

Critical correlation as a method for theological reflection was borrowed from the social sciences initially by Paul Tillich (1886-1965) and then further developed and refined extensively by others such as Seward Hiltner (1884-1984) in the USA, who developed the notion of mutual critical correlation, and Stephen Pattison in the UK, who developed the idea of a mutual critical conversation.<sup>35</sup> After the two world wars (1914-18 and 1939-45) Tillich maintained that the task of theological discourse needed to be re-evaluated. It needed to be less preoccupied with objective universal truths and more concerned with helping people live meaningfully, and with answering their existential questions. Theology, he argued, must engage with questions in a way

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<sup>34</sup> Cf. Graham, E. *et al.* (2005) pp.138-169

<sup>35</sup> Cf. Hiltner, S. (1958) p.223; Pattison, S. (2000) pp.135-45

that is theologically authentic and culturally relevant.<sup>36</sup> For Tillich, culture provided the questions and theology the answers.<sup>37</sup> Hiltner developed and refined Tillich's approach, arguing that correlation cannot be a one way dialogue but needs to be a mutual critical two way process.<sup>38</sup> This insight has been further refined by a number of writers. For example, Stephen Pattison's (2000) much cited article, 'Some straw for the bricks', highlights the notion of correlation being conceived as a critical conversation. He writes: "The notion of critical conversation between the student, Christian tradition and the empirical situation endeavours to make students conscious of their own presuppositions, the resources of the Christian tradition and the realities of a practical situation in such a way that each modifies and learns from the others in a dynamic interaction. This dialogical process occurs anyway in everyday life, the conversation model simply shapes and sharpens it."<sup>39</sup>

Graham emphasizes that critical correlation provides a method for speaking of God in public: "The Christian tradition should be prepared to engage in an open exchange of ideas and debate with different cultural disciplines, values, images and worldviews."<sup>40</sup> This study is true to this task. It begins in the public arena, amidst anxiety about crime and a failing penal system. Theology and legal theory come into dialogue through a critical conversation between restorative justice and atonement theology. In this conversation theology does not claim the high moral ground over the other but neither does it retreat into a corner and apologise for its existence. It acknowledges the importance of experience and ideas being in a dialectical relationship with theory each influencing, shaping and critiquing the other. It

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<sup>36</sup> Tillich, P. (1953) p.69

<sup>37</sup> Tillich, P. (1953) p.72

<sup>38</sup> Hiltner, S. (1958) p.223

<sup>39</sup> Pattison, S. (2000) pp.135-45

<sup>40</sup> Graham, E. *et al.* (2005) p.138

explores foundational questions concerning the role of punishment and the place of apology, forgiveness and atonement in the righting of wrongs. The theoretical discussion in Chapters II and III is a dialogue between atonement theology and restorative justice. In turn, the hermeneutical tool is tested and refined in Chapters IV and V against the evidence emerging from five case studies.

The attempt to bring contemporary atonement theology and restorative justice into dialogue in this study needs to be set in the context of a wider picture where, in recent times, attempts to engage theology and the law in dialogue have been few in number. The conviction of practical theologians currently writing on criminal justice, like Duncan Forrester (1997), Nicholas Sagovsky (2008) and Tim Gorringer (2004) is that public debate on issues of justice is enriched and deepened where lawyers and theologians engage with one another.<sup>41</sup> Viewing theology and law as dialogue partners can be mutually enriching. Each brings something different and distinctive to the discussion. More than forty years ago Bishop David Jenkins (1980) made this case:

“Responses to problems of crime in society cannot be worked out without recourse to value judgements and philosophical theories which go beyond the scope of criminology and of scientific procedures in general....thus on purely internal and logical grounds criminology cannot have any criteria which are purely its own for recommending how society should respond to what society defines as crime.”<sup>42</sup>

He goes on to conclude that theology can best serve the quest for an answer to how society responds to crime by keeping alive in criminology those awkward questions that are frequently neglected about the struggle to be human.

In spite of the often unfavourable climate, a number of initiatives to promote dialogue have been mounted and deserve to be noted. For example, a landmark

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<sup>41</sup> Forrester, D. (2012) pp.256-7; Sagovsky, N. (2008) p.xviii; Gorringer, T. (1996) p.17

<sup>42</sup> Jenkins, D. (1980) p.178

consultation was held in 1978 between criminologists and theologians under the auspices of the Department of Social and Pastoral Theology at the University of Manchester. The symposium which emerged from the consultation was entitled, 'The Coming Penal Crisis: a criminological and theological exploration'. The consultation was described as having two aims: (1) to examine, in the light of the best available criminological knowledge, the present and future policy options in the general field of the punishment of offenders; (2) to consider whether social theology has any meaningful contribution to make to this debate. The consultation was highly critical of the rehabilitative model, regarding it in the words of Bottoms as "...theoretically faulty, systematically discriminatory in application, and inconsistent with some of our most basic concepts of justice".<sup>43</sup> Ronald Preston (friend and co-organiser of the consultation with Bottoms) was not persuaded by the justice model. He argued against the tide for a continuation of the rehabilitative principles in some form:

We cannot give up a rehabilitative concern because its success is much more doubtful and the conditions it requires are more subtle than we thought. [...] A concern for human fulfilment must not be lost in concern for the justice model.<sup>44</sup>

In the intervening decades working groups, consultations and many articles have carried the voices of theologians on justice and penal policy matters. Forrester's recent work on theology justice and public policy offers a theological critique of the way in which justice is being conceptually shaped and moulded by current political and moral philosophies. Likewise Sagovsky and Gorringer both critique the criminal justice debate from a theological perspective. Particularly significant for this study, is Gorringer's book, *God's Just Vengeance*, where the relationship of satisfaction

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<sup>43</sup> American Friends Service Committee (1971), *Struggle for Justice*, in Bottoms, A.E. (1980) p.3

<sup>44</sup> Preston, R.H. (1980) p.115

atonement theology and penal strategies down through the ages is robustly analysed.<sup>45</sup> Drawing on these and other writers, Chapter III of this study will review contemporary readings of the atonement and their relationship to the theory and analyse the practice of restorative justice. Continuing the listing of initiatives, note should be made of work done by the penal affairs working groups in various churches, especially the Church of England, the Church of Scotland, the Catholic Bishops Conference in England and Wales, the Methodist Church and the Society of Friends (Quakers). Each of these traditions has sought, through statements and documents, to contribute to the public debate on criminal justice issues. Lastly, a small but significant initiative in recent times has been the creation of the Churches' Criminal Justice Forum<sup>46</sup>. This body sought with the support of trust funds to provide advice to local churches on how they could become involved in the criminal justice system and also provided written submissions to the government on consultation papers about criminal justice reform. That forum has done good work but struggles in the economic climate to survive. Notwithstanding these important efforts, dialogue and partnership between theology and criminal justice has been at best sporadic. In Forrester's view the "...gulf that has opened up between theology and theories of justice has impoverished both...theories of justice which eschew theology tend to end up narrow and thin, incapable of playing adequately the central role in society that justice should".<sup>47</sup> This study seeks to facilitate a dialogue between restorative justice and contemporary atonement theology. Out of this dialogue a hermeneutic emerges

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<sup>45</sup> Gorringer, T. (1996) pp.6-7

<sup>46</sup> The Churches' Criminal Justice Forum is a network of Churches Together in Britain and Ireland. Its purpose is to uphold Christian values in the field of criminal justice, to promote awareness of criminal justice issues in the churches and to make representations to Government on behalf of the churches. It advocates the use of restorative justice, supports Christians working in the criminal justice system, and promotes community projects to reduce offending. (From <http://www.ccjf.org/> on 7 September 2012)

<sup>47</sup> Forrester, D. (1997) p.3

which will be used to evaluate and shape the responses of local Christian communities to crime and wrongdoing.

### **C. Qualitative Research Methods**

Within the overarching paradigm or model of critical correlation this study utilises an action - research method. Following Grundy's typology of action research<sup>48</sup>, in which three possible modes of research are identified as technical, practical or emancipating, this study belongs to the third mode. It "promotes emancipatory praxis in the participating practitioners; that is, it promotes a critical consciousness which exhibits itself in political as well as practical action to promote change".<sup>49</sup> This approach has two goals<sup>50</sup>: first it attempts to "bring together theory and book knowledge with real world situations, issues and experiences", and second it seeks to help participants better understand fundamental problems by raising collective consciousness. It is, as Berg notes, "actually the coming together of theory and enlightenment that provides the emancipation and empowerment to the participants, which then leads to action and change".<sup>51</sup> Through focus groups and informal meetings the study itself sought to be an awareness-raising and empowering process, but crucially, arising out of the critical conversation between theory and practice, the study offers a tool for longer term action.

The principles of qualitative enquiry adhered to within the research can be summarised into three basic categories: design strategies; data collection and

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<sup>48</sup> Grundy (1988) p353

<sup>49</sup> Grundy, S. (1987) p154

<sup>50</sup> Berg, B.L. (2004) p204

<sup>51</sup> Berg, B.L. (2004) p204

fieldwork strategies; and analysis strategies.<sup>52</sup> Taken together they constitute a coherent and comprehensive framework for this qualitative research.

### **i. Design Strategies**

Four observations will be made in relation to design strategies. First, it is important to consider the matter of bias. The literature on qualitative research increasingly acknowledges that subjectivity or researcher perspective is a given. Credibility and reliability do not depend on researchers putting aside their preconceptions and political values for, as Griffiths notes, “Bias comes not from having ethical and political positions – this is inevitable – but from not acknowledging them. Not only does such acknowledgment help to unmask any bias that is implicit in those views, but it helps to provide a way of responding critically and sensitively to the research”.<sup>53</sup> The need, rather, on the part of the researcher is for an attitude of self-awareness and openness: “Researchers need to bring a critical self-awareness of their own subjectivity, vested interests, predilections and assumptions and to be conscious of how these might impact on the research process and findings”.<sup>54</sup> Subjectivity should, she argues, “be placed in the foreground so as to begin the process of separating out what belongs to the researcher rather than the researched”.<sup>55</sup> Because subjectivity has come to be regarded as inevitable, researcher reflexivity has become an important concept in qualitative research. Reflexivity emphasizes the importance of self awareness, political consciousness and personal perspective. Macbeth notes that “...reflexivity is a deconstructive exercise for locating the intersections of author,

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<sup>52</sup> Cf. Quinn Patton, M. (3<sup>rd</sup> Edn, 2002) p.39

<sup>53</sup> Griffiths, M. (1998) p.133

<sup>54</sup> Finlay, L. (2008) p.17

<sup>55</sup> Finlay, L. (2008) p.17

other, text and world”.<sup>56</sup> Crucially, reflexivity does not simply prevent bias; it is a positive asset in both fieldwork and analysis. It “reminds the qualitative inquirer to be attentive to and conscious of the cultural, political, social, linguistic and ideological origins of one’s own perspective and voices of those one interviews and those to whom one reports”.<sup>57</sup>

This study has many elements of a naturalistic enquiry, of being open to whatever emerged through participant observation of local worshipping communities and para-church groupings. At the same time the restorative lens through which the case studies were observed and analysed is indicative of researcher subjectivity. My preconception was that responding to crime and wrongdoing belongs to the nature and calling of the church, and that restorative justice theory may be a helpful tool or template for enhancing their response. This perspective was shaped by my personal history and experience as a female Baptist minister, who has spent many years on the staff of the World Council of Churches (WCC) supporting local Christian communities working for reconciliation in conflict situations. This consciousness of the inevitability of a personal perspective/standpoint and of the need for self-awareness was important right from the design stage of the study. An early challenge in terms of research design was that the central research question met with some resistance from interviewees, particularly but not exclusively from participants in Case Study A. Some felt that the discussion might be too narrowly tied to criminal justice definitions of offending behaviour whilst ignoring other forms of wrongdoing such as stigma and discrimination which are critical to a comprehensive understanding of crime and wrongdoing within communities. These interviewees were concerned that if they were to respond authentically they needed space to name

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<sup>56</sup> Macbeth, D. (2001) p.35

<sup>57</sup> Quinn Patton, M. (2002) p.64

and analyse the crime and wrongdoing within systems and structures of power. Behind their objections was the concern that the language and logic of crime reduction policy addresses crime and wrongdoing in a too narrow, bureaucratic and middle class way. It seeks not to understand the complexity of crime but to manage and control crime. For example, the investment in electronic security devices to monitor, catch and otherwise deter would-be offenders is a results-based response. It measures the problem in terms of recorded incidents. This, they argue, is inadequate and misleading. A more profound understanding and more holistic response is necessary. Such concerns find considerable support in social work and community health research where it is argued that crime reduction has not only become a central concept in judicial policy but also the critical framework through which social policy is measured and formulated. Everything is seen and evaluated in terms of its capacity to reduce or deter crime.<sup>58</sup>

These objections to the research question needed to be taken seriously, and initially their reactions had me wondering if I had been deluded, unable from my safe protected middle class world to see what was going on. Was I guilty of adopting the dominant discourse of crime and wrongdoing and so framing my interviewees? Whilst challenged by their response, I had very clear reasons for keeping my nerve. First, very practically, it was clear to me that because violence is such a complex phenomenon, its enormous complexity required tough decisions about research parameters to be made. Second, my rationale for using legal parameters to define crime and wrongdoing was influenced by the fact that the discourse was intended to be between theology and the criminal justice system it needed not to morph into something else. Third, in terms of methodology I felt confident that the boundaries of

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<sup>58</sup> Knepper, P. (2007) p.139

crime and wrongdoing set by the legal system would not go unquestioned. Indeed, they would be all the more carefully analysed and critiqued because qualitative enquiry is not a tidy science, it rather is shaped and influenced by the dialectical relationship between theoretical knowledge and the lived experience and insights of specific communities and contexts.

Second, in relation to the research design, a criterion sampling strategy was adopted for the first three case studies. Specifically this means all three cases meet the criterion of a high risk crime spot. In significant ways the profile of the three congregations represent contrasting sites. A and B were established in the 1960s and are located in deprived neighbourhoods, whilst C is an historic well-endowed church, founded 250 years ago and situated in the centre of a wealthy city. But these worshipping communities face a common challenge: they are situated in areas where social deprivation and crime are high. This will be demonstrated in the case studies from residents' own accounts and with reference to the national index of crime deprivation. These cases studies were – on the basis of statistical evidence – likely to be information rich. Design flexibility was necessary however, because an initial evaluation of the data collected in the first three studies – involving congregations – revealed modest to low levels of direct involvement with issues of crime and wrongdoing. This was a disturbing result. I reflected on this problem with others, fearful that I may have been asking the wrong question, or the right question of the wrong people. My problem was not a lack of results but simply not the results that I had been expecting. Once again reflexivity was needed. As a card carrying church member I wanted the church to look good. That its efforts were at best mixed is not surprising. One creative option suggested to me by a congregational researcher was that I might think about extending the scope of the study sample and investigate

situations where churches and their members who want to respond more directly to issues of crime and wrongdoing are finding ways of doing so. As a result, two further case studies go beyond congregations as units of analysis to describe how members, commended by their local churches, are recruited and trained as volunteers of specialist para-church agencies and networks to deliver programmes designed to address crime and wrongdoing. The decision to vary the unit of analysis during the fieldwork was in recognition of the fact that congregations by themselves are limited in their response capacity and that their scope for responding is in fact greatly enhanced when churches locally work together supported and guided by specialist agencies. Changes to the research design were therefore made to reflect this reality, to collect more resource rich data and thereby to increase the validity and reliability of the study.

Third, in relation to design, the case study approach, allowed for an in depth investigation into five situations. The nature and degree of my participation varied across the case studies according to possibilities and opportunities. In the local worshipping communities, I engaged initially as a participant/ observer, sharing in worship and social gatherings as a way of building up relations, whilst at the same time undertaking document analysis. I achieved different levels of trust and acceptance in these congregations. When it came to specialist programme activities my engagement shifted from participant observer to onlooker. Programme volunteers were also interviewed, giving a different perspective which enriched and complemented what could be learnt from looking-in on the activities. My participation in the prison sessions was inevitably that of onlooker rather than participant; I could only gain a very surface experience of what life in prison was like, and the relationship with the prisoners was strictly limited to the victim awareness

sessions. However, the interviews with the volunteers were very open and sometimes emotionally raw experiences. It was possible in ways that surprised me to come alongside many of the prison volunteers. In case study D, I enrolled and trained as a street pastor so that I could walk the streets as a street pastor in my home town as well as observe teams in other towns. So across the five case studies there have been significant differences in the nature and degree of the participation. In all cases, however, it was important to try to be flexible, sensitive and adaptive in negotiating the precise degree of participation. The crucial factor in each was being able to devote enough time to become as integrated as possible into the setting.

The insider-outsider or emic and etic perspectives in this research were also important to establish. The question of whose values will guide the observation came up early in the work with the congregations because two of these were working class estates. The emic values of these groups were not sure to match the etic values of a middle class researcher. Methodologically, the challenge was to try to do justice to both perspectives during and after the field work, and to be clear with myself and with the audience how this tension is managed. The nurturing of relationships of trust and empathy was key.

Actively participating in these communities and getting close enough to the individuals interviewed to begin to understand what was happening was demanding work. Had I used standardised tests and worked with data collected by others (a tempting option) I would not have been able, to the extent that was possible, to feel empathy or to understand the distinct character and the discreet concerns of the different case studies. The tradition or doctrine of '*Verstehen*' which undergirds much qualitative inquiry, "...places emphasis on the human capacity to know and

understand others through empathic introspection and reflection based on direct observation and interaction with people”.<sup>59</sup>

An inside understanding of the case studies, was gleaned through proximity and closeness. The rigorous and sometimes tedious work of transcribing, assessing and evaluating different data sources brought me close to the situation. At the same time detachment from the situations was important to reflect and make sense of the different voices. The findings from semi-structured interviews conducted with church members in each case study were eventually triangulated with a range of other sources of evidence: including focus group sessions, feedback group sessions and documentation (primary and secondary sources) in order to try to ensure validity and ultimately reliability in the findings. As already noted, after conducting the first three case studies the design was reviewed and modified to widen and strengthen the data collection.

Participant observation can of course range from solo, to team, to full participatory and collaborative approaches. This study was a collaborative in as much as I sought through focus groups to reflect back and check out my thoughts with the study participants. In the final stages of write up I shared the text with the primary contact in each setting to ensure accuracy of details. But that said, this research was largely a solo exercise. This was to the benefit of the study, in that I was able to immerse myself in each setting and conduct all the interviews myself. Thus, I was able to gather more than the words on a recording; I sensed and read other non-verbal messages through gestures and body language and also, around the edges of interviews, I was able informally to enter more into the life stories of the different people involved in the study. The disadvantage of this approach was that I was not

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<sup>59</sup> Quinn Patton, M. (3<sup>rd</sup> Edn, 2002) p.52

able to reflect with peer researchers, but on balance the solo approach is one I would choose to do again.

Fourth, and lastly, regarding research design, a note on ethical standards in respect to the field work is needed. The identities of the communities and persons involved in this study have been made anonymous. The names of all places and people are pseudonymous. The exception to this is the identification of the para-church organisations and in the case of the Street Pastors the names of their two founding members and leaders who were interviewed are included. The case study texts have been shared with key stakeholders in each case for their comment and feedback. Whilst formal ethical guidelines and procedures were not in place when this study was begun, the steps taken to ensure anonymity and accuracy correspond to the ethical standards currently required in academic research at this level.

## **ii. Strategies for Collecting Data**

Access into the world of three local worshipping communities and two para-church groupings began with the gatekeepers. The ministers were approached first, to engage them in discussion and request their support for the idea of studying their communities. A preliminary outline of the study was shared with them and subsequently with their church leaders meetings. In the first two case studies the approval of the church leaders was sufficient and this was simply announced to the congregation in the context of a Sunday morning service. I was then invited to say a few words of explanation about the study. In the third case study the church leaders commended the research request to the church meeting and invited me to make a presentation and answer their questions before a vote was taken. The difference in the processes for accessing the congregation was consistent with the styles of the

leadership and decision making in the three congregations. Approval for fourth and fifth case studies was negotiated through discussions with the central office staff. Protocols were written up and agreed. Securing agreement to carry out Case Study E was the most structured process of all.

Each case study was conducted over a period of 6-12 months. During this time, I visited and conversed with church members, programme volunteers and paid staff. I also experienced the life and ethos of the congregations and volunteer organisations through participating in and observing their activities. Focus groups in the congregations were used initially to open up discussions about crime and wrongdoing in the community. This was to help prepare the ground or set the context for the interviews. Material I had prepared for an ecumenical lent course, entitled 'Easter People in a Good Friday World', was used to facilitate these focus group discussions.<sup>60</sup>

Central to each case study was the conducting of semi-structured interviews with members and volunteers from the churches, plus some representatives from the wider community. The persons selected for interview were discussed with the minister and in the case of the agencies with the central office staff. In the studies of the congregations the range of interviewees selected included clergy, paid staff, core members and programme volunteers. In the para-church case studies, volunteers were selected by the agency head office staff. This was necessary on practical grounds, since I had no means of knowing who could be approached. They selected on the basis of geographical proximity, gender and experience. The interviews usually took place in the home of the interviewee and lasted around one hour. Sometimes interviews took place at a neutral venue – at the church or in café settings – which

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<sup>60</sup> Cf. Blyth, M. and Robins, W. (2004)

suiting the convenience of the interviewee but they were less successful because it was not possible to record them. Similarly, in the interviews with the police it was requested that I did not use a recorder.

In addition to interviews the communities were regularly visited. The purpose of the local church visits was to observe and directly experience the community work and worship life of the congregations. This included attending worship services and house group gatherings; church consultations and decision making meetings; and community programme events run by the congregations. With the para-church organisations I visited national offices to get to know key staff and experience the ethos of the organisation. As well as interviewing volunteers, I went with some of the volunteers to observe their work on the streets and in the prisons.

A range of primary and secondary documentary evidence was also collected from the congregations and organisations. In addition to primary sources, such as observation notes and interviews (with clergy, staff, church members, activity volunteers, partner agencies and local police) a range of documents was accessed. Minutes, publicity leaflets and magazines, studies and reports generated by the congregations were gathered. Wider documentary evidence included local crime statistics, newspaper articles, and statutory and voluntary sector neighbourhood reports. With regard to the para-church case studies specialist research material and articles on the Sycamore Tree Project and on the Street Pastors were accessed making it possible to cross reference details and compare findings.

### **iii. Strategies for Assessing and Evaluating the Data**

The debate in recent years on assessing and evaluating restorative practise remains inconclusive but this study seeks to observe some of the main points of agreement in the literature. First, following Daniel Van Ness (2003) and Karen Strong (2002) attention is given to both process and outcomes, each of these being critical if restorative principles are to be properly adhered to. Second, attention is paid to the importance of all three stakeholders being meaningfully involved: victim, offender and wider community. The methods and models currently being proposed reflect a move towards a more precise means of measuring restorative practice. Whilst being helpful these tools do not exactly fit the scope of this study, which is to assess a wide range of church responses to crime and wrongdoing in the community, some of which are explicitly restorative justice programmes but most not. So existing tools have informed but not prescribed the approach adopted here for the evaluation of responses to crime and wrongdoing. An approach has been adopted which seeks to ask questions that help capture and analyse the restorative nature of the work undertaken by the local worshipping communities and para-church groups, paying careful attention throughout to: (A) whether both process and outcomes receive attention; (B) if and how the needs and involvement of all stakeholders are met. Assessment and evaluating of the data comprised several stages. Much of the material gathered needed to be set aside; the initial findings (Chapter IV) presented a confused *ad hoc* picture of community action, which could be read in different ways. The data from Chapter IV was classified into categories (Chapter V) which differentiated church actions according to the type of crime or wrongdoing ('personal' or 'structural') and

according to the type of intervention ('direct' or 'indirect'). The material was then assessed and the findings evaluated using the restorative hermeneutic.

#### **D. Case Study Profiles**

A brief overview of the profile of the case studies is offered here. More details on the demographics and crime profile of these situations are included in the presentation of the case studies in Chapter IV.

##### **i. Case study A**

Like many housing estates in the 1960s this one was designed in ways that are now regarded as environmentally flawed. Its many cul-de-sacs and concealed, unlit walkways, popularly known as 'rat runs', together with high rise tower blocs, invite crime and force many people who are afraid of being mugged to stay indoors, isolated and deprived of social contact. Its reputation as a 'no go area' or 'trouble spot' is sustained largely by myth and prejudice. The congregation has twenty-seven members compared to the 1950s, when it had around eighty. Originally the idea was not to have a building but to meet in houses, though within five years this experiment was replaced with the vision of a church building that would also double up as a community centre. The multi-purpose building reflected the vision of the minister and members, who wanted to have a strong community focus. With declining numbers, the resources and capacity for action in the community has been reduced. However, sustained by the vision of a thriving and flourishing community the congregation is constantly looking for alternative ways to empower its residents.

## **ii. Case Study B**

The congregation is situated within an ethnically mixed community on an estate which is very different to the context of Case Study A. Problems on the estate related to race and police harassment are acknowledged and denied in equal measure. The level of poverty and need is not as visible as in the past and the impression outsiders get is that people are comfortable, but the incidences of debt and debt related suicides, of drug trading and substance abuse, of domestic violence and knife crime tell another story. The congregation was formed in the 1960s as a Local Ecumenical Project sponsored and funded by four historic traditions: Anglican, Methodist, URC, and Baptist; latterly the Moravians have also joined. Over the last 30 years the church has helped to create and to run major community projects. However, its membership today is around 40, which is half what it was in the 1970s, so it no longer has the resources to start up projects and maintain programmes for the community. What it does have is a large building centrally located in the heart of the estate. By being generous with its resources, and committed to using them for the community, it has become the base for two Christian initiatives which deliver a wide range programmes, especially for the youth, on the estate.

## **iii. Case Study C**

The location for Case Study C is a busy city centre shopping area. The square around which the shops have been developed, attracts many tourists, but it has for a long time been a gathering point for the homeless, and for alcoholics and drug users. The image

of the area as unsafe increased when many nightclubs opened in the surrounding streets. The city council put forward proposals in 2007 for the renovation of the square, citing reduction of crime and anti-social behaviour amongst the objectives. The renovated square is now a popular congregating point, with bench seating areas and floodlit terracing, attracting many people day and night. The church, once hidden away in the corner of the square in a shady courtyard is now wide open to public view, part of the new open plan design. The area remains a priority concern for the city police and CCTV cameras monitor groups coming in and out of the square, particularly those occupying the space in the evenings and nights. Antisocial behaviour, alcohol abuse and drug trafficking are the main issues being observed.

The local worshipping community has 90 members. The church owns three shops near to the square and draws rental income from these which help to keep the church – a high maintenance listed building – in working order. This case study is very different to the first two because of the location and the comparative wealth of the congregation. However, its members are dispersed across the city and its volunteer capacity for serving the community is thin. They are engaging in modest ways with issues of crime and wrongdoing in new ways, partnering with the city police, the local council and the prison authorities.

#### **iv. Case Study D**

The Ascension Trust literature describes Street Pastors as: "...an inter-denominational Church response to urban problems, engaging with people on the streets to care, listen and dialogue".<sup>61</sup> It was co-founded in London, in January 2003, by the Revd Les

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<sup>61</sup> Website: <http://www.streetpastors.co.uk/Home/tabid/255/Default.aspx>

Isaac (Director of the Ascension Trust), the Revd David Shosanya and Detective Constable Ian Crichlow. It emerged amidst widespread concern especially amongst the black communities in major cities about rising gun and knife crime. The organisation Street Pastors UK has grown rapidly and now boasts well over 100 teams operating in cities and towns around the country. It also claims some remarkable results, including decreases in crime where teams have been working. Street Pastors was conceived by its founders as an 'urban trinity' solution to crime and disorder. The term 'urban trinity' is a play on the theological idea of partnership and participation. God the Trinity (Father, Son and Holy Spirit) is a community of three. The communitarian God is frequently described as analogous to partnership in the human realm; so humans, made in the image of the triune God, are only truly themselves when they relate and co-operate together for the good. Street Pastors is therefore essentially a faith inspired partnership whereby church members, local councils and the police work together, each playing to their strengths to prevent and reduce crime. Each local street pastor project is officially set up by the parent charity Ascension Trust. A local coordinator is appointed by the churches and volunteers from the churches are recruited and trained as street pastors. In teams of four they walk the streets from 10pm till 4am. After receiving their training street pastors are validated by the police and receive the combined support of the churches, the police and local government.

#### **v. Case Study E**

In 1995, Prison Fellowship International gathered from around the world staff and volunteers with restorative justice expertise to develop a victim awareness program

that Prison Fellowship ministries could use. Van Ness coordinated the development of the program. In 1996, a manual was published and distributed, including the six teaching sessions for the delivery of the Sycamore Tree Programme. In spring 1998, Prison Fellowship USA expanded the program and piloted it. Shortly after this, Prison Fellowship New Zealand piloted the program and then, in December 1998, Prison Fellowship England and Wales adapted, shortened and piloted the program at Her Majesty's Prison 'The Mount'. The Sycamore Tree Programme is described as a victim awareness programme which teaches the principles and application of restorative justice. The programme is offered to all regardless of faith, gender or age and is delivered by trained Prison Fellowship staff and volunteers. The programme consists of approximately fifteen hours of structured discussion and activities and seeks to enable participants to: (1) understand the wider impact of their criminal behaviour and accept a greater level of personal responsibility; (2) identify with a victim's experience of crime and the need for victim/offender forgiveness and reconciliation; (3) learn about the process of restorative justice and how offenders, victims and the wider community can take part; (4) plan steps to reduce offending behaviour whilst still in prison. Sycamore Tree courses are run in over fifty prisons within the UK. These prisons range from high security to open detention centres. The participants in the courses have committed a wide range of crimes which are not known to the volunteers leading the courses but the nature of their offence usually emerges in conversation during the six weeks of the course. Since 1998 more than 10,000 prisoners have taken part.

**II**

**DEFINING RESTORATIVE JUSTICE**

**LOCATING IT WITHIN THE MODERN CRIMINAL JUSTICE**

**DEBATE**

**(1750 TO THE PRESENT DAY)**

This chapter establishes a working definition of restorative justice. It identifies where restorative justice principles resonate or engage with the modern criminal justice debate (from 1750). It also develops the case for a restorative model for evaluating the responses of local Christian communities to crime and wrongdoing. This definitional exercise is directly relevant for subsequent chapters where restorative justice is brought into dialogue with atonement theology (Chapter III), out of which a restorative hermeneutic emerges. This is used to evaluate the response of local Christian communities to crime and wrongdoing (Chapter V).

The chapter is divided into three parts. The first section articulates a working definition of restorative justice whilst recognising that it is provisional due to the polarised views which characterise the current debate amongst its advocates. The second section gives an account of the modern criminal justice debate. It is described in terms of three distinct phases: Classical, Positivist and Realist.<sup>62</sup> Reflection is offered at several points where concepts inherent to restorative justice seem to be emerging. Consideration is given to how each of the historical phases enables us to understand our current situation. The third section turns to the writings of the Australian criminologist John Braithwaite (1989, 2000, 2003), whose work on restorative justice has attracted the attention of academics, practitioners and policy-

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<sup>62</sup> Jones, S. (2006) pp.1-8

makers. First, he roots the debate about restorative justice in a wider philosophical challenge to western legal thought advocating a republican approach to criminal justice. Second, his theory of ‘re-integrative shaming’, integrates normative and explanatory theories of crime in a way that both attracts and repels his critics. His presence brings intellectual rigour, in both theoretical and empirical terms, to the debate about restorative justice and his writings have been formative in developing the principles underlying the working definition this study uses. The discussion around Braithwaite highlights those aspects in the historical account with which he particularly engages. His theory of re-integrative shaming is analysed and some implications arising from it are drawn out.

#### **A. Defining Restorative Justice**

Reaching consensus on a definition of restorative justice has proved to be an elusive task to its advocates. The scope of the challenge is daunting because the boundaries constantly seem to expand. It is not enough simply to say that restorative justice is a new vision for criminal justice since it challenges the core principles and concepts of the justice system. Its implications reach beyond the justice system into the deep structures of society as a whole. Braithwaite writes that whether restorative justice is conceived as:

...an intellectual tradition or an approach to political practice, it involves radical transformation... [It] is not simply a way of reforming the criminal justice system it is a way of transforming the entire legal system, our family lives, our workplace, our practice of politics. Its vision is of a holistic change in the way we do justice in the world.<sup>63</sup>

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<sup>63</sup> Braithwaite, J. (2003) p.1

In light of the multiple and incompatible variations in restorative justice visions that exist, Gavrielides maintains that reaching a consensual definition is just not viable. He argues that a prior step is needed, in which the substance of the conceptual conflicts is first analysed and reconciled.<sup>64</sup> The exercise of defining restorative justice is very much unfinished business. The working definition adopted in this study draws on the writings of Marshall, whose definition has been substantially taken up and used by the United Nations (UN).<sup>65</sup> His definition and its related foundational principles will shape the dialogue between restorative justice and atonement theology; from this a restorative hermeneutic will be developed by which to evaluate the case studies.

The starting point for any definition of restorative justice is the recognition that it represents a radically different understanding and approach to responding to crime and wrongdoing to that conceived within the modern criminal justice system. Comparing restorative justice to the traditional criminal justice system, Zehr noted:

Instead of our preoccupation with the three questions that dominate the western legal system – What rule or law was broken? Who “did” it? What do they deserve? – the guiding questions of Restorative Justice are:  
Who has been hurt?  
What are their needs?  
Whose obligations are these?  
What are the causes?  
Who has a stake in this situation?  
What is the appropriate process to involve stakeholders in an effort to address causes and put things right?<sup>66</sup>

The formulation which has thus far enjoyed widest agreement and was used, with some amendments, in the UN Declaration (2003), *Basic Principles for the Use of Restorative Justice*, was proposed by Marshall:

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<sup>64</sup> Gavrielides, T. (2008) p.169

<sup>65</sup> UN Economic and Social Council (2002)

<sup>66</sup> Zehr, H. (1995) p.271

Restorative justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future.<sup>67</sup>

Marshall notes that restorative justice "...is not any particular practice, but a set of principles which may orientate the general practice of any agency or group in relation to crime".<sup>68</sup> These include making room for the personal involvement of those concerned (particularly the offender and the victim, but also their families and communities); seeing crime problems in their social context; a forward-looking (or preventative) problem-solving orientation; flexibility of practice (creativity).

Marshall's definition emphasises the importance of the role of crime victims and community members having an active involvement in the justice process. It holds offenders directly accountable to the people and communities they have violated. It seeks to restore the emotional and material losses of victims, and provide for a range of opportunities for dialogue, negotiation and problem solving, which can lead to a greater sense of community safety, social harmony, and peace for all involved. It re-defines crime, interpreting it not so much as breaking the law or offending against the state but as a wrong done to another person or persons.

Whilst helpful this definition is still incomplete for a number of reasons. For example, James Dignan (2000, 2002, 2003) argues that it is too 'process' focussed and does not sufficiently emphasise 'outcomes'.<sup>69</sup> Braithwaite, on the other hand, argues that it needs to be broadened to acknowledge that restorative justice applies not only to the reform of the criminal justice system but to the justice system overall. The on-

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<sup>67</sup> Marshall, T. in, Home Office (1999) p.5

<sup>68</sup> Marshall, T. in, Home Office (1999) p.4

<sup>69</sup> Dignan, J. (2003) pp.136ff.

going debate about definitions has been described as akin to fault-lines.<sup>70</sup> Three fault-lines in particular should be noted.

The first fault-line reveals a tension between ‘process’ and ‘outcomes’. On one side of the “fault-line” restorative justice is conceived as a distinctive process for dealing with crime and its aftermath. This perspective is best represented by Marshall’s formulation, already cited, which begins: “RJ is a distinctive type of decision-making *process*...” Core ethical values underpin the process providing important safeguards to minimise the risk of abuse to which informal restorative justice processes might otherwise be subject. These process values, listed by Dignan include:

...the need for consensual participation on the part of the principal stake-holders; for dialogue based on the principle of mutual respect for all parties; for a balance to be sought between the various sets of interests that are in play; and for non-coercive practices and agreements.<sup>71</sup>

In addition to these process values a significant attribute related to the process is its forward-looking, ‘problem-solving’ orientation.<sup>72</sup> This means there is potential in restorative justice not simply to respond to crime but to prevent crime. Braithwaite’s theory of re-integrative shaming is presented as a means both of reducing and controlling crime.<sup>73</sup>

Advocates of an exclusively process-based definition of restorative justice, like Marshall, insist that it must involve all those with a stake in the offence and that the ‘eligibility’ for the process is restricted to those cases that can meet the required standards. For them, it follows that the scope for using restorative justice processes

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<sup>70</sup> Dignan, J. (2002) pp.6-22; Gavrielides, T. (2008) pp.165-183

<sup>71</sup> Dignan, J. (2003) p.6

<sup>72</sup> Dignan, J. and Lowey, K. (2000) p.14

<sup>73</sup> Braithwaite, J. (1989) p.4; for a fuller discussion see, Braithwaite, J. (1999) pp.1-127

may be quite narrow. Moreover, the prospects for future development and expansion would also appear to be correspondingly limited, at least in the short term. For those like Daniel Van Ness (2002, 2003) who occupy the opposite side of this process-outcomes fault-line, the idea of measuring restorative justice purely on the basis of process undervalues it *per se* and diminishes the vision of justice itself. Braithwaite, like Van Ness, recognises the importance of process in restorative practices, so that all three primary stakeholders are meaningfully involved – victims, offenders and their communities of care – but he also highlights the importance of outcomes, so that all stakeholders have their needs met.

The second fault-line draws attention to different understandings of the principle of participation, broadly categorised as civilian versus communitarian. Restorative justice advocates are united in their opposition to a system which they perceive to be flawed, believing that crime is not just an offence against the state but is the breakdown of relationships between victim, offender and the wider community.<sup>74</sup> Beyond this point of correspondence there is not agreement amongst advocates around three issues:

1. Stakeholder identity: the degree to which the interests of all parties must be met
2. Stakeholder representation: the extent to which the different parties need to be represented in the decision making process
3. The role of the stakeholder in determining outcomes, including whether and how much the interests of all parties need to be reflected in the outcomes

Some take the view that a system is either fully restorative or not at all. By fully restorative they mean that the stakeholders all have full involvement. Others argue in

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<sup>74</sup> Dignan, J. (2002) p.12

different ways for degrees of restorativity. Van Ness and Strong, for example, have proposed a model for assessing whether a restorative programme or system is minimally, moderately or fully restorative.<sup>75</sup> Their incremental approach plots on a matrix where restorative values and attributes are demonstrated in a programme or system on the level of both process and outcomes. Alternatively, McCold and Wachtel have developed a restorative practice typology, for assessing the extent to which all three primary stakeholders are actively involved in meaningful emotional exchange and decision making.<sup>76</sup> Using a Venn diagram they conceptualise the relationship between the three major 'stakeholders'. Fully restorative practices occur at the intersection of the three circles of 'victim reparation', 'offender responsibility' and 'communities of care reconciliation'. Fully restorative practices include peace circles, sentencing circles and conferences of various types. Outside the intersection are practices which are mostly restorative (e.g. truth and reconciliation commissions, victim-offender mediation) or only partly restorative (reparation boards, youth aid panels, victim reparation).

Together, these tensions around stakeholder participation create a significant fault-line between two opinions which Dignan categorises as 'civilian' and 'communitarian'. The extremes of these positions, he posits, are equally problematic when it comes to safeguarding the rights of stakeholders. The civilian position holds that civil law rather than criminal law procedures are the best sole response to crime. The logical extreme of this position however fails to recognise the difference between civil disputes and crime, and ignores the fact that wrongdoing is not only interpersonal but also has wider societal implications which need to be addressed. The communitarian position, on the other hand, maintains that out of court

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<sup>75</sup> Van Ness, D. (2003) p.270

<sup>76</sup> McCold, P. and Wachtel, T. (2003) p.3

conferencing procedures, independent of the criminal justice system, offer a better way of responding to crime. The problem is that this requires a situation where the community functions in the best interests of its members and is never tempted to act in a prejudicial or vigilante fashion. Once again advocates of the just desert model (including Anthony Bottoms) raise alarms; this time their concern is about the danger of decisions being arbitrary and disproportionate to the offence.

The third fault-line concerns whether the ultimate goal of the restorative justice movement is to be a separate independent activity complementary to the justice system or an integral reforming stream within it. This tension is categorised by Dignan as ‘separatism’ versus ‘integrationism’.<sup>77</sup> Many advocates of restorative justice now argue that it should not be distinct from the criminal justice system but integral to it. Significantly, Zehr has changed his view on this matter; he originally argued for the displacement of the traditional justice system by a totally new restorative system but now sees value in both. Dignan notes that Braithwaite champions an integrationist approach, arguing that restorative justice should be one tier in a justice pyramid. Dignan agrees with his approach but goes further to propose a deeper level of integration. Essentially, however, the integrationist view resists the tendency – particularly amongst the earlier generation of restorative justice advocates – to restrict restorative justice to “...a particular kind of informal dispute resolution process”<sup>78</sup> and to view punishment in any form as alien to restorative justice.

The position of this study is that restorative justice principles offer a basis for local Christian communities, along with others in civil society, to contribute to the justice system by being its critical friend. There is no agenda here to return to the past where the church was judge and jury for all society on matters both temporal and

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<sup>77</sup> Dignan, J. (2002) p.16

<sup>78</sup> Dignan, J. (2003) p.139

spiritual. Whilst adopting Marshall's wording as a working definition of restorative justice, this thesis recognises its limitations and the need for the points of disagreement or fault-lines that still divide the movement to be resolved. Part of the reason for bringing Braithwaite's writings into prominence in this study (more below) is his recognition of this need and his proposal to hold in tension the expanded role of civil society for responding to crime and wrongdoing with the need to integrate the principles of restorative justice into a revitalised formal legal system.

The modern criminal justice system replaced a system of law which, though very flawed, had aspects within it such as 'reparation' and 'negotiation' which are currently being re-considered. In the discussion about alternative sentencing policies there are signs of a reversal of the great transformation from corporal to carceral punishment which characterised the shift from the feudal to the modern criminal justice system. Restorative justice has a place in the modern criminal justice debate if, as its advocates argue, the purpose of justice is not the punishment of offenders but the "...re-qualifying of individuals as subjects".<sup>79</sup> Far from being alien to the modern justice system, restorative justice resonates with many of Enlightenment ideals; it is not anachronistic but an idea whose time has come. We shall consider the validity or otherwise of this claim in the context of a brief historical account of the criminal justice system.

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<sup>79</sup> Bottoms, A.E. (1980) p.21

## **B. Resonances of Restorative Justice in the Modern Criminal Justice Debate**

### **i. The Classical Phase (c.1750-1850)**

The story of the modern criminal justice system divides into three stages. Stage one begins with the Classical phase (c.1750-1850), which belongs to the so-called “Age of Enlightenment”. This was a time of revolution and radical thinking when philosophers like Cesare Beccaria (c.1738-94), Charles Montesquieu (c.1689-1755) and Jeremy Bentham (c.1748-1832) sought to replace the arbitrary and despotic rule of king and church with a justice system that recognised the essential freedom and autonomy of every individual.<sup>80</sup> The parallel between this context and the crisis of confidence in our legal system is immediately clear. Just as these pioneers perceived their legal system as corrupt and in need of change so, too, do modern theorists perceive a retributive system as unfit for purpose.<sup>81</sup> On the one hand, it has become random, with sentencing policy at the whim of a political “arms race” and a sensationalising media culture.<sup>82</sup> On the other hand, it relies on the classification of norms by a professional legal class, leaving communities feeling disenfranchised.<sup>83</sup> In response to their situation the Enlightenment pioneers argued for the right of every citizen to protection from harm, a fair trial if accused and a measured approach by the magistrates in sentencing, according to the principles of just desert. Deterrence and retribution were the primary purposes of the justice system but gradually, in particular when the prison system emerged, reform of the offender became a part of the express purpose.

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<sup>80</sup> Kelly, J.M. (2003) pp.251-2

<sup>81</sup> Cf. Cornwell, D.J. (2007) p.19

<sup>82</sup> Cf. ‘The Fear Factory’

<sup>83</sup> Cf. Braithwaite, J. (1989) p.7

Freedom and autonomy formed a central feature of the 18<sup>th</sup> century Enlightenment project. Almost complete trust was placed in the human capacity to reason and as a consequence, respectfully treating humanity as rational beings was given ultimate importance. Enlightenment thinkers stressed the need for the state to “...respect and safeguard some natural rights and liberties which are inherently bound up with the human condition”.<sup>84</sup> The consequence of this was the rejection of all the spiritual and intellectual authority of the church and of monarchies. This profoundly affected legal theory. Montesquieu, for example, argued that laws are contingent, i.e. they reflect the conditions of life of the people who live by them rather than conforming to a universal standard.<sup>85</sup> François-Marie de Voltaire (c.1694-1778) also displayed a relativist attitude toward human rules. His attitude to the making and interpretation of law is central to the case for restorative justice. Although the priorities of its advocates differ from those espoused by the Enlightenment reformers there is a common desire to create a legal system which is responsive to the aspirations of society. For the advocates of restorative justice this implies responsiveness to the needs of victims and perpetrators alike and a belief that the restoration of human dignity and the repairing of relations is the goal of the judicial process.

According to Stephen Jones (2006) the legal reformers did not rely on church tradition for inspiration or the legitimating of their ideas but looked back to classical antiquity.<sup>86</sup> The implication of Jones’ view is that for the Enlightenment reformers the religious texts of previous centuries – he cites Augustine (c.354-430) and Aquinas (c.1225-74) – were hostile to classical ideas. In fact, the real problem seems not to have been an antipathy from the Church towards antiquity but a tendency to control

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<sup>84</sup> Lesaffer, R. (2009) p.390

<sup>85</sup> Kelly, J.M. (2003) p.251

<sup>86</sup> Jones, S. (2006) p.104

how its ideas were read and understood. As such, the reformers turned directly to the writings of Plato (c.424/3-348/7BC), Aristotle (c.384-322BC) and Cicero (c.106-43BC) rather than reading these texts through the lens of the Church Fathers. After centuries of absolute monarchs punishing wrongdoers by divine right, they wanted a world in which reason and commonsense took centre stage. People's actions were perceived less as being guided by supernatural forces but resulting from rational calculation, balancing the benefits against the cost.<sup>87</sup>

Alongside this emphasis on freedom and autonomy, the transition of power and authority from monarch and church to the institutions of the state was central. 18<sup>th</sup> century conceptions of the social contract were seminal to ideas about judicial and political process. Social contract theorists fundamentally challenged the existing social relations but they did not propose a radical programme of social reform.<sup>88</sup> They were of one mind that power needed to move from existing structures to new institutions. Restorative justice advocates find resonances with this in their aim of recasting the relationship between the citizen and the judiciary, even though their conception of that relationship is quite different.

In the UK, John Locke (c.1632-1704) argued that the social contract between citizens and the institutions of the state was an exchange of obedience in return for protection.<sup>89</sup> For Locke, authority ultimately rests with the people since: "...people do not surrender their rights finally nor is their appointed ruler entitled to exercise any more power than is necessary for the social purpose he is charged with achieving".<sup>90</sup> Similar to Locke, Beccaria described the legal power of the state under the social contract in terms of the pooling by all subjects of a certain amount of their individual

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<sup>87</sup> Jones, S. (2006) p.104

<sup>88</sup> Cf. Jones, S. (2006) p.105

<sup>89</sup> Cf. Locke, J. *Two treatises* 2.202 in, Kelly, J.M. (2003) p.240

<sup>90</sup> Locke, J. in, Kelly, J.M. (2003) p.255

liberty. On the practicalities of administering criminal justice within the framework of the social contract, Beccaria sought to repay citizens with the protection they deserved. The accused for instance could not be tortured and would have their bodily integrity respected. He also recommended that they should be tried and that half the jury should be drawn from their social class. In a similar way, the rights of the victim should be upheld by the remaining part of the jury reflecting their social class. For Beccaria the presumption of innocence was a prerequisite to a fair trial and foundational to his attempt to promote equity and fairness in the criminal justice system.<sup>91</sup> The conviction that morality is beyond the remit of the law was certainly a notion that Beccaria supported, but the question of the relationship between crime and morality is being revisited in the context of the restorative justice debate. This will become evident in the dialogue between restorative justice and atonement theology where forgiveness becomes a value underpinning restorative practice.<sup>92</sup>

Whilst penal policy in the 18<sup>th</sup> century shifted dramatically it did not develop exactly in the line suggested by Beccaria and other reforming jurists.<sup>93</sup> The vision to enshrine fairness into the administration of criminal justice lost its way. The theorists had a positive vision of humanity which was not translated into practical penal reform. According to Michel Foucault (1971), incarceration was because prisons were merely an attempt to limit the punitive powers of the judiciary over people, rather than an attempt to recognise the inherent dignity of the criminal: "...at the time of the Enlightenment, it was not as a theme of positive knowledge that man was opposed to the barbarity of the public executions, but as a legal limit: the legitimate frontier of the power to punish".<sup>94</sup> In summary then, the Classical phase of criminal

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<sup>91</sup> For a summary of Beccaria's vision, cf. Jones, S. (2006) pp.105-6

<sup>92</sup> Cf. Braithwaite, J. (2003) pp.12-13

<sup>93</sup> Bottoms, A.E. (1980) p.21

<sup>94</sup> Foucault, M. (1971) p.74

justice reform called for a radical paradigm shift in the administration of criminal justice. However, it took another century before this concept of human dignity took centre place in the criminal justice debate.

## **ii. The Positivist Phase (c.1850-1970)**

The Positivist phase tried to understand the human condition from a new perspective. The term positivism in legal scholarship is “the carbon copy of positivism in the sciences. It seeks to turn the law into an empirical science along the lines of physics or biology. It rejects the proposition that for law to be valid it must be in accordance with the precepts of a transcendent normative system, such as natural law”.<sup>95</sup> Auguste Comte’s articulation of positivism – namely the application of the natural sciences to the study of human behaviour – helped to lay the foundations for what is now termed sociology.<sup>96</sup> 19<sup>th</sup> and early 20<sup>th</sup> century sociological studies of human behaviour in relation to crime took two forms: first, studies based on research into the physical characteristics of criminals; second, studies based on an analysis of social factors that appeared to be related to law breaking. The early pioneers of modern criminology such as Lombroso, Quetelet and Guerry had almost total faith in the capacity of scientific investigation to uncover the causes of crime.<sup>97</sup> They argued that crime has multiple causes, including genetic, environmental and social factors. Following Darwin’s theory that behaviour is subject to the laws of evolution, their notion of criminal responsibility was greatly diminished and the focus in penal justice

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<sup>95</sup> Lesaffer, R. (2011) pp.462-3

<sup>96</sup> Jones, S. (2006) p.112

<sup>97</sup> Cf. Jones, S. (2006) pp.113, 115

turned from punishment to rehabilitation.<sup>98</sup> The Positivist school of criminology rejected two doctrines which were important to the Classical school: due process and proportionality.<sup>99</sup> The preference amongst Positivists for indeterminate sentencing was based on rehabilitative optimism but when it failed to deliver the expected results it came under attack judged by its critics as arbitrary and unjust.

Two phases marked the Positivist school.<sup>100</sup> Firstly, biological research which favoured penal policies that sought to approach crime as a sickness that needs to be treated rather than a wrong that needs to be punished. Secondly, beyond the biological approach, psychological theories of crime were developed which arguably have had far more influence on criminal debate and policy. Within this second phase, Jones notes that two approaches developed: a psychoanalytic approach founded on the personality theory of Sigmund Freud (1856-1939) and a socio-psychological approach based on interactionist theory.<sup>101</sup>

In the first phase, research sought to explore the biological features of convicted criminals to see if they could be distinguished from 'normal' members of the population. Cesare Lombroso (1876),<sup>102</sup> Ernest Hooton (1939)<sup>103</sup> and William Sheldon (1949)<sup>104</sup> each made large statistical studies. Lombroso studied 383 Italian criminals and found a large proportion of them to display a selection of the symptoms he connected with depravity, pointing to a more primitive level of human nature. Later, Hooton also found these primitive traits among his prisoners. He surveyed of 13,873 prisoners, compared to a control group of 3203 people, finding particular

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<sup>98</sup> Cf. Cavadino, M. and Dignan, J. (3<sup>rd</sup> Edn, 2004) p.49; they cite Cesare Lombroso's theory that criminals are an atavistic throwback to an earlier stage of evolution as an extension of Darwin's ideas.

<sup>99</sup> Cavadino, M. and Dignan, J. (3<sup>rd</sup> Edn, 2004) p.50

<sup>100</sup> Jones, S. (2006) p.113

<sup>101</sup> Jones, S. (2006) p.420

<sup>102</sup> Lombroso C. (1876): *L' Uomo Delinquente* in, Jones, S. (2006) p.341

<sup>103</sup> Hooton, E. (1939) *The American Criminal* in, Jones, S. (2006) p.342

<sup>104</sup> Sheldon, W. (1949): *Varieties of delinquent youth* in, Jones, S. (2006) p.343

deficiencies among criminals in body measurement tests: “Hooton listed various physical characteristics commonly identified amongst his prisoners which are reminiscent of Lombroso’s findings: “low and sloping forehead; “compressed jaws” and unusual ears”.<sup>105</sup>

These theories have little or no credibility today but they were enormously influential at the time. The tendency to label people persists, though less on the basis of physical characteristics and more on the basis of social stigmatisation linked to economic and social class. This tendency will be evident in Case Study A (Chapter IV) which discusses the experience of a working class community whose members found themselves subjected to stigmatisation in accessing social services. Restorative justice seeks to counter this tendency by bringing the perpetrator and victim together in the community and addressing wrongdoing in ways that take common humanity seriously. Another example which resonates even more closely with the early Positivist experiments in criminology can be found in advances in offender profiling where, typically, the work of forensic psychologists is called upon in police investigations. Whilst recognised as increasingly important in serial murder enquiries, the negative association of profiling techniques with discriminatory practices such as racial profiling is a matter of public concern.<sup>106</sup> With regard to Molecular biology, including genetic research, Richard Blackburn (1993) suggests that “...the role played by biological processes in crime is likely to be relatively modest and indirect...[but] the evidence to date is sufficient to indicate that criminology cannot ignore the relevance of a biological level of analysis”.<sup>107</sup>

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<sup>105</sup> Hooton, E. (1939) *The American Criminal* in, Jones, S. (2006) p.341

<sup>106</sup> The Guardian, (12<sup>th</sup> June 2012) “Police up to 28 times more likely to stop and search black people. Human rights watchdog warns of ‘racial profiling’ as data reveals under 3% of stop and searches leads to an arrest.”

<sup>107</sup> Blackburn, R. (1993): *The Psychology of Criminal Intent* in, Coleman, C. and Norris, C. (2000) p.30

As indicated above, the biological phase in the Positivist understanding of crime was gradually replaced by psychological approaches. The first of these was based on the work of Freud and took particular expression in the work of John Bowlby (1907-1990).<sup>108</sup> His thesis was that maternal deprivation (separation from the mother for at least six months of the first five years of life) led to an increased criminal tendency. Findings published in 1944 supported this claim. In an experiment at Tavistock Clinic, London, between 1936 and 1939 Bowlby compared 44 juvenile offenders with the same number of non-offending juveniles. He claimed to find that 17 of the 44 offenders had been apart from their mothers for at least six months during the first five years of life whilst only 2 of the non-offending juveniles shared this experience. Bowlby's findings have remained influential up to the present day. Nevertheless, this approach based on personality type has suffered due to lack of empirical evidence to substantiate its claims.<sup>109</sup>

Alongside this approach another psychological explanation of crime emerged, the fundamental principle of which is that all behaviour is learned by association. This socio-psychological approach relied on interactionist theories to explain human behaviour. It did not see crime as an objective deviant condition but instead as "...the consequence of social processes which occur in societies made up of different value systems, and in which particular individuals are able to influence both the actual and perceived status of others".<sup>110</sup> This focus on environmental, social and economic factors, led to criminologists stressing the structural inequalities and injustices that cause crime, and treating offenders in the light of this.

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<sup>108</sup> Cf. Bowlby, J. and Ainsworth, M. (1992) pp.759-75

<sup>109</sup> Cf. Jones, S. (2006) p.407

<sup>110</sup> Jones, S. (2006) p.203

A third way of explaining criminal behaviour was the interactionist theory of Fran Tannenbaum (1938). Building on societal reaction theory, which argues that our understanding of ourselves is primarily a reflection of our perceptions of how others react to us, Tannenbaum sought to explain criminal activity. He highlighted the shift which occurs in communities from defining acts as evil to defining people as evil. This shift had devastating consequences because, once stigmatised as a criminal, a person makes more and more contact with those who have been similarly branded and makes less and less contact with law abiding citizens. Tannenbaum referred to this process as “the dramatisation of evil”:

The first dramatisation of “evil” which separates the child out of his group for specialised treatment plays a greater role in making the criminal than perhaps any other experience...the process of making the criminal therefore, is a process of tagging, defining, identifying, segregating, describing, emphasizing, making conscious and self-conscious; it becomes a way of stimulating, suggesting and invoking the very traits that are complained of.<sup>111</sup>

Building on interactionist theory, a group of American sociologists (the Chicago school) developed what has come to be known as the ‘labelling theory’. From the late 1950s and through the 1960s their focus shifted from the ways in which definitions and meanings are developed by individuals and within groups to an analysis of the ways in which they are imposed by members of other, more powerful, groups. Their thinking resulted in a policy known as “radical non-intervention”. In other words, as Tannenbaum said, the best way to respond to crime is to refuse to dramatize the evil.

It is clear to see in this phase of the story that restorative justice resonates with a number of key elements in Positivism. For example, the focus in restorative justice theory as in Positivist thinking is not on the act but on the actors. It shares with Positivism the conviction that human interaction is a strong driver in making people

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<sup>111</sup> Tannenbaum, F. (1938) p.20

either engage in or desist from criminal behaviour. Moreover, restorative justice like Positivist thinking is more clinical than forensic in its approach. It urges, where possible, that crime and wrongdoing not be addressed through a retributive formal court system but through processes which take the circumstances (personal and social) of the actors into account. In the case of restorative justice, however, the intervention is not medical treatment but the meeting of victim and offender together with representatives from the community to talk about who has been harmed and what needs have arisen from the harm done for all concerned.

### **iii. The Neo-Classical or Realist Phase (post-1970s)**

In the 1970s confidence in the Positivist rehabilitative model began to collapse; crime rates had consistently increased throughout the 50s and 60s which in turn increased the prison population to record levels.<sup>112</sup> The practical consequence of rising crime was evidenced not only in overcrowded prisons but in low morale in the prison and probation services and frustration amongst politicians and policy makers. Bottoms notes that the burden of complaint against the rehabilitative model promoted so long by Positivists was essentially threefold. First, it was “theoretically faulty...because crime is far more a result of the overall organisation of society than of the deficiencies of the individual”.<sup>113</sup> Second, it was “systematically discriminatory...because the treatment model typically takes more severe coercive action in cases of unsatisfactory home circumstances or ‘dubious’ moral background”.<sup>114</sup> Third, it was “inconsistent with justice...because judgements involving the liberty of the individual are made (in the name of case work or whatever) on the basis of extremely impressionistic

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<sup>112</sup> Dignan, J. and Cavadino, M. (2002) p.187: “between 1946 and 1986 the prison population approximately trebled...the Government responded in 1982 by embarking on the biggest prison building programme since the mid Victorian era.”

<sup>113</sup> Bottoms, A.E. (1980a) p.3

<sup>114</sup> Bottoms, A.E. (1980a) p.3

evidence and the result may be for example, that some will serve long sentences for trivial crimes because ‘their attitudes have not improved’ while others convicted of serious crime but who have allegedly ‘responded’ are let out”.<sup>115</sup> The underlying and fundamental criticism of the model, according to Bottoms, was “...the essentially coercive nature of the rehabilitative ideal”.<sup>116</sup> He cites C.S. Lewis (1953): “...the ‘humanity’ which (this theory) claims is a dangerous illusion, and disguises the possibility of cruelty and injustice without end”.<sup>117</sup>

What emerged in the place of the rehabilitative model was a renewed emphasis upon due process and proportionality. It was, in many respects, a return to the ideas of Beccaria who did not regard reform as the purpose of punishment. The Neo-Classical reformers were also highly suspicious of the effectiveness of punishment when it comes to deterrence so, whilst not against deterrence or reform as desirable outcomes, they were keen not to derive a just tariff on the basis of these considerations. The ‘justice model’ which emerged in the 70s was defined by the Committee for the Study of Incarceration whose report *Doing Justice* (1976) was the result of a four year investigation. The report notes that criminal theory promoted by Positivism and dominant for a long time is that prison sentences rehabilitate criminals or at least reduce the likelihood of their reoffending, and this requires that judges and prison officials be given wide powers to align sentences to that aim. The report rejects this premise on the grounds that the evidence does not substantiate the claim. It proposes an alternative approach based on ideas first mooted by Immanuel Kant (c.1724-1804) and Beccaria. In Kant’s theory of punishment, whenever infringement of another’s rights has taken place equilibrium must be restored among free

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<sup>115</sup> Bottoms, A.E. (1980a) p.3

<sup>116</sup> Bottoms, A.E. (1980a) p.3

<sup>117</sup> Lewis, C.S. (1953): *The Humanitarian Theory of Punishment* in, Bottoms, A.E. (1980a) p.4

individuals by the offender being deprived of any temporary advantage gained over others.<sup>118</sup> Punishment is deserved equal to the damage caused. In Beccaria, the notion of “commensurate desert” prioritises the primary purpose of punishment, namely equity and fairness, over other objectives such as deterrence and reform which might influence sentencing decisions.<sup>119</sup> This is reflected in the report:

We think that the commensurate deserts principle should have priority over other objectives in decisions about how much to punish. The disposition of convicted offenders should be commensurate with the seriousness of their offences, even if greater or lesser severity would promote other goals. For the principle we have argued is a requirement of justice, whereas deterrence, incapacitation and rehabilitation are essentially strategies for controlling crime.<sup>120</sup>

Having argued the case for clear and consistent sentencing standards according to the justice model the report then advocates a liberal agenda in sentencing practice. It urges for constraints in sentencing practice including limiting prison sentences, looking for alternatives to prison for less serious offences and narrowing the power of judges’ discretion thereby reducing sentencing disparities. The irony in this story is how the original advocates of a retributivist or just desert model were liberals and radicals who wanted to reduce the length of sentences and bring fairness into the process whilst, in actuality, their efforts paved the way for the opposite to emerge: a punitive law and order policy based not on a pure retributive philosophy but on a range or mix of theories of punishment. Dignan and Cavadino note that the “law and order counter reformation” of 1992-93, under Michael Howard, “...abandoned the retributivism which was central to the Criminal Justice Act 1991 in favour of...a populist set of tough penal policies”.<sup>121</sup> Retributivism gave way to Reductivism, a forward-looking theory which claims that, by inflicting punishment, crime will be

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<sup>118</sup> Kant, I.: ‘Justice and Punishment’ in, Ezorsky, G. *ed.* and Hastie, W. *trns.* (1972) pp.102-6

<sup>119</sup> Cf. Jones, S. (2006) p.106

<sup>120</sup> Von Hirsch, A. (1976) pp.74-5

<sup>121</sup> Cavadino, M. and Dignan, J. (2004) p.53

reduced.<sup>122</sup> The argument based on utilitarian logic is that harsh punishment of an offender is a justified moral act, if future harm or unpleasantness to other people is avoided in the future.<sup>123</sup> Priority was given therefore to incapacitation and deterrence measures, with non-custodial sentences becoming harsher and prison sentences longer. This reductivist policy was continued throughout the 90s and was extended and intensified by the New Labour government.<sup>124</sup>

Observing this trend, in the early 1980s Bottoms was already lamenting the irony that instead of a coherent philosophy undergirding penal policy what emerged was a spectrum of pragmatic approaches which lacked any clear or coherent philosophical or theoretical basis: the “heavy preoccupation with the urgent practical problems of the moment”, was he argued, “no adequate basis on which to re-think the shape of the penal system of the future.”<sup>125</sup> The hope of just desert theorists in the early 1980s was that punishment might be seen as a means to requalifying individuals as subjects and not as objects of a welfare system. Writing twenty years later, Cavadino and Dignan describe a situation which confirms that the opposite has happened. They note how overcrowded prisons, low prison staff morale and prisoner discontent are all symptoms of short term responses to urgent practical problems which, as Bottoms predicted, have substituted for a penal philosophy.

The notion of returning offenders to society as full members or re-qualified subjects has found particular expression in John Braithwaite’s theory of crime control whereby offenders are dealt with “...in a manner that shames them before other members of their community, but the shaming should not stigmatise but serve to reintegrate them within it by getting them to accept the wrong they have done whilst

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<sup>122</sup> Cavadino, M. and Dignan, J. (2004) p.34

<sup>123</sup> Draper, T. (2002): ‘An Introduction to Jeremy Bentham’s Theory of Punishment’

<sup>124</sup> Cavadino, M. and Dignan, J. (2004) p.53

<sup>125</sup> Bottoms, A.E. (1980a) p.4

getting others to re-admit them into society.”<sup>126</sup> It suggests that the divide between retributivism and reductivism is not the irreconcilable gulf that has sometimes been supposed. Both have as their aim the re-qualifying of offenders into society as full members. This approach has also arguably opened up the space within the criminal justice debate for the dialogue with restorative justice. This dialogue will be explored shortly when looking closer into Braithwaite’s theory but first, by way of concluding this historical discussion, it remains to be seen how the ‘Realism’ (the term given in criminology to the theorizing that has accompanied the last thirty five years) represents “...a rejection of utopian solutions to crime and the advocacy of practical and expedient policies to pursue crime reduction”.<sup>127</sup>

Realism in the USA is strongly associated with the writings of James Wilson, who was a policy advisor to President Ronald Reagan in the 1980s. In contrast to positivism it calls into question the idea that there is any value in putting resources and energy into trying to work out why people commit crimes.<sup>128</sup> That there are many reasons, biological and sociological, is acknowledged. However, such factors have no solutions; the collapse of the rehabilitative model is testimony to this. More importantly, the significance of these problems is ultimately trumped by the fact that all individuals, regardless of constitutional and sociological factors, exercise free will. Each person weighs up the possible gains of crime against the potential punishment. With this Realist mind-set, James Wilson and Richard Herrnstein (1985) suggest that penal policy should attend to the ‘visible’ aspects of crime.<sup>129</sup> A stronger focus on law and order in the streets with increased police powers to handle problems is their

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<sup>126</sup> Cavadino, M. and Dignan, J. (2004) p.46

<sup>127</sup> Muncie, J. and McLaughlin, E. (2006) p.341

<sup>128</sup> Muncie, J. and McLaughlin, E. (2006) p.341

<sup>129</sup> Cf. Wilson, J.Q. and Herrnstein, R. (1985): ‘Crime and its Explanation’ pp.19-40

proposal. They also suggest that victimless crime and corporate crime should not attract public resources, since they amount to an unwarranted extension of government intervention. What was important was not theorising about crime but doing something about it, such as attending to the design of effective measures of crime control.

However, the impetus for Realism and its crime control focus was not only from the political right wing. The UK more than the USA has seen Realists of the Left emerge, who seek to engage with the agenda of crime control, but in contrast to Right realists, look for complex and comprehensive understandings and approaches to the crime prevention and reduction. The UK criminologist Jock Young (1997) defined it as follows:

Left Realist Criminology, as its name implies, is radical in its criminology and realistic in its appraisal of crime and its causes. Radical, in that crime is seen as an endemic product of the class and patriarchal nature of advanced industrial society. It is not a cosmetic criminology of an establishment sort which views crime as a blemish which, with suitable treatment, can be removed from the body of society which is, in itself, otherwise healthy and in little need of reconstruction. Rather it suggests that it is within the core institutions of society (its relationships of class and of gender) and its central values (such as competitive individualism and aggressive masculinity) that crime arises..<sup>130</sup>

Young was concerned that criminology within Right realism simply focussed on offenders and on controlling their behaviour, whereas he considers that crime should be defined in terms of the interaction between four distinct actors: an offender, a victim, agencies of formal control (usually the police) and the informal control exercised by the general public. He argues that levels of crime are a result of changes which take place affecting any and all of these actors: changes in behaviour, in the

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<sup>130</sup> Young, J. (1997)

operation of social control, in the definitions of what should be treated as crime and in the number of victims.

Realism of the left and right share in common a pragmatic approach to addressing problems of crime but their analysis is very different.<sup>131</sup> First, they both focus – albeit in different ways – on the importance of protecting citizens and victims. Fear of crime, they argue, radically affects the quality of people’s lives. It is not, as was formerly argued, just the result of moral panic but is a daily reality in the lives of many people. As a response to this, new ways of empowering those affected need to be developed. Second, both highlight the experience of victims of attack (domestic violence and sexual attacks) and stress that their needs must be heard and addressed within the criminal justice process. Third, they emphasise policing but, crucially, their focus is not on increasing police powers but on increasing police accountability and partnership with the local community.

In the present era, where theories and approaches to criminal justice are extremely eclectic, it is evident that restorative justice resonates with a number of key elements in Realist thinking – for example, with the new emphasis upon victim rights and on the need to involve the community in crime reduction partnerships. But most of all, in response to the challenge presented by an ever expanding prison population, the urgent search for viable alternatives to prison is bringing some retributivist and restorative theorists into an heretofore unlikely alliance. The UK government Green Paper “Breaking the Cycle” is an example of this potential convergence.<sup>132</sup> Penal

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<sup>131</sup> Cf. Jones, S. (2006) p.275

<sup>132</sup> ‘Breaking the Cycle’: <http://webarchive.nationalarchives.gov.uk/20120119200607/http://www.justice.gov.uk/consultations/docs/breaking-the-cycle.pdf>

reformers found in it welcome resonances with their own ideas for replacing prison sentencing with a range of community-based penalties.<sup>133</sup>

### **C. John Braithwaite: restorative justice in the criminal justice debate**

Restorative justice represents discontinuity as well as continuity with the historical account. It responds to the repeated failure of the modern system to understand and control crime by offering a radically different concept of justice and re-conceiving the nature and place of punishment. It also reflects the potential for a gradual synthesis of ideas; what is desirable is a lively and original engagement of Classical, Positivist and Realist theory. The focus on alternative ways of conceiving of punishment and responding to crime and wrongdoing in restorative justice can contribute to that process conceptually and practically. John Braithwaite's contribution to the criminal justice debate, particularly his theory of re-integrative shaming, has attracted the attention of academics and practitioners. He is an advisor to politicians and policy makers, notably to the Australian government. His theory shaped and influenced a major UK Restorative justice experiment undertaken by the Thames Valley Police, and he is cited in government policy documents to bring the support of empirical research to their penal reform measures.<sup>134</sup> He is a friend and advocate of social movements and communities, which he regards as the real agents of social control.<sup>135</sup> His eclectic approach to criminal theory and especially his theory of re-integrative shaming makes him hard to categorise. On the one hand, he seems to speak the language of the Right Realists, criticising the Positivists and advocating apparently

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<sup>133</sup> The Howard League for Penal Reform (14 March 2011) revealed its broad support for the government's green paper *Breaking the Cycle* (<http://www.howardleague.org/greenpaperresponse/>)

<sup>134</sup> Home Office (2000) p.64

<sup>135</sup> Braithwaite, J. (2000) p.xii

punitive policies such as shaming techniques. On the other hand, he speaks the language of radical criminology drawing on feminist, ecological and human rights movements to expose the inequality in a system that punishes the poor and turns a blind eye to the misdeeds of the powerful. Several factors suggest that the choice of Braithwaite is advantageous for this study. First, as an academic he engages critically with criminal theories and, building on them, offers a comprehensive theory of crime on the grounds that: "...there is sufficient in common between different types of crime to render a general explanation possible".<sup>136</sup> That commonality is derived from the idea that crime, whatever form it takes, constitutes "...a kind of behaviour that is poorly regarded by the community as compared to other acts, and behaviour where that poor regard is institutionalised".<sup>137</sup> A central tenet of his argument is that the moral power of shaming is the missing link in criminological theories; he proposes "re-integrative shaming" as a positive mechanism in crime control.<sup>138</sup>

Second, as a policy advisor Braithwaite has contributed to reflections in UK government departments and in the criminal justice system on restorative justice. His empirical studies ('Re-Integrative Shaming Experiments') based in Canberra have complemented pilot projects and research in the UK, such as a new form of police cautioning in the Thames Valley region in which victims and others affected by an offence are invited to participate in a cautioning session.<sup>139</sup> The sessions are influenced both by Braithwaite's theory of re-integrative shaming as well as by the philosophy of restorative justice. It is argued that whilst elements of "old-style" cautioning are present in Aylesbury, the advent of restorative cautioning represents an important and welcome shift in policing practices. His approach to restorative justice

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<sup>136</sup> Braithwaite, J. (1989) p.1

<sup>137</sup> Braithwaite, J. (1989) p.2

<sup>138</sup> Braithwaite, J. (1998) p.5

<sup>139</sup> Hoyle, C., Young, R. and Hill, R. (2002) p.7; also, *Proceed with Caution: An Evaluation of the Thames Valley Police Initiative in Restorative Cautioning* ([www.restorativejustice.org.uk](http://www.restorativejustice.org.uk))

gains him both credibility and notoriety. Whilst he has raised the profile and credibility of restorative justice as a viable sentencing option, he is seen by some in the movement to neglect its core principles by focussing on the offender more than the victim. Braithwaite himself says that he stumbled into restorative justice discussions by discovering that what he was talking about resonated with restorative justice principles. He admits that were he to write his book *Crime, Shame and Re-integration* now he might prefer to speak of restorative shame.

Third, as a penal reformer Braithwaite has emphasised the importance of greater participation by the community in crime control and in the formal judicial process. In addition to his focus on restorative processes where mediation circles and conferences facilitate significant participation he has also highlighted, through his research into corporate crime, the importance of social movements within society. They have, he argues, a critical role as agents of crime prevention and social control with all who enjoy privileged status (and with it permission to operate above the law), especially with actors in the white collar sector.

Australia's greatest crime problems, according to Braithwaite, are linked to "...historical immunity from public disapproval because of certain structural realities of power".<sup>140</sup> He suggests that such immunity is a particularly male preserve: "...violent men have enjoyed historical immunity even from the disapproval of the police when they engaged in domestic assault...because of shared values between the offenders and the police about the prerogatives of men to engage in violence in the personal kingdoms of their homes..."<sup>141</sup> The appropriate response, in Braithwaite's view, to systemic inequality – whether it is the economic inequality of the poverty gap or the social inequality of immunity for some before the law – rests in the moral

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<sup>140</sup> Braithwaite, J. (2000) p.65

<sup>141</sup> Braithwaite, J. (2000) p.65

power of a wide range of actors within civil society to shame offenders and to expose the system.

His particular emphasis on individual freedom, on equality of all before the law, on community participation in the judicial processes and on the power of moral persuasion – in the community – to maintain justice and control crime all resonate positively with many theological themes that are important to this study. His vision of a just society grows out of his critical engagement with the different theories in all three periods. In tune with 18<sup>th</sup> century Enlightenment philosophy and Classical theory he sees commitment to the republican principles of liberty, equality and community as normative for a healthy society. With his co-author Philip Pettit (1990), in the introduction to *Not Just Deserts* Braithwaite openly acknowledges his dependence on 18<sup>th</sup> century republican thinking, especially the writings of Montesquieu:

...we would like to link our enterprise with an important precedent. [...] Montesquieu's recommendations in regard to criminal justice, motivated as they are by republican concerns, argue, as we do, for restricting and carefully defining the range of activities criminalised; for reducing the severity of the punishments commonly practised; for focussing as much on the protection of the innocent as on the punishment of the guilty; and for putting constitutional constraints on the agents of the criminal justice system. [...] Without endorsing all the details, we see in Montesquieu's work a tradition sustained in our own.<sup>142</sup>

Braithwaite's motivation and ambition, like the reforming jurists of the Enlightenment is to contribute to a vision of how to regulate more justly. His vision of the just society is summed up in the word 'freedom'. Like the 18<sup>th</sup> century reformers he holds strongly to the notion of individual freewill and to the conviction that freewill is part of what it means to be human. Whilst holding firmly to the Enlightenment principle

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<sup>142</sup> Braithwaite, J. and Pettit, P. (2002) pp.60-1

of freewill, his understanding of the term ‘freedom’ departs significantly from the popular 18<sup>th</sup> century liberal perspective where freedom is about being left alone (e.g. Hobbes). Liberty, so defined, is a “...solitary condition, the condition of being the only person around so that there are no others who can possibly interfere”.<sup>143</sup> This perspective, says Braithwaite, is negative freedom; its asocial character is atomistic and individual whereas in the republican tradition freedom is exemplified by “...the condition of citizenship in a free society”.<sup>144</sup> It is a social and relational experience whereby “...you enjoy republican freedom when you live in a social world that provides you with assurances of liberty”.<sup>145</sup>

The republican idea of freedom is derived from the Roman republic where, *libertas* and *civitas* were coterminus: “The Romans did not think that the simple fact of not suffering interference constituted liberty. To be free was to be a full and equal party to the rule of Roman law, protected as well as any other by that law, and incorporated as a citizen into the body politic”.<sup>146</sup> Braithwaite terms this Classical understanding ‘positive freedom’. For him, the social contract is a means to promote positive freedom. It seeks to develop and maintain a strong civil society. Hence, he emphasises the importance of community because he sees every institution of society (families, schools, churches, trade unions and social movements) not only as key agents of moral persuasion and social control but as the guarantors of freedom. From this Classical position, Braithwaite criticises advocates of rehabilitation for underestimating human capacity. Their idea that criminal behaviour is determined by biological, psychological and social factors, over which the criminal has little control

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<sup>143</sup> Braithwaite, J. and Pettit, P. (2002) p.57

<sup>144</sup> Braithwaite, J. and Pettit, P. (2002) p.57

<sup>145</sup> Braithwaite, J. and Pettit, P. (2002) p.59

<sup>146</sup> Braithwaite, J. and Pettit, P. (2002) p.57

is, in Braithwaite's view, a real but overstated argument and one that can result in the tendency to adopt too passive a conception of the criminal.<sup>147</sup>

### **i. Key elements of Braithwaite's Theory**

Braithwaite's thesis, reflecting the Realist preference for crime control theories, is that the key to crime control is shaming.<sup>148</sup> His contention is based on the observation that societies with low crime rates, such as Japan, are those that shame potently and judiciously and that individuals who resort to crime are those insulated from shame over their wrongdoing.<sup>149</sup> Whilst he posits the general theory that shaming prevents all kinds of predatory crime, both street crime and corporate crime, he is careful to state that because of a lack of consensus over statutes that penalize non predatory offences (e.g. drugs) re-integrative shaming is not in such instances an appropriate response.

Braithwaite starts from the position that, by denouncing behaviour, the formal justice system is *de facto* a shaming mechanism. Likewise, families that maintain standards and rebuke behaviour that contravenes acceptable standards exercise social control through shaming. The difference between these processes is that formal punishment as in the court system usually leads to shame that stigmatises the offender and drives them into further deviant subcultural patterns, whilst in the family model these processes are more often done in a supportive and loving context.<sup>150</sup>

The role of conscience is regarded as key to the shaming process and some consideration is given to the insights of learning theorists on the relationship between

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<sup>147</sup> Cf. Braithwaite, J. (1989) p.9

<sup>148</sup> Cf. Braithwaite, J. (1989) p.1

<sup>149</sup> Cf. Braithwaite, J. (1989) pp.62-5

<sup>150</sup> Cf. Braithwaite, J. (1989) pp.55-7

conscience and shame: “Whether they acquire conscience through classical conditioning or some other process human beings can and often do choose not to engage in crime when biologically or socially defined rewards of crime seem to exceed cost. They do so out of ideas of commitment to right and wrong, out of sympathy for others, a sense of justice or equity and for many other reasons of conscience. A learned conscience is the cornerstone to understanding the potency of re-integrative shaming for explaining law observance”.<sup>151</sup> In general, however, Braithwaite does not engage with psychology, especially psychoanalytical theories about shame. He defines shame as: “all social processes of expressing disapproval which have the intention or effect of invoking remorse in the person shamed and/or condemnation by others who become aware of the shaming...”<sup>152</sup>

Shaming and re-integration are separate but related sequential acts. Unlike deterrent punishment the purpose is not to frighten or threaten the offender into changed behaviour but rather “...to moralise with the offender” and thus: “...to re-integrate the offender into the community of law-abiding or respectable citizens through words or gestures of forgiveness or ceremonies to de-certify the offender as deviant”.<sup>153</sup> Braithwaite does recognise shame to be “a dangerous emotion”<sup>154</sup> and is therefore always at pains to carefully distinguish between positive and negative shaming. He defines negative shame thus: “...Stigmatisation is disintegrative shaming in which no effort is made to reconcile the offender with the community...degradation ceremonies are not followed by ceremonies to de-certify deviants”.<sup>155</sup> He likens stigmatic shaming to 17<sup>th</sup> century punishment, where the offender is cast out with little hope of being received back into the community. By

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<sup>151</sup> Braithwaite, J. (1989) p.37; cf. p.71

<sup>152</sup> Braithwaite, J. (1989) p.100

<sup>153</sup> Braithwaite, J. (1989) pp.100-1

<sup>154</sup> Braithwaite, J. (1989) p.101

<sup>155</sup> Braithwaite, J. (1989) p.101

contrast, in re-integrative shaming, the hope and expectation is that they will be received back and requalified as citizens. These two forms of shaming are, he insists, fundamentally different in kind. Re-integrative shaming "...is not distinguished from stigmatization by its potency, but by a finite rather than open ended duration, which is terminated by forgiveness, and by efforts to retain bonds of love or respect throughout the period of suffering shame".<sup>156</sup>

From this position he builds his argument for shaming as a mechanism for crime control based on two theoretical assumptions about the community. First, that there is a fundamental consensus about and rejection of criminal behaviour in society. Second, that the dominant criminological theories have undermined the role of the community in crime control.<sup>157</sup> Concerning the community, Braithwaite argues that its role in moral persuasion and crime control has been undermined by a 'professionalization' in the Classical, Positivist and Realist phases:

Professional criminology, in all its major variants, can be unhelpful in maintaining a social climate appropriate to crime control because in different ways its thrust is to professionalize, systematize, scientize and de-communitize justice. To the extent that the community genuinely comes to believe that the 'experts' can scientifically prescribe solutions to the crime problem, there is a risk that citizens cease to look to the preventive obligations which are fundamentally in their own hands.<sup>158</sup>

Braithwaite's argument in favour of the community's involvement is not designed to de-professionalize the criminal justice system but to improve it by injecting much more community participation:

Crime is best controlled when members of the community are the primary controllers, through active participation in shaming offenders, and, having shamed them, through concerted participation in ways of

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<sup>156</sup> Braithwaite, J. (1989) p.101

<sup>157</sup> Braithwaite, J. (1989) p.39

<sup>158</sup> Braithwaite, J. (1989) p.6

reintegrating the offender back into the community of law abiding citizens.<sup>159</sup>

Moral persuasion lies at the heart of re-integrative shaming. Its purpose is confronting the offender with his offence and the pain it has caused others and, ultimately, reintegrating the offender into society. Braithwaite practises a type of re-integrative conferencing between victims and offenders which promotes this goal. His theory, with its emphasis on community involvement and his preferred methodology of family conferencing, has been applied in a number of restorative justice programmes in Australia and the UK. The 'Re-Integrative Shaming Experiment' in Australia undertaken by researchers from Canberra State University in partnership with Cambridge University is a significant empirical study testing Braithwaite's theory. It is both high profile and controversial. Braithwaite himself admits that shaming is dangerous and can be disastrous where badly employed, but he insists that it offers a more viable response than other alternatives, to controlling crime.<sup>160</sup> If his theory proves correct, the logical conclusion for policy will be to argue that moral and social control measures are just as important as legislative coercive measures for preventing and addressing crime.

## **ii. The Critics of Braithwaite's Theory**

The criticisms made of Braithwaite's theory of crime control are variously psychological, social and cultural. Some writers, basically sympathetic to the theory, find the language of shaming inaccurate and unfortunate, including June Price Tangney and Ronda L. Dearing (2002),<sup>161</sup> and Martha Nussbaum (2004).<sup>162</sup> Others

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<sup>159</sup> Braithwaite, J. (1989) p.8

<sup>160</sup> Cf. Braithwaite, J. (1989) pp.12-3

<sup>161</sup> Tangney, J.P. and Dearing, R.L. (2002) p.194n1

object more fundamentally to his theory, insisting that the practice of shaming is dangerous and irresponsible, including Gabrielle Maxwell and Allison Morris (2000),<sup>163</sup> and Pattison.<sup>164</sup> Others question its practicability on cultural and social grounds, including Bottoms.<sup>165</sup>

Concerning the language of shaming, Tangney and Dearing note that psychoanalytically oriented theories of shame have paid considerable attention to the relationship between shame and guilt.<sup>166</sup> Whilst Sigmund Freud made little distinction between these emotions, post-Freudian theorists have sought to do so within a Neo-Freudian framework. For example, by building on Freud's distinction between the ego ideal (idealized moral self) and super ego (conscience) they applied this to the distinction between shame and guilt.<sup>167</sup> In their own studies measuring guilt and shame proneness in adults, children and teenagers, Tangney and Dearing provide data which shows how this distinction between shame and guilt has important and quite different implications for interpersonal relationships. They maintain that, in comparison to guilt-prone individuals, shame prone people appear relatively more likely to blame others and themselves for negative events. They are also more prone to anger and hostility, and less able to empathise with others. Guilt-prone individuals, on the other hand, appear better able to empathise with others and to accept responsibility for negative interpersonal events. They are less prone to anger and are more likely to express anger in direct and arguably more constructive ways.<sup>168</sup>

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<sup>162</sup> Cf. Nussbaum, M. (2004) pp.207-9

<sup>163</sup> Cf. Maxwell, G. and Morris, A. (2000) p.133

<sup>164</sup> Cf. Pattison, S. (2000) pp.150-1

<sup>165</sup> Cf. Bottoms, A.E. (2003) p.79

<sup>166</sup> Cf. Tangney, J.P. and Dearing, R.L. (2002) pp.12-14

<sup>167</sup> Cf. Tangney and Dearing (2000) p.13; cf. also, Hartmann, E. and Lowenstein, R. (1962) pp.17, 42-81; Piers, G. and Singer, A. (1953)

<sup>168</sup> Cf. Tangney, J.P. and Dearing, R.L. (2002) p.106

Tangney and Dearing are largely in favour of Braithwaite's approach; their objection to his theory is his use of the term 'shaming'. They argue that by failing to distinguish between shame and guilt he "...serves to perpetuate the confusion between shame and guilt already so prevalent in the literature".<sup>169</sup> Martha Nussbaum criticises Braithwaite in similar terms, suggesting that his argument belongs to the world of guilt punishments not shame punishments:

He insists that punishments must be meted out without stigmatization and in an atmosphere of mutual respect for humanity. All this is very appealing and I am inclined to have much sympathy with the proposal he advances. What is totally unclear is whether this has anything at all to do with shame. He insists that we are to separate the act from the person [but] all this is characteristic of guilt rather than shame.<sup>170</sup>

Braithwaite does not see as significant for his theory the distinction between guilt and shame made by developmental psychologists.<sup>171</sup> His refusal to make such a distinction finds some support from within psychoanalytically oriented studies where (as in traditional Freudian theory) the distinction is de-emphasized.<sup>172</sup> In so-called "self-psychology" studies, shame and guilt are not distinguished and the focus is on shame, identifying it as a major factor in a range of psychological disorders. These "self-psychologists" do not criticise Braithwaite for using the word shame rather than guilt, but they judge that he is not taking sufficiently seriously the profound and dangerous link between shame-proneness and chronic psychological disorders. In fact Braithwaite never denies the dangers inherent in shaming but insists on the distinction between positive- and negative-shaming, and calculates that crime reduction through re-integrative shaming is a constructive approach.

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<sup>169</sup> Tangney, J.P. and Dearing, R.L. (2002) p.194

<sup>170</sup> Nussbaum, M. (2004) p.241

<sup>171</sup> Braithwaite, J. (1989) pp.56-7

<sup>172</sup> Cf. Tangney, J.P. and Dearing, R.L. (2002) p.13

Perhaps the most damning criticism of Braithwaite's theory is that the practice of shaming is often dangerous. In the context of his discussion of shame as a mechanism for social control, Pattison refers directly to Braithwaite. In line with the criticisms already mentioned, he observes that Braithwaite's theory conflates shame with guilt even though they are two different kinds of emotions. He also labels Braithwaite 'communitarian' and suggests that the premise of his theory is flawed. He explains that re-integrative shaming requires close-knit communities in which face to face encounters can be used constructively but these communities no longer really exist. In respect of the practise of shaming, Pattison offers a caution which could be – and is, arguably – applied to Braithwaite. He defines shame as a 'social phenomenon' which is qualitatively different in different societies; historical documents about shaming should, therefore, be treated carefully. He then argues that it is a potentially dangerous and toxic means of social control; it is almost uncontrollable because of its 'informal' and 'personal' nature. Whilst shame is 'necessary', he says, so are means of social control that can be regulated:

...shame is a powerful but ambivalent tool for social control. While the deliberate or unwitting deployment of shame may be very effective in exacting individual or group conformity, this can also be very damaging and destructive. [...] The implication of this is that the deployment of shame should be undertaken with caution, reflection and skill.<sup>173</sup>

Restorative justice practitioners Gabrielle Maxwell and Allison Morris roundly reject Braithwaite's claim that "...family group conferencing is about bringing back shame into the justice process".<sup>174</sup> As restorative justice practitioners working in New Zealand they see no place for shaming in the family conferencing process, and reject the idea that shaming is an inevitable part of restorative justice. Drawing on

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<sup>173</sup> Pattison, S. (2000) p.153

<sup>174</sup> Maxwell, G. and Morris, A. (2004) in, Zehr, H. and Toews, B. (2004) p.133

psychoanalytical theory, they seek to argue against shaming being conceived as a technique appropriate to restorative justice. First, on a theoretical level they argue that shame is not simply a dangerous emotion but playing with carries too many risks. Citing Donald Nathanson, they highlight how "...shame is a troublesome concept, and cannot be assumed to have a single uniform effect...[it] produces a whole gamut of responses depending on a person's culture, past history and temperament making it impossible to predict with any certainty how a person shamed will react".<sup>175</sup> Second, on an empirical level they cite findings from studies conducted in New Zealand in which shaming can appear overly intrusive because it makes moral claims on the offender which can look and feel more like coercion than persuasion.<sup>176</sup>

Anthony Bottoms makes other criticisms of Braithwaite's theory of a sociological and cultural kind.<sup>177</sup> Whilst recognising the value of community participation, he is cautious about the preference in restorative justice for informal community processes. Braithwaite's studies, like many restorative justice programmes, draw inspiration from cultures where informal justice processes including shaming are long standing and accepted practice. There is, argues Bottoms, not clear evidence to suggest that these rites of social control will transfer and apply with the same effectiveness into 21<sup>st</sup> century criminal justice systems.<sup>178</sup> Like Pattison, he suggests that the lack of social cohesion in communities means that significant relations and connections between people do not exist to the same extent as in pre-modern societies. In response to this, Braithwaite points to the substantial place shaming has had in the

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<sup>175</sup> Maxwell, G. and Morris, A. in, Zehr, H. and Toews, B. (2004) p.133

<sup>176</sup> Maxwell, G. and Morris, A. in, Zehr, H. and Toews, B. (2004) p.133

<sup>177</sup> Bottoms, A.E. (2003) p.82-3

<sup>178</sup> Bottoms, A.E. (2003) p.110

whole history of civilisation and how, although shaming techniques have ebbed and flowed through different periods of history, they have always been present.<sup>179</sup>

Finally, conflict theorists such as Richard Quinney do not accept Braithwaite's consensus argument. They contest the idea that there is a moral consensus arguing that criminal law is a manifestation not of moral consensus but of ruling class interests. Criminal activity is, according to conflict theory, a sub-cultural phenomenon of like-minded people who develop a counter value system which rejects criminal law., Braithwaite maintains that there is an absence of any evidence of a single homogeneous delinquent subculture, or a single homogeneous lower class subculture which is coherently distinguishable from the mainstream. There is however an important link, which labelling and subcultural theorists have made, between stigmatisation and subcultural formation.<sup>180</sup> The stigmatised who resort to criminal behaviour often find and receive in criminal subcultural groups, support for their delinquency.

Taking all of the above arguments into account, it seems clear that Braithwaite's theory is rightly contested. At best it might be said that his choice of language is confusing and ill conceived. But more fundamentally, his refusal to distinguish between guilt and shame represents a failure to acknowledge or to critically engage with the complex nature of shame itself. That said, his engagement with the notion of punishment as denunciation and his appeal for moral discourse and moral persuasion as a means of reintegrating offenders remains a bold and significant contribution to the contemporary debate on criminal justice reform. The reforms to the justice system which he advocates represent a way of responding to crime and wrongdoing which

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<sup>179</sup> Cf. Braithwaite, J. (2000b) pp.265-87

<sup>180</sup> Braithwaite, J. (1989) pp.38-43

resonate with the key reforming elements in criminal justice practice encapsulated in restorative justice principles. In terms of penal policy, he wants punitive custodial sentencing – an ineffective form of crime control – to give way to alternative sentencing processes involving the community and utilising its power of moral persuasion. His overall approach is shaped by the restorative justice principles outlined in the discussion on definitions at the beginning of this chapter. His approach upholds the principle of ‘radical participation’, whereby all the stakeholders injured or affected by an offender’s behaviour are involved in the judicial process as active participants. His general theory of crime control is motivated by the principle of ‘righting wrong in a morally serious way’, such that the law cannot simply establish guilt and dispense pain but must seek to right wrong through costly encounters in which all participants are encouraged to speak. By this means the truth about a situation, from all perspectives, is brought to the surface. This process of truth telling and moral persuasion may result in apology, forgiveness, reparation and reconciliation. Finally, his concern to balance process and outcomes upholds the principle of ‘reintegration’. The forward looking outcome or end goal of criminal justice is that relationships are repaired and both victim and offender find anew their place in the community.

#### **D. Towards a Restorative Hermeneutic for Evaluating the Responses of Local Christian Communities to Crime and Wrongdoing**

The tensions or fault-lines in the definitional debate about restorative justice have shifted greatly over the last 30 years and as the discussion within the restorative justice movement has developed so has the dialogue between restorative justice and

just desert theorists. A first example of shifting ground in the debate concerns the divide between integrationists and separatists. Zehr has argued most recently that, at its core, restorative justice does not change the system but changes the questions which drive the system.<sup>181</sup> From this it seems that Zehr has significantly modified his position. Earlier claims, which insisted that restorative justice represents a paradigm shift in criminal justice, are being modified. Leading advocates such as Zehr now say that restorative justice is helping to revolutionise the climate and culture in which the debate about justice is occurring. It is, in other words, a reforming influence within the criminal justice system not a replacement of it. This begs the question, how far and in what way will synthesis and symbiosis be possible between restorative justice principles and the current criminal justice system? Opinions vary from those who want a parallel complementary system through to those who advocate a partial integration to those who see full integration and nothing less as essential. Building on the principle of ‘radical participation’, which opens up judicial processes to the community, this study takes the line of Braithwaite and Dignan arguing for a form of integration in which the contribution of formal and informal control agencies are held within the one penal system and the role played by each is complementary and discreet.

A second example of shifting ground is the once stark divide drawn between restorative and retributive attitudes to punishment. Many current advocates of restorative justice do not reject outright the notion of punishment; they would rather say that restorative justice, properly understood, is not soft on crime but tough in a different way. Building on the principle of ‘righting wrong in a morally serious way’

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<sup>181</sup> Cf. Zehr, H. (3<sup>rd</sup> Edn, 2005) pp.271-4

the critical point is to give high importance to the place of apology, forgiveness and reconciliation and to view punishment, as a by-product of a restorative journey.

A third example of shifting ground – which directly impacts the development of the restorative hermeneutic used in this study – concerns the lack of agreed standards and criteria for measuring ‘restorativity’. Restorative justice theoreticians have debated hard in recent years how restorativity might be measured or systematically analysed. Some, as noted already, have adopted the view that a system is either fully restorative or not at all whilst others argue for degrees of restorativity. By learning from a range of approaches, this study develops a restorative model that is appropriate for the assessment of the responses of local Christian communities to crime and wrongdoing. McCold has proposed that programs should be measured according to the extent to which they meet the needs of victims, offenders and their communities.<sup>182</sup> He assigns the name holistic to programs that address the needs of all three parties. Van Ness and Strong propose a model which assesses whether a restorative programme or system is ‘minimally’, ‘moderately’ or ‘fully’ restorative based on the degree to which they meet both process and outcome criteria.<sup>183</sup> Following McCold and Watchel, and Van Ness and Strong, the hermeneutic developed here consciously adopts an incremental approach to measuring restorativity.

Starting from Marshall’s definition but also drawing on the language of Zehr the hermeneutic generates questions derived from the three core principles of restorative justice. From ‘radical participation’ it seeks to assess which stakeholders are reached by the efforts of local Christian communities to respond directly and indirectly to the causes and consequences of crime and wrongdoing. The principle of

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<sup>182</sup> Cf. McCold, P. and Watchel, T. (2003)

<sup>183</sup> Cf. Van Ness, D. and Strong, K.H. (2<sup>nd</sup> Edn, 2002) pp.270-5

‘righting wrong in a morally serious way’ raises questions about the way in which restorative values such as respect, truth, honesty, justice, compassion, mercy and peace are embedded into the community’s way of being. From the third principle – ‘reintegration’ – the hermeneutic seeks to evaluate how decisions and actions are collectively agreed upon for repairing and restoring lives and if these are satisfactorily realised.

## **CHAPTER SUMMARY**

This chapter has sought to articulate a working definition of restorative justice based around the three foundational principles. This definitional exercise was guided by Marshall’s proposal, but also took into account the fault-lines within the debate amongst restorative justice theorists which have made the search for a consensual definition difficult. The chapter then located restorative justice in the modern criminal justice debate, highlighting where it resonates and engages with Enlightenment ideals. The contribution of restorative justice theory to penal reform has been critically reviewed and particular attention given to Braithwaite’s writing, especially his theory of re-integrative shaming. The analysis revealed a shift taking place from retributive to restorative values within the criminal justice debate. It also revealed that, parallel to the maturing of the restorative justice debate, the rift between restorative justice and just desert theorists is narrowing. In the next chapter, it will be observed that the shift taking place from retributive to restorative values within the criminal justice debate is also taking place in theological discourse on the atonement. Thus, there is a rich potential for critical dialogue between contemporary atonement theology and restorative justice theory around the themes of forgiveness, apology and

reconciliation (among others). The restorative hermeneutic, alluded to in this chapter, will be developed and refined in Chapter III in the context of this dialogue.

### III

## BRINGING RESTORATIVE JUSTICE INTO DIALOGUE WITH ATONEMENT THEOLOGY

The previous chapter articulated a working definition of restorative justice and located it within the modern criminal justice debate. The contribution of restorative justice theory to penal reform was critically reviewed and the analysis revealed a shift taking place from retributive to restorative values within the criminal justice debate since c.1750. It will be observed that the shift taking place from retributive to restorative values within the criminal justice debate has also been taking place in theological discourse on the atonement. It will become clear that there is a rich potential for critical dialogue between atonement theology and restorative justice theory around such terms as ‘forgiveness’, ‘apology’ and ‘reconciliation’.

This chapter involves three stages. In the first, ‘anxiety’ is identified as the prevailing mood or zeitgeist of the 20<sup>th</sup> century. Fuelled by wars and growing fear of crime and wrongdoing, a mood of deep anxiety has shaped and influenced a theological shift in emphasis from retribution and punishment to restoration, forgiveness and reconciliation. Second, in response to the zeitgeist new discourse on enduring atonement themes and re-readings of traditional atonement models (‘Christus victor’, ‘penal’ and ‘moral influence’) will be critically explored. Whilst formerly these models tended to eclipse one another, in the contemporary debate no one model has been privileged. Rather, there is constructive engagement with each. Finally, in the third stage, atonement theories – shaped by contemporary interest in ‘apology’, ‘forgiveness’, ‘restoration’ and ‘reconciliation’ – are critically correlated with restorative justice principles in order to consider what light they might shed on

one another. Of course Christian atonement theology and restorative justice theory are not an exact fit but there is an overlap, or approximate fit, which makes the correlation of the two illuminating. In Chapter V, the case study findings will be evaluated using the restorative hermeneutic that emerges from this dialogue.

**A. Anxiety: a Context for Restorative Justice and Contemporary Atonement Theology.**

Seized by the horrors of war and the violence of the holocaust in the post-world War II era, theologians urgently sought to understand and articulate the Christian message of atonement in new ways. A notable example of this is Jürgen Moltmann (1974) who, marked by his experience as a prisoner of war, sought in his book *The Crucified God* (2<sup>nd</sup> Edn, 2001) to address such questions as: where is God in the midst of suffering? What might be the relationship between crucifixion and the healing of broken and fragile relations? How can the cross, itself a violent act, inspire forgiveness and reconciliation? These questions capture something of the angst ridden debate about the meaning of suffering amongst 20<sup>th</sup> century theologians and philosophers. Out of this debate the cross has increasingly come to be regarded in restorative terms, as a symbol of solidarity in suffering and costly reconciliation. The resulting shift in emphasis within atonement theology from ideas about punishment and retribution for wrongdoing, to forgiveness and reconciliation mirrors the shift of focus noted in the previous chapter within the criminal justice debate from retributive to restorative notions of justice.

Paul Tillich (1952) characterised the 20<sup>th</sup> century as an age of anxiety and spoke of society being caught in the grip of an overwhelming anxiety disorder.<sup>184</sup> He named three different forms of anxiety – fear, guilt and doubt – and suggested that whilst these different types of anxiety have each come to the fore at different times, they are not mutually exclusive. In the present age, whilst the third type is predominant, there seems to be a potent cocktail of all three<sup>185</sup>. This study holds that these anxieties each resonate with different atonement theories. ‘Fear’ denotes anxiety about life itself, characterised by a sense of powerlessness in the face of death and powers greater than any resource at the disposal of the human race.<sup>186</sup> In the Early Church using the ‘Christus victor’ narrative, Irenaeus sought to relieve such anxiety by depicting the incarnation and death of Christ as the victory of the God-Man over death. This idea has been revisited in present times and has found a particular appeal even though it has limitations which shall be considered later. ‘Guilt’ denotes anxiety over moral failure or right conduct.<sup>187</sup> The moral demands of life leave people feeling guilty and condemned. Whilst penal atonement theories such as those advocated by Anselm (c.1033-1109) and John Calvin (c.1509-64) have been heavily criticised in recent times by theologians who object to what they perceive to be a retributive portrayal of God punishing his son by requiring him to die on the cross,<sup>188</sup> nevertheless the moral seriousness in theories of penal suffering accounts for their ongoing appeal. ‘Moral seriousness’ insists that justice requires wrongdoing to be addressed rather than down-played or ignored. Finally, ‘doubt’ denotes anxiety relating to the meaning and purpose of existence evoked by the failure to realise

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<sup>184</sup> Cf. Tillich, P. (1952) p.45

<sup>185</sup> Ibid p.49

<sup>186</sup> Ibid p.50

<sup>187</sup> Cf. Tillich, P. (1952) p.58

<sup>188</sup> Cf. Swartley, W. (2007): ‘Introduction’ in, Jersak, B. and Hardin, M. eds. (2007) p.10

human potential.<sup>189</sup> As people feel disappointed and disillusioned about their achievements and about the very purpose of life doubt gives rise to uncertainty and despair. Atonement as God's unconditional forgiveness and acceptance (moral influence theory) reassures humanity of its journey towards and fulfilment in God, now and beyond death.

Sin and wrongdoing in Tillich's anxiety ridden culture is conceived in relational and psychological terms. Sin or separation manifests itself in the fragmenting of personality and in the loss of social relationships leading to estrangement from God, from others and from self. In this perspective, the goal or purpose of Christian atonement is the overcoming of separation or estrangement in relationships. The restoration of relationship, Tillich argued, comes about when humanity finds in Christ the courage to be. Tillich understood depth psychology, psychoanalysis and the relation of both to religion to be vital contributors to social well being.<sup>190</sup> Ontology and psychology are here synthesized through Tillich's depiction of growth in the spirit as growth towards the essential self which is the ground of all existence.

Through his dialogue with psychology Tillich sought to understand and address sin and wrongdoing as an inner state of being, and focused on healing and transformation of the self through transcending self-limits. Moltmann's exploration of existential human suffering took another route. He did not turn inwards to psychologise sin and suffering but, in a manner akin to Latin America's liberation theologians, he sought to find the incarnate crucified God in the historic concrete context of human suffering. He drew inspiration and hope for the restoration of relationships, human and divine, from the suffering in solidarity of Christ on the

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<sup>189</sup> Cf. Tillich, P. (1952) p.53

<sup>190</sup> Cf. Dourley, J. (2007) pp.239-40

cross.<sup>191</sup> Moltmann describes his first encounter with Jesus' cry of dereliction as a prisoner of war, when in the prison camp he was seized by a sense of God present with him in his own sense of God forsakenness. From this moment "Moltmann develops the theological conviction that the cross is the basis for our understanding of God's ability to suffer"<sup>192</sup> and finds in the cry of dereliction a picture which links God and suffering together. *The Crucified God* puts aside any picture of God as distant, detached, unmoved and unchanged,, by focusing on the vulnerability and humility of God on the cross. The disruption to the relationship between Father and Son is conveyed by Jesus' cry out of the darkness. Moltmann speaks of God dying but explicates this in Trinitarian terms as "death in God".<sup>193</sup> God is not eliminated but the pain of separation, death itself, enters in a new way into the life of the Trinity. Both Father and Son in different ways experience the pain of dereliction. The hope which Moltmann finds through the dialectic of crucifixion and resurrection is not an explanation to resolve the question of suffering but it points to the hope that separation and God-forsakenness is not the final word.

Liberation theologian Jose Bonino praises Moltmann's "coherent and brilliant argument"<sup>194</sup>, finding in it a theodicy that holds in creative tension the suffering and the glory of God. However he criticises Moltmann's description of sin and oppression as lacking the rigorous socio-political analysis of liberation theology. For Bonino and for Latin American liberation movements, Christ's solidarity with suffering humanity and his resurrection are what empower people amidst their daily struggles for justice to name and resist the forces of death and destruction. There is, however, a twist in the story in that the countries which – in the heat of revolution –

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<sup>191</sup> Moltmann, J. (1974) p.xviii

<sup>192</sup> Clarke, A. (2002) p.73

<sup>193</sup> Moltmann, J. (2<sup>nd</sup> Edn, 2001) p.213

<sup>194</sup> Bonino, J. (1975) pp.146-8

gave birth to liberation theology are the countries which today are pioneering a more restorative way forward, using transitional justice and restorative justice processes. Charles Villa-Vicencio, reflecting on this reality from the perspective of the transition from apartheid to democracy, writes that “South Africa awaits a unifying memory which incorporates provincial memories and partial pasts. This struggle for symbols that unite and stories that bind has only just begun”.<sup>195</sup> Vicencio’s words reflect a strategic shift in liberation theology which does not negate or foreclose resistance as a necessary stage on the road to a just peace, but recognises that something more, something different, is now needed. Moltmann’s picture of God journeying into the experience of the estranged other has relevance for bringing former enemies together and healing the wounds of division.

## **B. The Enduring Themes of Atonement Theology**

Two themes in Christian atonement theology, ‘forgiveness’ and ‘sacrifice’, have had enduring appeal, regardless of whichever atonement model has been in the foreground. It will be seen in this section how Christian reflection on forgiveness and sacrifice is always context specific. Consistent with this, the shift from retributive to restorative thinking that was evident in the modern criminal justice debate is mirrored in these atonement themes. A good understanding of forgiveness and sacrifice is foundational to a proper definition of Christian atonement. It is also foundational to the dialogue with restorative justice principles because it provides a way of looking in depth at key concepts such as ‘apology’, ‘forgiveness’, ‘restoration’ and ‘reconciliation’.

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<sup>195</sup> Villa-Vicencio, C. (2007) p.199

## **i. Forgiveness**

The tension in Christianity between different conceptions of forgiveness can be traced in part to its roots in Judaism. Scripture shows that Jewish and Christian understandings of forgiveness overlap and depart from one another in significant ways. They overlap in that both interpret forgiveness in terms of covenant love, meaning that forgiveness is not an abstract intellectual concept but is relational. In the Jewish tradition, for example, forgiveness is rooted in God's generous covenant love, reaching out to Israel through the prophets (Hosea 11.8-9). God's love and commitment to his people is unconditional and unlimited in the sense that he never gives up. This is echoed in the New Testament in the unconditional love of the prodigal son's father (Lk 15.11-32). Yet, in the Jewish faith receiving forgiveness is also dependent on repentance, obedience to the law and observance at the cult (cf. Mt 15.1-29). Jesus consistently circumvented the law when extending forgiveness, and this not only raised a strong protest from the authorities against him but became one of the grounds on which he was arrested and tried (cf. Lk 5.21). Jesus also offered forgiveness in God's name without presuming prior repentance or at least demanding that people show repentance in the way that the law requires. For example, Jesus tells the story of the prodigal son which focuses on the generous unconditional forgiveness of the father. He describes that, although the prodigal son intended to beg his father's forgiveness when he arrived home his father '...ran and put his arms around him and kissed him...' (Lk 15.20). Only after this gesture of unconditional love is the son able to say, 'Father, I have sinned against heaven and against you; I am not worthy to be called your son' (Lk 15.21). In the story of Zaccheus (Lk 19.1-10) Jesus offers forgiveness in advance of repentance. The inference here is that repentance is in

response to forgiveness, and is manifested in a changed life. Or again at the house of Simon the Pharisee (Lk 7.26-50) Christ's response to the tearful act of the woman who anointed his feet may be understood as a supreme act of unconditional forgiveness: 'She stood behind him at his feet, weeping, and began to bathe his feet with her tears and to dry them with her hair... Then [Jesus] said to her, 'your sins are forgiven'...' (v48). Some commentators suggest that Jesus interprets her actions not as an act of repentance but as a sign of gratitude for the forgiveness anticipated and received on other occasions; however, Jesus does seem to suggest a measure of conditionality in forgiveness. In Matthew 18.15-20, forgiveness is conditional upon showing a spirit of forgiveness; this is echoed in Romans 12.21. More ominously, in Mark 3.29 the notion of the unforgiveable sin is considered and described as blasphemy against the Holy Spirit. There is a tension, therefore, between conditional and unconditional forgiveness running throughout the bible and it was often the focal point of Jesus' disputes with the Jewish authorities. He challenged the traditional Jewish understanding about who has the authority to forgive sins; he challenged whether and how forgiveness might be said to be conditional upon repentance; and he placed the forgiveness of God within the context of the Kingdom of God.

Healing stories in the Gospels are also intimately linked with the theme of forgiveness, and once again in these situations it is apparent that Jesus is less prescriptive than the temple authorities and does not require people to follow the requirement of the law concerning forgiveness. In the story of the woman who touched the hem of his garment (Mt 9.20), faith rather than repentance seems to be the important factor and she is encouraged simply to go and live; there is no suggestion of going to the temple. Likewise, with the little girl raised from the dead (Mk 5.35-43)

he did not require the family to go to the temple but instead he encourages them to give the girl a meal.

In short it can be seen that forgiveness is extended by Jesus in ways that correspond to the values of the kingdom and not in accordance with the expectation of the Jewish law, nor in line with contemporary human notions of justice and fairness. According to L. Gregory Jones, forgiveness is "... embedded in the whole biblical narrative and is decisively proclaimed from a kingdom perspective in the Gospels through Jesus' life, death and resurrection".<sup>196</sup> This statement is helpful for summing up the argument but needs amplifying. First, forgiveness is more than any specific example. Biblical parables and healing stories shed light on the phenomenon of forgiveness, but it is deeper and more complex than any one story. The tension between conditionality and unconditionality is inevitable when understanding is partial. Second, the notion that forgiveness is embedded in the whole biblical narrative suggests that it is a theme that consistently underpins all of God's dealings with humanity from the beginning of time, and that it finds particular focus in the life death and resurrection of Jesus. The tension between Hebrew and Christian scriptures should not blind us to a consistent and underlying pattern of forgiveness within the story of salvation. Third, because forgiveness is proclaimed from a kingdom perspective, it is essentially forward looking. In the tradition of the Hebrew prophets, the Gospels anticipate a situation where relationships human and divine will be restored and *shalom* (right relationships) will prevail.

There are many examples from within the Christian tradition of the perpetuation of this tension between conditional and unconditional forgiveness. The following examples are illustrative of how Christian thinkers have grappled with the

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<sup>196</sup> Gregory Jones, L. (1995) p.

notion of the relationship between repentance and forgiveness through the ages. The tension between conditional and unconditional forgiveness is found in the *Rule of St Benedict*, one of the most renowned documents of the church. Benedict (c.480-547) articulates a complex doctrine of forgiveness and reconciliation within the monastic community. In Chapter 46, he states that any monk who has committed a fault whilst working should: ‘...come before the Abbot and the community, and of his own accord confess his offence and make satisfaction’. From this it seems that Benedict regarded confession as paramount to forgiveness of a fault committed against the community. However, in Chapter 4 he is more ambiguous, instructing his monks: ‘Pray for your enemies out of love for Christ. If you have a dispute with someone, make peace with him before the sun goes down’.<sup>197</sup> There is no sense of conditionality here.

A clear example of strict conditionality can be found in the high Middle Ages when a feudal paradigm found expression in theology. Anselm formulated a doctrine of the atonement with conditional forgiveness at its heart. He was concerned to safeguard the dignity of God as well as meet the needs of fallen humanity. Analogous to the way in which feudal society dealt with the offence of a slave towards his master (i.e. restitution), Anselm argued that God’s honour needed to be satisfied through the perfect sacrifice of his Son. The grace and forgiveness of God which flowed from Christ was thus explained as a legal transaction. Forgiveness is conditional upon satisfying God’s justice and righteousness:

Let us imagine that there is a king and that the entire populace of one of his cities has sinned against him, with the exception of one man... None of them, moreover, is capable of doing anything to escape from the death penalty now, the man who is the only innocent party...has it in his power to bring about the reconciliation of all those who believe in his advice... This reconciliation will be brought about by means of some service which will be very pleasing to the king...the king makes the concession, in view of the magnitude of the service, that any

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<sup>197</sup> *Rule of St Benedict* 4.72-3

people who acknowledge before or after that day that they wish to receive pardon through the act which is to be performed...will be absolved from all their past guilt.<sup>198</sup>

A third example of the tension between conditionality and unconditionality in Christian ideas about forgiveness is evident in the works of Martin Luther (c.1483-1546). In his treatise, *The Babylonian Captivity of the Christian Church*, Luther explored the sacramental system of the church. Subsequently, in his *Small Catechism*, he explains that forgiveness is the fruit of grace and cannot be earned. Although his belief in faith as a necessary precondition for forgiveness suggests conditionality, he emphatically emphasised that grace (the righteousness of God) is free unconditional forgiveness. Speaking of the Eucharist he wrote:

What benefit is such eating and drinking? These words “Given and shed for you for the forgiveness of sins,” show us that in the Sacrament forgiveness of sins, life and salvation are given us through these words... Whoever believes these words has exactly what they say: “forgiveness of sins”... Fasting and bodily preparation are certainly fine outward training. But that person is truly worthy and well prepared who has faith...<sup>199</sup>

A contrast to this sacramental interpretation is an example from a present day story, where a vicar stepped down from her role because she couldn't forgive the terrorists who killed her daughter. Her story depicts the agony individuals go through on account of what they experience as a tension between conditional forgiveness and the unforgiveable sin: “Forgiving another human being for violating your child is almost beyond human capabilities. It is very difficult for me to stand behind an altar and celebrate the Eucharist and lead people in words of peace and reconciliation and forgiveness when I feel very far from that myself.” She added: “If someone were to say to me that my ability to forgive Jenny's killer would end the violence I could

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<sup>198</sup> Anselm, *Why God Became Man* 2.16

<sup>199</sup> Luther, M. (1551) *The Small Catechism*

probably find the courage to do it. But I am not sure in my heart I would believe it.”<sup>200</sup> In different ways, these examples show how the practice of forgiveness within the church embodies the tension between conditionality and unconditionality. It is an equivalent open multidimensional approach that Christian theology would look for in restorative justice, so that the processes of the law might respond as generously as possible to the needs and possibilities of a given situation.

The writings of Miroslav Volf (1996) and Paul Fiddes (1999) demonstrate how contemporary atonement theology continues to grapple with ideas of conditionality and unconditionality in forgiveness. Volf suggests that forgiveness is necessarily conditional in nature and limited in scope.<sup>201</sup> His understanding of forgiveness is a parallel to his understanding of sin’s universality. He has been strongly influenced by his experience of growing up in Croatia during the Balkan ethnic struggles in the 1990s. He sees sin as exclusion, manifesting itself in violent behaviour perpetrated by individuals, groups and nations against one another. Hatred of the other is fuelled by a basic fear of otherness and difference.<sup>202</sup> In conflict situations the bitter memory of past hatreds not only lives on to haunt the present but activates and energises new conflicts. Exclusionary behaviour is by definition violent. It achieves its violent goals towards others by means of: “...elimination, domination or indifference”.<sup>203</sup> Because of the horrendous evils done by all parties in the Balkans war, Volf resists making a sharp distinction between good and bad people:

...we should demask as inescapably sinful the world constructed around moral polarities – here, on our side, “the just”, “the pure”, “the

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<sup>200</sup> *Daily Telegraph* (7th March 2006), article by Richard Savill (<http://www.telegraph.co.uk/news/uknews/1512281/Vicar-who-cant-forgive-steps-down-from-pulpit.html>, last checked 12.04.2012)

<sup>201</sup> Volf, M. (1996) p.119

<sup>202</sup> Volf, M. (1996) p.29

<sup>203</sup> Volf, M. (1996) p.75

innocent”, “the true”, “the good”, and there on the other side “the unjust”, “the corrupt”, “the Guilty”, “the liars”, “the evil”, and then seek to transform the world in which justice and injustice, goodness and evil, innocence and guilt, purity and corruption, truth and deception, crisscross and intersect...<sup>204</sup>

This is not to say that everybody is equally guilty but it does recognise the universality of sin. Each person’s complicity in exclusionary behaviour means the need is within all to receive forgiveness. He argues that forgiveness is predicated on confession and repentance and he insists on distinguishing between the willingness to forgive and the act of forgiveness. Before repentance stands the will to forgive or to embrace but this is no guarantee of forgiveness. Only after repentance comes the grace of forgiveness or the embrace itself.

Paul Fiddes, by contrast, sees the act of forgiveness as beginning prior to repentance. Forgiveness is likened to a two stage journey.<sup>205</sup> First, it is a journey of discovery in which the offended reaches out to the offender to offer forgiveness. This is a strategic move to provoke awareness in the offender that something is wrong and that they have reason to feel guilt and to offer an apology. This offer of forgiveness is not the complete act of forgiveness but is a gracious beginning, an opening up of the space and possibility for forgiveness in the full sense to be given and received. This journey of discovery or active gesture of forgiveness reaching out to the offended is followed then by a journey of endurance or passive submission to the reaction of the offender. The response of the offender can range from glad recognition to vitriolic abuse but Fiddes insists this journey of endurance is a key movement of reaching out and maintaining, come what may, the offer of love and acceptance:

Forgiveness is no mere business; it is a “shattering experience” for the one who forgives as well as for the one who is forgiven. This is

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<sup>204</sup> Volf, M. (1996) p.85

<sup>205</sup> Fiddes, P.S. (1989) pp.173-8

because forgiveness, unlike a mere pardon seeks to win the offender back into relationship... Reconciliation is a costly process because there are resistances to it in the attitude of the person who has offended; the one who sets out to forgive must aim to remove those blockages and restore the relationship. Forgiveness then involves an acceptance which is costly.<sup>206</sup>

Forgiveness here encapsulates many dimensions such as the willingness to forgive, the readiness to wait for a response, to endure rejection and to realise reconciliation only after much cost. Fiddes insists that this is the nature of Christian love and models this perspective on the life and teaching of Jesus. He reached out in love to such as Zaccheus and, in his teaching, likened the love of God to the prodigal's father. It is open, compassionate and generous. It is not, however, one sided but is mutual and is dependent on the offender recognising their need and receiving the act of forgiveness as a response. The pastoral objections of feminist writers such as and Rita Brock and Rebecca Ann Parker (2001) to notions of unconditional forgiveness are substantial. They argue that forgiveness preceding repentance glorifies the passive innocent suffering of Christ and suggests that in imitation of Christ, abused women, victims of domestic violence should return to their violent husband and face more hurt.<sup>207</sup> Fiddes is sensitive to this critique and insists that the costly journey of forgiveness is not one way. It invites the costly engagement of both husband and wife to work at healing and restoring a relationship and it does not put the decisive power into the hands of the perpetrator.

The tension between conditionality and unconditionality continues to shape the Christian understanding and practice of forgiveness. Discerning the right approach, given the diversity of practice in the life and ministry of Jesus, is not a simple task. However the discussion between Volf and Fiddes demonstrates that

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<sup>206</sup> Fiddes, P.S. (1989) p.60

<sup>207</sup> Brock, R.N. and Parker, R.A. (2001) p.49

forgiveness is better understood as a costly journey. This process or journey orientated approach to the practice of forgiveness, based on the pattern of forgiveness in the life and death of Jesus, is the same approach that Christian theology would look for in restorative justice, so that the processes of the law might respond as generously as possible to the needs and possibilities of a given situation. Forgiveness is a forward looking concept which captures the goal of restorative justice and has implications for future living: embodying forgiveness in relationships.

The Christian understanding of forgiveness as a costly journey opens up possibilities for three related contemporary debates relevant to this study. The first, concerning the difficulties people face in extending forgiveness, naturally raises questions about the limits to forgiveness: is some wrongdoing unforgivable? The unbearable pressure to forgive is often felt by victims and can be extremely damaging; the earlier example of the vicar resigning from her parish is a case in point. Volf recognises that given the horrendous nature of some sins, and the absence of remorse in some perpetrators – humanly speaking – forgiveness might not be possible this side of eternity.<sup>208</sup> For him, forgiveness cannot be demanded. The spirit of forgiveness comes from within a person as understanding and empathy grow; it cannot be enforced. The eschatological orientation of the church means that it looks for reconciliation in the future. It looks for relationships to be healed now but, recognising the limits of the human condition, it also sustains a hope that nothing and no one is irredeemable in the sight of God. Marilyn McCord Adams (1999) expresses a similar idea when she says:

No matter what mess we make, God can clean it up not only “the easy way” by eliminating it...but by re-contextualising it into a more subtle plot. In the Realm of God the worst that we can suffer, be, or do, is not finally ruinous because God invents a new organisational grid that

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<sup>208</sup> Volf, M. (1996) p.126

endows us with amazing meaning, for example, gruesome degrading caricatures of human beings become instances of identification with God in Christ crucified.<sup>209</sup>

As Fiddes notes, the notion of unforgiveable sins are hard to square in Christian theology with the Kingdom ethic of love and compassion for the enemy but from the perspective of Christian realism there is a strong case.<sup>210</sup> Reflections on the holocaust experience during and after the Second World War have exercised many minds, with writers and filmmakers continuing to put the question of the unforgiveable sin in ways that inform and challenge the current debate.<sup>211</sup> The tension around unforgiveable sins was sharpened further through the work of the South Africa Truth and Reconciliation Commission where some victims of apartheid were unable to extend forgiveness to those who had wronged them believing their crimes to be unforgiveable. However, to all those who agreed to appear before the commission and tell their story, pardon or amnesty was extended to them even when forgiveness was withheld.

A second quite different but equally challenging contemporary debate on forgiveness, concerns the role played by emotions such as guilt and shame. Questions are increasingly being asked about how these emotions are aroused in the forgiveness process and what might make victims or offenders vulnerable to the misuse of these emotions in the search for a restoration and reconciliation? As with John Braithwaite (see, Chapter II) so also amongst 20<sup>th</sup> century theologians who have written on forgiveness, the tendency has been for them to make little or no distinction between

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<sup>209</sup> Adams, M.M. (1999) p.102

<sup>210</sup> Fiddes, P.S. (1989) pp.183-6

<sup>211</sup> Novel and film, *The Reader* (2008) raises this question from many perspectives: the child of a victim, the lover of a prison camp guard charged with war crimes and the camp guard's own perspective.

guilt and shame. Pattison notes that there is an extraordinary imbalance between the attention given by contemporary theologians to the subject of shame in comparison to the attention paid to guilt.<sup>212</sup> The exceptions to this, he suggests, are Dietrich Bonhoeffer (1906-45) and Paul Tillich who both recognise something distinctive in shame but still do not proceed to dialogue with psychoanalytical theory.<sup>213</sup>

Also underexplored is the potential for dialogue between theology and psychology in the area of the emotions. Pattison gives voice to this concern in his study on shame as does Fraser Watts (2001) in his studies on psychology, religion and the emotions.<sup>214</sup> Drawing on the insights of psychology and anthropology on the emotions of shame and guilt, Watts compares the anthropological approach of Ruth Benedict and the psychoanalytical approach of Helen Block Lewis.<sup>215</sup> Guilt, according to Benedict, is about the transgressions we know about and is therefore a private internal matter. Shame, on the other hand, is the result of our transgressions being exposed to the public gaze. In contrast to this approach and more widely accepted is the approach of the psychologist Helen Block Lewis who suggests that we feel guilt about particular behaviours that we regard as transgressions but we feel shame about our very selves. On this axis guilt is very act-specific whilst shame is “...a much more pervasive less differentiated emotion”.<sup>216</sup> Pattison characterises the effect of shame as “morally counter-productive”. Whereas guilt is

...other directed, externally oriented, and attracted to reparative action shame has many of the opposite features. It focuses attention acutely upon the global self and its own self-consciousness, not upon particular acts or possible courses of action. It blocks out awareness of other people and their feelings and needs...<sup>217</sup>

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<sup>212</sup> Pattison, S. (2000) pp.191-6

<sup>213</sup> Pattison, S. (2000) pp.191-6, quoting Bonhoeffer, D. (1964): *Ethics*

<sup>214</sup> Watts, F. (2001) pp.7-12; Watts, F. and Gulliford, L. (2004) pp.1-8

<sup>215</sup> Cf. Benedict, R. (1954); Lewis, H.B. (1971)

<sup>216</sup> Pattison, S. (2000) pp.125-6

<sup>217</sup> Pattison, S. (2000) p.125

Far from being a useful moral emotion he notes how chronically shamed people may act in very anti-social and immoral ways, not merely failing to do good but doing harm to self and others. Related to the growing distinction being made in the literature between shame and guilt, is the view that society has moved in socio-historical terms from being a guilt prone to a shame prone culture:

We are living in the age of the self-conscious reflexive self. In this context individuals conceive of themselves as being detached from traditional structures and relationships. When traditional roles expectations and norms, together with the practices and rituals that support them, have fallen away, guilt associated with conforming to static widely understood rules becomes less significant than the shame that accompanies uncertainty about the self in an ever changing world...<sup>218</sup>

The implications of this shift from a guilt to a shame culture is that a theology of forgiveness needs to emerge that demonstrates greater sensitivity to the distinction between guilt and shame and to the implications of this for the forgiveness process. If atonement theology and restorative justice understand restoration and reconciliation holistically, as in repairing the damage done in relation to self-esteem and dignity then it would seem that more thinking is needed both in atonement theology and in restorative justice to properly recognise the complex nature of shame and to develop practices that are appropriate to a shame prone culture. They should not be used to coerce forgiveness at any cost.

A third concern in contemporary debate arising from ideas about forgiveness is whether or not such a moral category has a legitimate place in the judicial process. The modern criminal justice system has been content to hand over questions of mercy and forgiveness to the religious sphere. But this stance is being challenged by those

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<sup>218</sup> Pattison, S. (2000) p.142

who argue that justice is relational and that notions of repentance and forgiveness are integral to the moral framework of relationships within society irrespective of religion, so they cannot simply be dismissed as a private religious matter. Restorative justice theory clearly recognises forgiveness as a dimension of justice and restorative justice practice creates space for the moral emotions within its processes. Crime, it is argued, is fundamentally a breakdown of trust in relationships which must be addressed in a manner that does everything necessary to repair the moral damage.

The key contribution of this discussion on the theme of forgiveness has been to articulate a tension in the Christian tradition between conditional and unconditional forgiveness. It has traced this tension in the tradition of the church providing several historical examples. It has explored two voices (Volf and Fiddes) from the contemporary debate showing that Christian theologians are still grappling with this tension. It has also considered questions related to the Christian understanding of forgiveness: the limits of forgiveness; the role of the emotions; the place of forgiveness within the legal system.

Central to this whole discussion has been the way that the pattern of Christian forgiveness, depicted metaphorically as a costly journey, resonates with and enriches restorative justice theory.<sup>219</sup> Forgiveness is not just one step in the process but encapsulates the dynamic at work in the whole process. In Christian atonement forgiveness is seen as a journey of committed participation, requiring a readiness on the part of forgiver and offender to risk and to be vulnerable. The cry of dereliction from the cross reflects the pain and disruption this caused in the life of the Divine

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<sup>219</sup> Fiddes, P.S. (1989) p.173

Trinity.<sup>220</sup> In spite of this, the prayer of the crucified Christ “Father forgive them” represents the divine priority of grace.

In Christian atonement, grace and judgement are seen to co-exist. Wrong is not made light of, but is righted in a morally serious way. There is, so to speak, a judgement of grace in the journey of forgiveness. Christ’s death is both empathy for and condemnation of the human condition. .

## **ii. Sacrifice**

In Chapter Two the criticisms posed by restorative justice theory towards the criminal justice system were analysed. In particular the emphasis in restorative justice to re-conceptualise punishment within a restorative framework was noted. Shunning retribution and revenge, restorative justice seeks to understand how punishment is not an end in itself but that it can serve the goal of reconciliation in an holistic criminal justice process. A consideration in this chapter of the sacrifice of the cross in Christian atonement theology will demonstrate a similar attempt to balance ‘addressing wrong’ with ‘restoring relationships’. In Hebrew culture sacrifice was conceived as both a ‘gift offering’ and a ‘sin offering’. The sin offering was understood as an expiatory process which took sin seriously by removing its stain.<sup>221</sup> In recent times, Christian atonement theology has begun to reintegrate these two understandings so that the sacrifice of the cross as a sin offering is brought into creative tension with an understanding of the cross as a gift offering.<sup>222</sup> The gift offering celebrates the life-giving power of the sin offering but more particularly,

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<sup>220</sup> Cf. Moltmann, J. (2<sup>nd</sup> Edn, 2001) p.213

<sup>221</sup> Fiddes, P.S. (2000) p.69

<sup>222</sup> Fiddes, P.S. (2000) pp.68-9

contemporary ideas about sacrifice are serving to correct the tendency to see the sin offering as propitiatory rather than expiatory.<sup>223</sup>

In historical atonement models such as penal atonement, discussed later, the sacrifice of the cross has been presented predominantly as propitiatory. This, according to Robert Daly (2009), misrepresents the way in which biblical writers and early church theologians understood and used the term. Worse still, he argues, classic penal atonement theology has conceived the sacrifice of the cross in ways which veil rather than reveal the authentic meaning of Christian sacrifice:

Classic atonement theory ...When pushed to its theological conclusions and made to replace the incarnation itself as the central doctrine of Christianity, ends up turning God into a “sacrifice demander” and Jesus into a “punishment bearer”. It turns God into some combination of a great and fearsome judge, or offended Lord, or temperamental spirit.<sup>224</sup>

The Christian understandings of the sacrifice of the cross grew out of Jewish understandings of sacrifice. As already noted, sacrifice in Hebrew culture took different forms but typically its usage fits into two broad categories: gift offerings and sin offerings. The gift offering was central in Israel’s practice of sacrifice and always consisted of some form of food or drink. Sometimes the sacrifice was wholly burnt as a lavish sacrifice of praise but it often took the form of a shared meal (communion offering) in which the meat was part burnt and part eaten as a sign and symbol of fellowship between God and the worshipper. Following this pattern, in the New Testament church the sacrifice of Christ, understood as a costly gift to God, was celebrated in the context of a shared meal, the Lord’s Supper, as a sign and sacrament of the new covenant relationship between humanity and God.

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<sup>223</sup> Fiddes, P.S. (2000) p.79

<sup>224</sup> Daly, R.J. (2009) p.4

The notion of sacrifice being a gift is very familiar in contemporary culture. Newspapers carry stories daily that speak of sacrifice in terms of a costly gift of love paid by one for another and the sacrifice of a soldier for their country is often cited as the ultimate sacrifice. The basic distinction of course between secular and religious understandings of sacrifice concerns the recipient of the gift: God is the recipient of a religious sacrifice. Distinctively, however, in Christian Eucharistic rites and patterns where Christ's death is portrayed as a gift offering, God is both gift giver and recipient. The Eucharist as gift offering points first to God's self-giving in Christ and then to the worshippers' sacrifice of praise in response: "And so, Father, calling to mind his death on the cross, his perfect sacrifice made once for the sins of the whole world...we offer you this our sacrifice of praise and thanksgiving"...<sup>225</sup>

The gift offering was "...basic or central in ancient Israel's practice of sacrifice" but following the exile "...the sin offering was developed by the Jerusalem priesthood into the dominant ritual means of atonement".<sup>226</sup> Within the sin offering the blood rite in particular was significant for the process of atonement. The sin offering was the rite that Israel celebrated annually on the Day of Atonement, when bulls and goats were sacrificed and their blood was used to expiate the sins of the nation. The sin offering was a very powerful and important ritual reminder to Israel that the stain and contagion of sin is absorbed and removed through sacrifice. Crucially the focus of the sin offering was not on appeasing God (propitiation) but on cleansing humanity (expiation), and on the nation's need to return and be reconciled with God. In the early church, where Jewish converts had been nurtured on the atonement ritual, it was an easy step to liken the death of Jesus to a sin offering. Jesus, the sacrificial victim, absorbed into himself the stain of sin. He did not

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<sup>225</sup> Church of England (2000), *Eucharistic Prayer B*, p.190

<sup>226</sup> Daly, R.J. (2009) p.37

overcome sin and death by force, meeting violence with violence, but by absorbing the blows and transcending death's limits; he drew the sting of death and destruction from the human condition.

Whilst, as already noted, the sin offering in the Hebrew Scriptures was concerned with expiation, over the centuries advocates of satisfaction and penal atonement models have drawn extensively on sacrificial language and used it to speak of propitiation rather than expiation. By this means, penal atonement language has shifted the focus and meaning of sacrifice from redeeming the human condition to satisfying or appeasing God. Mark Heim (2006) acknowledges the contentious discussion around the metaphor of sacrifice on the basis of a wide range of critics wishing to distance themselves from it. Some regard it as morally flawed: "...sacrifice is a primitive artefact of an earlier stage of human development, an irrelevant form of magic long since retired by science".<sup>227</sup> Others believe sacrificial language should be dispensed with on the grounds that it fuels Christian anti-Semitism and anti-Judaism. The deicide charge (that Jews are somehow collectively responsible for killing God) has led some Christian and Jewish thinkers to suggest that the only solution is the removal of atonement theology from Christianity: "The cross must be re-imagined and de-emphasised as a Christian symbol".<sup>228</sup> Feminist theologians have added their distinct voice to the objections focusing on the way that Christ's sacrifice has been used and distorted to glorify innocent suffering and, by extension, to encourage people to passively accept abusive situations in imitation of

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<sup>227</sup> Heim, M. (2006) p.23

<sup>228</sup> Carrol, J. (2001) p.587

Christ.<sup>229</sup> Most recently, evangelicals who have been strong advocates of penal substitutionary language have come to question it.<sup>230</sup>

In spite of these considerable objections to propitiatory language about the sacrifice of the cross, the theme of sacrifice persists. Daly insists it must persist for it is at the heart of the Gospel: “If you take away the sacrifice of Christ you take away Christianity itself. The so-to-speak problems with sacrifice have to be faced and dealt with.”<sup>231</sup> Heim agrees, that precisely because sacrifice is central to scripture’s testimony and key to human experience we cannot ignore it. Instead, he suggests that the cross needs to be understood not as saved by sacrifice but saved from sacrifice.<sup>232</sup>

Heim argues that whilst the cross appears to conform to the traditional pattern of scapegoating, in reality it breaks the cycle of scapegoating. The myth or cycle of redemptive violence is finally exposed and denounced. The cross is not more of the same; it does not endorse mimetic ritual violence as divinely sanctioned but rather brings it to an end Heim’s reading of the cross as saved from sacrifice rather than saved by sacrifice is a valuable perspective because it denounces violence. But more still needs to be said about this theme because sacrifice properly understood is more than the negation of violence, it is also a positive concept. The sacrifice of the cross derives positive meaning from Hebrew ideas of gift offering. As a counterbalance to ideas of sin offering this highlights the importance of restoring and nurturing right relationships. Facing up to wrongdoing is balanced by the need to renew and reconcile.

The creative positive power of sacrificial love in atonement thinking emphasises the disposition of the heart. Without the will to reach out, to be

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<sup>229</sup> Cf. Carlson Brown, J. and Bohn, C.R. *eds.* (1989) pp.1-30

<sup>230</sup> Chalke, S. and Mann, A. (2003) p.182

<sup>231</sup> Daly, R.J. (2009) p.4

<sup>232</sup> Heim, M. (2006) p.306

vulnerable and to risk, conditions will not be conducive to restoring relationships. Sacrificial love is a prerequisite to forgiveness and reconciliation. In Pauline terms sacrificial love means to be “crucified with Christ”. Interpreting this phrase, Volf writes “The new centre opens the self up, makes it capable and willing to give itself for others and to receive others in itself”.<sup>233</sup> Daly also seeks to highlight the creative power of sacrifice as gift offering and he does so with specific reference to the doctrine of the Trinity. He defines sacrifice as:

...a mutually self-giving event that takes place between persons... It begins in a kind of first ‘moment’ not with us but with the self-offering of God the Father in the gift of the Son. It continues in a second ‘moment’ in the self-offering of the Son in his humanity and in the power of the Holy Spirit to the Father and for us. And it continues further in a third moment when we...empowered by the same Spirit that was in Jesus begin to enter that...mutually self-giving, self-communicating personal relationship that is the life of the blessed Trinity.<sup>234</sup>

This citation demonstrates that sacrifice is less a negative force and more a participation in the outpouring of Divine love. Understood as costly, generous, self-giving love it belongs to the nature of the triune God. Self-sacrifice evokes a response from others and changes the dynamics of a situation in a way that would not otherwise be possible. Human experience bears testimony to the power of self-giving love to change and transform minds and hearts. When a person generously reaches out to another and even lays down their life for another, good can win through desperate and hopeless situations. Moltmann, finding God in the forsakenness of millions of Jews, writes:

God in Auschwitz and Auschwitz in God – that is the basis for a real hope which both embraces and overcomes the world, and the ground for a love which is stronger than death and can sustain death. It is the ground for living with the terror of history and nevertheless remaining in love and meeting what comes in openness for God’s future. It is the

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<sup>233</sup> Volf, M. (1996) p.71

<sup>234</sup> Daly, R.J. (2009) p.5

ground for living and bearing guilt and sorrow for the future of man in God.<sup>235</sup>

This discussion of the sacrifice of the cross has shown that it can be understood, in Hebrew terms, as a gift offering and a sin offering. As a sin offering it expiates the effects of crime and wrongdoing and as a gift offering it brings people together in a restorative realisation of Divine love. It shows remarkable correspondence with restorative justice which seeks to balance righting wrong in a morally serious way with reconciling victims, offenders and communities. In the next section these two enduring themes of the cross – sacrifice and forgiveness – will be reflected on in relation to three atonement models.

### **C. Restorative Approaches in Contemporary Atonement Theory**

This section demonstrates that the shift in Christian thinking on the atonement from a retributive to a restorative approach has come about through contemporary reformulations of traditional atonement models. Three models of atonement theory (ransom, penal and moral influence) have each historically been seen by their exponents as replacing other models or having absolute priority over the others. This absolutism however is tempered in the 20th century by a recognition that no theoretical model is ever the final word, and that each theory offers distinctive though partial insights into the journey of forgiveness and reconciliation.

This section will draw on the writings of contemporary atonement theologians who have critically re-appropriated traditional atonement models in support of a restorative interpretation: first Denny Weaver's re-articulation of Christus Victor as

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<sup>235</sup> Moltmann, J. (1989) p.288

non-violent atonement, second Christopher Marshall's and Hans Boersma's re-appropriation of penal atonement theory as restorative, and third, Paul Fiddes' rehabilitation of Abelard's moral influence theory.

### **i. Christus Victor**

The early Church Fathers, such as Justin Martyr and Irenaeus of Lyon, conceived of sin as a pervasive active force manipulating and oppressing people. Humanity lived in fear because "...sin either prevented them from overcoming (their) enemies or pushed them into their grasp. The world felt alien to people because they had lost control over it, manipulated as it seemed to be by supernatural forces".<sup>236</sup> The climate of *fear* arising from this particular conception of sin in the early centuries of the church resonates with Tillich's identification of fear arising from sin or anxiety in contemporary culture. This correlation helps to explain the fresh appeal of Irenaeus' atonement thinking for contemporary theologians. Writing in the second half of the second century Irenaeus used mythological language to argue that the death of Jesus should be regarded as a ransom by which God liberated humanity from Satan's captivity. Christus Victor, as this model came to be called, is not so much a systematic theory but a narrative or drama of salvation.<sup>237</sup> Before engaging with re-statements of this model, the drama as conceived by Irenaeus needs to be briefly stated. First, the human condition, on account of the sin of Adam, fell into the hands of Satan. This situation resulted in a nightmare scenario, which is mythically depicted as a cosmic battle: "The apostate one unjustly held sway over us, and though we were by nature the possession of Almighty God, we had been alienated from our proper

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<sup>236</sup> Fiddes, P.S. (1989) p.7

<sup>237</sup> Irenaeus, *Against Heresies* V.1.i

nature, making us instead his own disciples...”<sup>238</sup> By conceiving the human predicament as a cosmic struggle between God and Satan, the Christus Victor drama communicates the sense of fear which grips the human spirit when faced with overwhelming powers and systems that threaten to control and destroy it.

Second, in spite of the violent imagery which this mythical battle evokes Irenaeus insists that the ransom paid by God for the redemption of humanity was realised not by force but through persuasion. To use force in the redemption of human kind would, he insisted, have been unthinkable, because it would have infringed the principles of justice: “Therefore the almighty Word of God, who did not lack justice, acted justly even in the encounter with the apostate one, ransoming from him the things which were his own, not by force, in the way in which (the apostate one) secured his dominion over us at the beginning, by greedily snatching what was not his own. Rather it was appropriate that God should obtain what he wished through persuasion, not by the use of force, so that the principles of justice might not be infringed, and, at the same time that God’s original creation might not perish.”<sup>239</sup>

Third, Redemption for Irenaeus is not limited to the sacrificial death of Christ but rather embraces the entire life death and resurrection of Christ. The incarnation is a journey of salvation which finds its dramatic denouement in God’s deal with the devil: “The Lord therefore ransomed us by his own blood, and gave his soul for our soul, his flesh for our flesh; and he poured out the Spirit of the Father to bring about the union and fellowship of God and humanity, bringing God down to humanity through the Spirit while raising humanity to God through his incarnation, and in his

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<sup>238</sup> Irenaeus, *Against Heresies* V.1.i

<sup>239</sup> Irenaeus, *Against Heresies* V.1.i

coming surely and truly giving us in-corruption through the fellowship which we have with him”.<sup>240</sup>

Christus Victor language echoes the thoughts and ideas of the Apostle Paul when in Romans 7.13 sin law and death are characterised as the enemy, and the enemy’s power and influence are described in psychological and political terms. The war going on within Paul between the old and the new self and the struggle going on in the realm between church and state were part of a larger battle being waged within and beyond the physical world (cf. Rm 7.19).

The considerable appeal of Christus Victor account for the Early Fathers and for contemporary atonement theologians lies in the powerful way it presents sin as the all-pervasive enemy. In current atonement debate the Christus Victor model is used dramatically by Walter Wink to depict in psychological and political terms the battle going on within the realm of daily personal experiences, where nothing escapes the grip of the enemy.<sup>241</sup> Humans are trapped by fear and feel powerless; they are both bound by violence and become perpetrators of violence. The enemy, with irrepressible force invades and corrupts every aspect of life: private-public, personal-social, spiritual-material.

The way in which atonement theologian Denny Weaver approaches the Christus Victor theme is illustrative of how the model is being re-appropriated to address the concerns of the present culture and at the same time to address some of the main criticisms which have been levelled against it over the centuries. First he re-names the model “Narrative Christus Victor” in order to firmly locate the rather distant other worldly mythical character of Irenaeus’ cosmic drama within history. A criticism of the original Christus Victor model was that humanity appears to stand by,

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<sup>240</sup> Irenaeus, *Against Heresies* V.1.i

<sup>241</sup> Wink, W. (1988) p.1

passive and uninvolved as in a Greek tragedy where the gods do battle whilst mere mortals look on victims of blind fate. By rooting the narrative of salvation firmly within the story of Jesus life death and resurrection, Weaver makes explicit that narrative Christus Victor is not a battle going on somewhere else far away. Humanity is not a passive spectator but by faith is an active participant in the drama of the cross and resurrection.

Second, Weaver seeks in Narrative Christus Victor to address the problem of violence in the atonement which, as noted earlier in the discussion of Moltmann, has heavily pre-occupied the 20<sup>th</sup> century atonement debate. Weaver's interpretation of Christus Victor as non-violent atonement makes more explicit the implications of Irenaeus' insistence that God did not act with force but by persuasion. In contrast to the original Christus Victor account Weaver in the line of Moltmann, rejects the notion of Divine deception, emphasising instead how the violence of the cross was not initiated or required by God but was violence done to God. Further, following Yoder's argument in *The Politics of Jesus* that the Jesus narrative and ethics go together, Weaver argues that the story of Jesus rejection of violence should have a primary influence on atonement theology.<sup>242</sup>

Perhaps the most persistent problem with the Christus Victor model, both in the original and in Weaver's re-write, is the way it uses violent and triumphalist imagery to argue the case for non-violent atonement. In the face of a world where violence is on the increase it cannot be helpful to use language which is inherently violent? Phrases like 'trampling on the enemy' reflect a logic of force that contradicts the message of non-violence they are trying to convey.

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<sup>242</sup> Yoder, J. H. (2<sup>nd</sup> Edn, 1994) pp.7-8

In spite of this contradiction, Weaver insists that the relevance of the Christus Victor narrative to the contemporary atonement debate outweighs its problems. The theme of forgiveness as a costly journey comes through strongly and sacrifice is understood as a life lived generously and faithfully. In the context of this study it should also be noted that this model resonates in specific ways with restorative principles. First, It invites human participation in redemption through a life of committed discipleship, cross shaped love means being willing to take risks and to be vulnerable while the ethical content of the Jesus narrative roots liberation restoration and reconciliation in the kingdom context of justice and truth. Second it highlights more than other models how sin is an all pervasive corrupting power. It is structural and systemic. Atonement means both liberation from social and political oppression and the restoration of broken relationships. Third it highlights that the violent impact of sin, political and personal, is successfully countered not by punitive or retributive force but through costly love. The victory it celebrates is a staggering demonstration of how by walking the way of vulnerability, weakness and persuasion Christ righted wrongs and overcame death. This re-articulation of Christus Victor may not fully satisfy the test of non-violent atonement but it certainly understands and interprets atonement in non-coercive restorative terms.

## **ii. Penal Theory**

To the 11<sup>th</sup> century theologian Anselm of Canterbury the mythological account of Christ's work as victor over the devil seemed crude and unhelpful. Particularly offensive to him was the notion that God would do a deal with the devil. Instead Anselm put forward the idea of atonement as deliverance from the guilt of sin. His treatise- *Cur Deus Homo*- took the form of a dialogue in which he explored the

necessity of Christ's incarnation and death. Grounded in the principles of feudal law his model of atonement has a number of key characteristics: Sin and wrongdoing is conceived as an offence against God's order; sin leads to guilt over personal wrongdoing which separates humanity from God; and finally, sin can be deleted: like a debt repayment, sin can be cancelled out through the payment of a debt which satisfies the offended party. Anselm's approach was not without its critics, most notably Peter Abelard, but his model of penal satisfaction decisively changed the atonement discussion.

Calvin shared Anselm's strong sense of order being glorifying to God but the legal metaphor for atonement favoured by both in fact represented two different understandings of justice. Whereas for Anselm the legal background was feudal law, in which the church operated a system of penance; for Calvin the background was 17th century criminal law. In the eyes of reforming lawyers, justice meant undergoing punishment equal to the crime. Contingent with this system Calvin insisted that Justice is not simply a question of restoring honour and order, but of fulfilling the demands of justice with punishment. Only Christ punished in fallen humanity's place, could meet the demands of justice.

The penal atonement model (both versions) enjoyed wide appeal in much of the western church for hundreds of years. Of course from Anselm to Calvin and then on into the 20<sup>th</sup> century, penal atonement has undergone many revisions, but its central concern, to understand redemption as a transaction between Father and Son, has remained constant throughout.. Particularly problematic in the contemporary debate has been the notion that penal atonement constitutes something like Divine

child abuse. For “God the Father enacts violence on the Son in order to satisfy his Holy nature: the father “takes it out” on the Son instead of us”.<sup>243</sup>

In spite of the strength of opinion amongst the critics of this model, Fiddes<sup>244</sup> and Marshall<sup>245</sup> amongst others maintain that the challenge is not how to ditch the penal model – because its images are deep within scripture and tradition – but how to re-appropriate it in ways that take seriously both the justice and mercy of God. This means essentially understanding the violence in the cross in ways which do not do violence to the character of God and at the same time understanding punishment – a notion inextricably linked to this model – in terms that are restorative rather than retributive.

In his exploration of New Testament visions for crime and punishment the Reformed theologian Christopher Marshall (2001), makes the case for a more restorative emphasis in penal atonement thinking. His overarching criticism of penal atonement theory is that whilst the elements of sacrifice substitution wrath and penalty all have a place in Pauline writings, nevertheless he “...does not put them together into a thoroughgoing theory of penal substitution”.<sup>246</sup> Following Fiddes, Marshall argues that a penal substitution misrepresents Paul. The understanding of atonement in Pauline literature is best understood not as penal substitution but as penal suffering:

What Christ did was unique yet Paul insists, we share in it, through our union with Christ in baptism. Humanity participating in Christ’s death is such a strong idea in Paul’s letters it makes representative over substitute the preferred translation for contemporary commentators.<sup>247</sup>

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<sup>243</sup> Sander, J. (2006) pp.x-xi

<sup>244</sup> Fiddes, P.S. (2000) pp.95-6,110

<sup>245</sup> Marshall, C.D. (2001) p.61

<sup>246</sup> Marshall, C.D. (2001) p.61

<sup>247</sup> Marshall, C.D. (2001) p.61

A main weakness in penal atonement theory according to Fiddes and Marshall is the place given to punishment and more specifically the way terms such as wrath have been interpreted in the process of translation. Punishment or wrath clearly has a place in the picture, but it is not in Paul's theology vengeful or retributive. In Romans 1:24-28 Paul equates the wrath of God as the outworking of sin in the world. Sin or wrongdoing reaps its own punishment and produces considerable suffering to all concerned.<sup>248</sup> The wrath of God is the outworking of sin in the world "it is the penalty of inherent consequences something intrinsic to the nature of the offense itself".<sup>249</sup> If the main weakness in penal atonement is a wrong emphasis on punishment, the flip side of this according to Marshall is a lack of focus on what is central in Paul's message and that is forgiveness: "God justifying sinful humanity is an act of forgiveness". Paul's emphasis on forgiveness, is what distances him from the negative associations in penal atonement theory with violent retribution.

In a significant recent re-reading of the penal atonement model, Hans Boersma (also like Marshall from the Reformed tradition), agrees and disagrees with non-violent atonement theologians. He agrees that an overly juridical reading of key texts (Gal 3 10-13) leads to the appearance that the justice and mercy of God are at odds. Boersma also agrees that Christ did not die on behalf of sinners as their substitute but as the representative of humankind. From this he proposes that "the way forward" in terms of rescuing penal atonement from the problems of penal substitutionary language is to return to the concept of recapitulation first advocated by Irenaeus. The journey of Christ conceived as a recapitulation of the story of creation locates Christ as the second Adam and echoes Paul's thoughts: As in Adam all die so in Christ shall all be made alive.

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<sup>248</sup> Fiddes, P.S. (1989) p.91

<sup>249</sup> Marshall, C.D. (2006) p.62

Where Boersma differs, and markedly so, from Marshall, Weaver and others, concerns the place of violence in the atonement. There is realism at work in Boersma akin to the thinking of Volf which was considered earlier in relation to the conditionality of sin and the notion of unforgiveable sins this side of eternity. Boersma's view is that whilst violence is subservient to the ultimate reality of God's unconditional forgiveness, unlimited hospitality is unrealistic this side of eternity. It may reflect the essence of God but in a fallen and violent world it would simply open the door to yet more chaos and violence. Violence understood in Augustinian terms as positive discipline (Augustine uses the analogy of being caned at school)<sup>250</sup> is not inconsistent with the pure hospitality of God. There are echoes here of Braithwaite's re-integrative shaming theory. God's justice, of necessity, holds in tension judgement and mercy. Judgment is seen in the experience of exile, which is the consequence or outworking of Israel's disobedience and likewise judgement is seen in Christ's death which is the consequence of human wrongdoing. Mercy is seen against the wider eschatological horizon of God's unlimited hospitality and is experienced as homecoming and resurrection. "In the outstretched arms of the crucified Christ we see the welcoming home of the prodigal father".<sup>251</sup> To read violence into the atonement in this way Boersma does, may not render it un-restorative. It calls for a restorative understanding of violence and punishment. Boersma, together with Volf, makes a strong case for a more nuanced understanding of violence, and their realism echoes with the realism of Braithwaite and others in the restorative justice debate, who insist that punishment has a place in the restoring of relationships. Notwithstanding his efforts to distance himself from Marshall and

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<sup>250</sup> *Confessions* I.ix.14, Chadwick, H. *trns.* (1992)

<sup>251</sup> Boersma, H. (2004) pp.177-9

Weaver on the question of violence in the atonement, Boersma echoes their strong appeal for penal atonement to be re-read in a restorative way.

In this section, through consideration of the writings of Marshall and Boersma, legal models of atonement have been re-interpreted from a restorative perspective. The emphasis on forgiveness means the dominant place of punishment is tempered. The representative rather than substitutionary nature of Christ's sacrifice also moves the emphasis from propitiation toward expiation and from spectating to participating in the work of the cross through sacrificial discipleship. This shift is important because at the heart of the criminal justice debate is long standing and heated discussion about the place and meaning of punishment. In Penal atonement theory both Marshall and Boersma insist that atonement theology must take wrongdoing seriously. There can be no room in this model for cheap grace or pain free reconciliation. But they also insist – contrary to some earlier versions of this model – that punishment is not an end in itself but serves the purposes of restoration and reconciliation. From a restorative perspective, this reading of penal atonement points to forgiveness and reconciliation as the source and summit of atonement theology.

### **iii. Moral Influence Theory**

This is the model where the concern within the modern debate to see an active participation on the part of humanity in the redemption and moral restoration of creation is most keenly addressed. Derived from Peter Abelard (c.1079-1142), it is a theory which has over long periods of history been heavily criticised for being overly

subjective, beginning with Bernard of Clairvaux (c.1090-1153).<sup>252</sup> The current appeal of the moral influence theory can be traced in many contemporary readings of the atonement. For example, in Narrative Christus Victor Weaver's ethical stance suggests that the cross is appropriated into the life of the believer when "by faith the loving offer of God, who invites us to be part of the reign of God" is received.<sup>253</sup> Or again in penal atonement, when the emphasis or stress is not on punishment but on the goal of punishment namely transformation: "...what justice demands is not payment but repentance...The penitence of Christ, on our behalf, wins us to repentance".<sup>254</sup>

Peter Abelard's controlling idea was that the redeeming power of Divine love demonstrated through the death of God's Son has the power to change the human condition:

"everyone is made more righteous, that is more loving towards God after the passion of Christ than he had been before because a realised gift incites greater love than that which is only hoped for. Therefore our redemption through Christ's suffering is that supreme love in us which not only frees us from slavery to sin, but also acquires for us the true liberty of sons of God."<sup>255</sup>

In his commentary on Romans Abelard argued that one of the chief consequences of the death of Christ was its demonstration of the love of God for humanity.

The necessity of the cross was not therefore to satisfy God but to restore humanity. It is through our response of love to Christ that we are joined with him and benefit from his passion. Abelard's theory stemmed from his conviction that God's act of sacrificial love – crucifixion – was not to satisfy any prior conditions of honour or justice but simply to satisfy his own nature of love. "It is the essence of

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<sup>252</sup> Bernard of Clairvaux: *Letter* 190 (<http://www.ccel.org/ccel/bernard/letters.lxiii.i.html>)

<sup>253</sup> Weaver, D. (2001) p.76

<sup>254</sup> Fiddes, P.S. (1989) p.107

<sup>255</sup> Abelard: 'Romans II 3:26' in, Fiddes, P.S. (1989) pp.143-4

love to be ecstatic...creation and redemption are fitting for God as a logical out working or “intrinsic necessity” of his nature.”<sup>256</sup>

Abelard was criticised for not taking seriously human frailty. Reducing his model to nothing but moral example, Bernard accused him of pure subjectivism.<sup>257</sup> However as evident in the citation above, there is clearly an objective dimension because the focus of this model is on God in Christ reaching out to humanity. God’s initiative of love kindles within hearts and minds an answering love.<sup>258</sup> Abelard’s model was not original but was building on the Eastern concepts of deification and theosis which may be captured in the words of Athanasius: “The word became flesh that he might make man capable of Godhead”<sup>259</sup> The humanness of Christ in Abelard’s writings underscores the reality of the incarnation and resonates with the restoration of humanity as described in Eastern theology through the notion of recapitulation. Christ becomes incarnate in order to re-trace Adam’s steps: “When he was incarnate and became a human being, he recapitulated in himself the long history of the human race obtaining salvation for us, so that we might regain in Jesus Christ what we had lost in Adam that is being in the image and likeness of God”.<sup>260</sup>

The eastern fathers sought to emphasise that salvation is progressive. Humanity is not created perfect but with the potential for perfection. Sin is about human frailty and the work of atonement is about reorientation and transformation. To fix one’s gaze on the cross and identify with Christ even as he identifies with us is a powerful experience which hardly merits the criticism of pure subjectivism. A term found for the first time in Irenaeus but quoted many times in the writings of the Fathers is deification: signifying that “the Word of God, our Lord Jesus Christ, who

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<sup>256</sup> Fiddes, P.S. (1998) p.143

<sup>257</sup> Bernard of Clairvaux: *Letter* 190 (<http://www.ccel.org/ccel/bernard/letters.lxiii.i.html>)

<sup>258</sup> Cf. Fiddes, P.S. (1989) pp.143-4

<sup>259</sup> (Athanasius: *Four discourses against the Arians* 2:59)

<sup>260</sup> Irenaeus, *Against Heresies* III.18.i

did, through His transcendent love, become what we are, that He might bring us to be even what He is Himself.”<sup>261</sup> Vladimir Lossky regards this sentence as summing up the essence of Christianity: “...an ineffable descent of God, which opens to men a path of ascent to the unlimited vision of the union of created beings with the divinity”.<sup>262</sup> Lossky’s point is that redemption is not as in Anselm’s model simply one aspect of theology but is its unifying theme. This strongly restorative reading of Christian atonement, and indeed the whole of theology, resonates well with restorative justice principles, bringing to the discussion on justice an ontological dimension, that is, an explanation for change in human behaviour which is more than simply the result of human effort.

This model, in comparison to the others, offers a more positive approach to human identity and agency as beings in relationship. Christ’s death invites participation and inspires a committed and forward looking response. The emphasis is on healing and restoring the divine human relationship through costly sacrifice.

In the late nineteenth and early 20<sup>th</sup> century, Abelard’s approach found strong contemporary champions in the liberal school of theologians including Schleiermacher, Walter Moberly and Hastings Rushdall. Abelard’s view of the atonement was summed up by Rushdall as a life and death event which inspires and motivates humanity to new and greater acts of love. Whilst the liberal school was content with the idea of moral example and ready to remove the objective dimension altogether others more recently have insisted that there is more to Abelard’s thinking on the atonement than simply an encouragement to moral living. It has, says Fiddes, a redemptive effect: “...love which is bestowed is at the same time the love which

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<sup>261</sup> Irenaeus, *Against Heresies* V. Preface

<sup>262</sup> Lossky, V. (1974) pp.97-8

recreates”<sup>263</sup> Drawing on Abelard’s correspondence with Heloise, Fiddes identifies in Abelard’s writings a deep psychological appreciation of the effect of the cross on the human mind. It does not simply evoke tears and inspire acts of love, it heals the diseased ego.<sup>264</sup> Citing the insights of modern psychology Fiddes claims that “while all modern theories of atonement that find the cross to be an enabling event have a family likeness to Abelard’s thought, those that stand closest to it are those that use psychological insights to explore the profound change which the story of the cross can effect on the diseased ego”.<sup>265</sup> Drawing on two psychological readings of the cross Fiddes illustrates how stories of Jesus can transform the mind: “...whether shattering the self-centredness of the ego or healing the conflict between unconscious and conscious levels of the mind, the theories show that the effect of revelation is much deeper than a mere moving of the emotions”.<sup>266</sup> This means that the event of the cross does not just change our perception of reality but that it actually “opens up new possibilities of existence...” and once a new possibility has been disclosed, other people can make it their own, repeating and reliving the experience. Fiddes’ account of the revelatory power of the cross means that it is not just illustrative but a constitutive event i.e. it effects real change. To the criticism that Abelard is purely subjective, Fiddes’ counter claim then is that the Christ event is more than an inspiring illustration: it effects transformation in the human mind and body.

A more problematic aspect of Abelard’s theory – in comparison to the other atonement models – is that it is overly individualistic. Its focus is on the personal and spiritual effects of Christ’s sacrifice on the penitent sinner without having wider social and ethical ramifications. There is little sense of sin beyond the individual and it

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<sup>263</sup> Fiddes, P.S. (1989) p.145

<sup>264</sup> Fiddes, P.S. (1989) p.147

<sup>265</sup> Fiddes, P.S. (1989) p.148

<sup>266</sup> Fiddes, P.S. (1989) p.150

ignores the relational dimension to justice and reconciliation. In an attempt to address this problem, Fiddes posits a creative way of understanding Abelard's moral influence theory which balances both the subjective- objective and personal-corporate tensions. He does this by emphasising the relational and participatory dimensions of the atonement both on the human and divine level. As with Moltmann, he adopts a Trinitarian approach to the events of Christ's death and resurrection.<sup>267</sup> His argument is as follows: Suffering and abandonment enter through Christ's incarnation and death into the life of God (Father, Son and Holy Spirit) as a "new experience". Fiddes points to how the desolation of the Son is also experienced by the Father. At the same time through Christ's identification with humanity, and because the Spirit enters into the church, humanity is drawn by love into a relationship with God and neighbour that "opens up new possibilities of existence".<sup>268</sup> This Trinitarian way of articulating the moral influence theory emphasizes the relational and social dimension to Christian atonement. The cross is an act of love experienced in different but related ways both by humanity and God. Relationships of reciprocal love within the Trinity and between God and humanity expand and open up. The goal of love in relationship is reconciliation. The power of the cross to change lives is in this way both personal and social in its implications. The significance of Abelard's theory to the discussion with restorative justice will become evident in this study, particularly when considering the power of moral persuasion in the community for helping people to desist from crime.

The three models of atonement analysed in this section – Christus Victor, penal atonement and moral influence – have demonstrated that the focus of some

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<sup>267</sup> Moltmann, J. (2<sup>nd</sup> Edn, 2001) pp.243-58

<sup>268</sup> Fiddes, P.S. (1989) p.136

contemporary theologians is shifting from retributive to restorative interpretations. It was important, also in this account to see where and how enduring themes such as sacrifice and forgiveness have supported this development. Given the similar shift of emphasis noted in the last chapter, to that in the criminal justice debate, it would appear that atonement theology and restorative justice theory are ripe for critical dialogue.

#### **D. Atonement Theology and Restorative Justice**

In this chapter, it has thus far been demonstrated that contemporary atonement thinking, with its strong focus on restoration and reconciliation resonates well with the principles of restorative Justice. Both speak of justice as relational and consequently of the need for a participatory process (radical participation); both understand the purpose of punishment as being restorative rather than retributive (righting wrong); and both understand the ultimate goal of justice to be reconciliation (reintegration). These common concerns shared by contemporary atonement theology and restorative justice theory create a unique potential for mutual critical dialogue. In the final section of this chapter the main points of agreement and divergence in the dialogue between atonement theology and restorative justice will be examined. It will be seen that this dialogue raises critical questions for both.

##### **i. Radical Participation and Atonement Theory**

A common criticism of both atonement theology and restorative justice is that they each have a tendency – in different ways – to narrow down the principle of Radical Participation. In atonement theology – where objectivity has been emphasised over

subjectivity, there has been a tendency to de-humanise and impersonalise the work of redemption. This was evident earlier in this chapter, in atonement models which tended to reduce redemption to a transaction in which humanity was a rather distant spectator. Both the mythical battle in *Christus Victor*, and quasi magical formulas in penal atonement theories, can easily give the impression that the participation of humanity is at best of minor significance in the equation. This impression runs counter to a key biblical theme in which humanity partners with God in re-creating and redeeming the world, as in for example, the Magnificat (Lk 1.46-65). Re-appropriations of traditional atonement models, as discussed above, seek to redress the balance between the subject-object (divine–human) divide in atonement theory. They give new emphasis to a human response to and costly participation in the events of salvation. Atonement in contemporary atonement theologies is not a distant event or a forensic transaction done for us but it is a costly journey or an act of sacrificial love undertaken by God in Christ, into which humans are actively drawn.

Theology and Christian practice has from the time of the Early Church Fathers, embraced and emphasised the importance of participation based on an understanding of human identity as “beings-in-relationship” made in the image of God the Trinity. Prior to that, the Apostle Paul advocated the principle of participation when he stressed the importance in the church of inter-connection and inter-dependency using the image of the church as the body of Christ. Each part is crucial, none should be overlooked. In essence to be human means to live in relationship. Whilst issues of power and inequality in Christian communities, can problematize the way this foundational principle is expressed, still the notion of participation is deeply embedded in the culture and ethos of biblical Christianity.

At its best atonement theology is participatory. Restorative Justice, and particularly its principle of radical participation, acts as a timely reminder to the

church that the journey of atonement is not and should not be treated as an individual private matter. Atonement understood as reconciliation between humans or with God is costly. Genuine participatory encounters designed to redress wrong cannot be reduced to or replaced by quasi-magical or legal transactions. The challenge for restorative justice is that, whilst radical participation is recognised and understood as a demanding costly risk-taking exercise on the part of all those involved, this is not so clearly the mind-set of traditional legal thinking and practice. The criminal justice system does not normally advocate a process in which the offender and victim hear the other and risk seeing their point of view. Nor does it insist on the community being ready to hear all sides and to exercise moral persuasion. Where restorative justice processes have been introduced into the criminal justice system, or function alongside it, there is always a risk that the principle of participation will be narrowed down or minimised. With regard to the principle of participation the criminal judicial system is vulnerable on a number of points. First, the law is vulnerable because by its precepts and processes the criminal justice system leaves many people on the side-line as mere bystanders and spectators. Many victims affected by court proceedings are not engaged in the process in a way whereby they feel heard or believe that the damage done to them has been addressed. Second, the law is vulnerable when it comes to the principle of participation because community is an ambiguous and illusive notion in contemporary western society. Whilst community in previous generations implied strong bonds between people based on kinship and shared faith values, this is not the case today. The expectation that friends, family and concerned citizens will participate in the process, and that they will accompany the offender for the long haul, is a huge assumption.

If restorative justice is to realise its own goal of radical participation it needs to turn to partners including the churches – where this expectation of committed

participation can be nurtured and respected. In Christian thought, Christ's death and resurrection brought into being a strong community with shared values. Its members share a familial identity – they are God's adopted sons and daughters and relate to one another as brothers and sisters in Christ. In this community, equality, mutuality and responsibility in relationships are promoted. Because of this strong bonding, whenever harm is done and relationships are damaged, the community draws upon restorative actions such as repentance, forgiveness, reparation and reconciliation.

The capacity of partners like the churches in civil society cannot however simply be assumed. The participation of faith based organisations like the churches in restorative justice processes is a realistic option, but as the case studies will show, negotiating terms and building the capacity for partnership need to be given careful attention.

## **ii. Righting Wrong and Atonement Theory**

Where wrong-doing is not taken seriously the accusation is rightly made that the criminal justice system or the churches are not morally serious. In different ways, atonement models and Restorative Justice Theory have found each other wanting in this regard. Concerning atonement theology two criticisms need to be considered: First, it has been judged to be lacking in moral seriousness because in Christian practice forgiveness and reconciliation frequently focuses exclusively on the relationship between the individual and God. Scant attention in the history of atonement thinking, has been given to the implications of harm and injury for relations between individuals and within communities. Restorative justice -under the plea of moral seriousness- challenges atonement thinking to give more regard to the human dimension of forgiveness and to recognise that righting wrong is not about

covering up but uncovering the truth about a situation. In the light of public disquiet about sexual abuse, churches have begun to reflect theologically and to engage openly in restorative procedures. Statements such as the BUGB council resolution indicate that this matter needs the full attention and action of the church community.<sup>269</sup> The human encounter between victim and offender in the company of the community is not secondary or peripheral to forgiveness and cannot risk being circumvented by means of a heavy dose of cheap grace. Sensitive to this charge, current atonement thinking -especially new readings of penal and moral influence theories- emphasise that reconciliation is two dimensional. It involves a movement towards both God and neighbour, and it is a costly journey of forgiveness. Atonement, both human and divine, requires vulnerability and risk-taking. Only by revisiting situations of harm and wrongdoing through encounters and meetings and by listening to the other's story, can fresh awareness and understanding grow. The power of the crucifixion is to transform relationships so that reconciliation becomes possible.

A second criticism of some Christian atonement thinking is the very opposite of the viewpoint just discussed: namely that it is excessively punitive. It is certainly true that there has been at times a strong punitive strand in atonement theology. However, it is the contention of this study that a shift has taken place in the 20<sup>th</sup> century from a punitive or retributive to restorative stance. The extent of this shift is hard to quantify but, as has been evidenced in the literature through penal atonement scholars such as Hans Boersma and Christopher Marshall, there is a growing

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<sup>269</sup> “Violence against women in all its forms is unacceptable in the church and in society. The Baptist Union Council: (i) Resolves to work towards making all our churches safe places where women who have experienced abuse can find sanctuary and informed help; (ii) Commends the guidelines ‘It Doesn't Happen Here’ for use in churches in membership of the Baptist Union of Great Britain; (iii) Urges every local congregation to break the silence over domestic violence.” (Baptist Union of Great Britain council resolution (1997, affirmed at 1998); the assembly in 2004 further called on churches to take domestic abuse seriously, and to respond in responsible and creative ways, using the available resources)

recognition that, whilst the reality of crime and wrongdoing must be taken seriously, the judgement of God, properly understood, is not retributive but restorative in character. Punishment has a place in the righting of wrongs, but the end goal of justice is not to inflict pain but to restore lives. Addressing harm done is a painful option for all concerned, but contemporary atonement theory suggests that the act of remembering rightly, i.e. re-living the events which led to the injury is worth the pain when this route of remembering opens the door to repentance, restitution, forgiveness and reconciliation.

Concerns about how or whether atonement theology is weak or strong on punishment simply underline just how central to any discussion of criminal justice is the place and purpose of punishment within the sentencing system. This more than anything evokes the impression of moral seriousness. Having described how atonement theology can fall short of the principle of righting wrong in a morally serious way and needs the help of restorative justice to be held accountable, we now turn to those areas where restorative justice practice falls short when measured against the principle of moral seriousness and needs the corrective insights of atonement thinking and practice.

First, to be morally serious the process of righting wrong cannot be reduced or compressed into the minimum time available. Exploring and understanding a harmful situation takes time and effort. Restorative justice practitioners and policy makers are sometimes accused of minimising restorative justice procedures by cutting out essential steps in the process or lessening requirements in terms of principles and practices in order to save on budgets or reach results quickly.

Second, many people are the victims of structural injustice, and the damage done to them – physical, mental and economic – often lies outside of the scope of criminal law. Atonement theory, and particularly the Christus Victor language,

confronts a world in which systems and powers generate feelings of hopelessness and powerlessness in people. The interest and scope of Christus Victor atonement language looks to overcome violence which is systemic and cosmic as well as to reconcile relations on the inter-personal level.

By contrast, restorative justice – as applied within the UK criminal justice system – is almost exclusively applied to reconciliation on an interpersonal level. It focuses on righting wrongs in the community at an individual level between victim and offender. Its capacity meanwhile to address systemic violence and injustice in the community is largely untested. There are high profile examples on the international level where systemic violence and human rights abuse have been addressed through the courts using restorative justice measures but this has not been replicated in local situations where structural crime and wrongdoing is evident.

For example restorative justice has been used to tackle structural harm and wrongdoing in South Africa, where the Truth and Reconciliation Commission was instrumental in enabling transition from the apartheid system into the new democratic South Africa. Some critics of this process say that moral seriousness was sacrificed for the sake of long term peace. Desmond Tutu's answer to this criticism blends theory and vision with hard reality: "I have said ours was a flawed commission. Despite that I do want to assert as eloquently and as passionately as I can that it was, in an imperfect world, the best possible implement so far devised to deal with the kind of situation that confronted us after democracy was established in our mother land".<sup>270</sup> He now seeks to replicate the model in other parts of the world where sectarian conflict has divided communities. Another example of restorative justice being used to tackle structural crime and wrongdoing comes from the work done by Jonathan

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<sup>270</sup> Tutu, D. (1999) p.281

Braithwaite, through his research into corporate crime. As noted in Chapter II – he highlights the importance of social movements as agents of crime prevention and social control, especially with actors in the white collar sector, but indeed with others also, who enjoy privileged status and with it permission to operate above the law.

In spite of these positive examples there is a real question as to whether restorative justice will be used in the UK to tackle structural and systemic injustice. Until now, it has been used almost exclusively to address interpersonal violence. This concern is not helped by the fact that the literature is also quite limited and contested concerning the potential of restorative justice principles and practices to address systemic harm in local communities. This study has highlighted the way some contemporary atonement theologies have refocused the interest of Christian atonement, not only shifting emphasis from retribution to restoration but also from personal to structural transformation. Heim's Girardian focus on the cross as "saved from sacrifice",<sup>271</sup> and the presentation of the Cross by liberation theologians as Christ's identification with the dispossessed and marginalised, all directly target structural and systemic crime and wrongdoing and interpret atonement as social and political as well as personal in nature. A similar shift in focus arguably needs also to be the concern of restorative justice practitioners at the local level.

### **iii. Re-integration and Atonement Theory**

The re-integration of victims and offenders back into the community is central to the restorative process. The third principle of restorative justice seeks to create an environment in which those affected by crime and wrongdoing can be properly

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<sup>271</sup> Heim, M. (2006) p.329

reconciled and re-integrated. The context in which reconciliation occurs is the community and both restorative justice principles and atonement theology recognise the importance of community for restoring and maintaining just relationships. However their understanding and use of the term “community” diverges, with significant implications for the treatment of members seeking re-integration.

Within restorative justice theory and practice there is, according to Pavlich and McCold, a lack of agreement about what makes for community. George Pavlich (2004) argues that, whilst all restorative justice advocates view community in positive terms, there are at least four different and sometimes competing definitions at work: “supporters of restorative justice embrace diverse definitions of the concept, with important implications for how they envisage effective practice”.<sup>272</sup> First, community is conceived by some as contained within a specific geographical location; here restorative justice is practiced as an integral part of local community life and structures. Second, others define community as groups of like-minded people which therefore transcend local boundaries. This requires special effort in restorative practices to develop the infrastructure to bring people together for exceptional circumstances. Third, related to the previous point, community is conceived as a spontaneous coming together of interested parties, reflecting civil society’s aspiration for social inter-action and engagement. Fourth, still others regard community as the source of identity which Pavlich describes as “an amorphous idea, a symbolic or imagined representation”.<sup>273</sup> From this vantage, community has the power to create collective identity and inculcates mutual responsibility for addressing crime and wrongdoing. Pavlich’s research shows that the understanding and interpretation of the concept of community in restorative justice is inconsistent. Sometimes it is treated

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<sup>272</sup> Pavlich, G. (2004) p.173

<sup>273</sup> Pavlich, G. (2004) p.174

very narrowly and at other times extremely broadly. McCold groups these four definitions of community into two, which is helpful because it shows how the problem is related to the fault-line discussed in chapter II concerning stakeholder participation. Pavlich's first two definitions are further categorised by McCold as micro community. These are individual communities of care, comprising victim offenders and their respective friends and families. Typically the process followed would be mediation and family conferencing practices, and the participants themselves decide collectively what needs to be done. The primary goal is to repair the harm caused to individuals by the offending behaviour. Pavlich's third and fourth definitions are further categorised by McCold as macro-communities. In these communities the primary objective is more widely defined as repairing the effect of crime in the victimised community, and limiting the potential threat posed to society by the offender's future behaviour.<sup>274</sup> The process removes magistrates and legal professionals, favouring citizens and representatives of the wider community dealing with the offender. It does not necessarily include victims or communities of care. The focus of the macro community is typically more on outcomes than process. Unfortunately the conflicting assumptions over the roles of these two types of communities mean that restorative justice advocates are divided in their conception of community. Each of the four definitions that Pavlich enumerates highlights important elements within community, which ideally could be brought together in a holistic definition. Sadly what they lack is a unifying narrative. By contrast, this study contends that the Church, whilst complex and flawed as an institution, nevertheless understands itself to be a community whose gift and calling, patterned on the journey of forgiveness, is to embody the principles values and practices of restorative justice.

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<sup>274</sup> Cf. McCold, P. (2004) pp.155-60

First, it is a community held together by a unifying narrative. There are of course diverse conceptions of community within the church; sometimes narrow definitions of the ecclesial community – as institution, for example – have predominated. Avery Dulles (2002) cites the post-Reformation era in Roman Catholicism as a time when historical circumstances led to the over-emphasis on an institutional ecclesiology presumably to promote unity in the face of schismatic movements.<sup>275</sup> However, he argues that the ecclesial community is really an expression of several models (he identifies five). They are distinct but held together by virtue of the narrative they share and the gift of grace which is their unifying impetus. The ecclesial community is an organic body of people drawn together by shared values: it is universal and local; dispersed and gathered; shaped by a story which is past present and future. Such a claim for the churches needs to be set in context. Modesty is needed in a western secular culture where the church is a declining player. Nevertheless this study contends that local Christian communities shaped by the unifying narrative of the atonement have the potential, though not always the capacity, to participate in restorative processes.

Second, churches understand that in the context of community, conflict is natural. The challenge is to manage conflict and turn it to good effect. By seeking to nurture kingdom values such as mercy, truth, justice and peace amongst all people, the ecclesial community takes the vision of reconciliation and reintegration seriously. It is committed to safeguarding these values from one generation to the next. John Paul Lederach has written about and facilitated conflict transformation over the last

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<sup>275</sup> Cf. Dulles, A. (2002) pp.26-38

thirty years. In “The Journey Towards Reconciliation” he offers practical guidelines for local Christian communities using the biblical model of Matthew 18.<sup>276</sup>

Third, the church understands community in counter-cultural terms, so whilst restorative justice may not always enjoy political support, it can count on the support of the church whose identity and mission is to be an instrument of healing restoration and reconciliation. Modelled on the sacrificial love and costly forgiveness of Jesus, the body of Christ is called to lose itself for the sake of God’s Kingdom of justice and peace. (Mark 8:27-30); and the Apostle Paul urges the church in the interests of equality and community to share sacrificially. Whilst no longer politically powerful it can make its voice heard by continuing to bear witness to restorative values in atonement thinking and provide a community context for re-integration. There is a strong case for an alliance between churches and restorative justice partners, based upon their common recognition of the need for restorative values to be nurtured and practiced in the context of community. The restorative justice movement arguably needs the churches not only to help nurture and promote its values in wider society but in addition, needs and benefits from the Churches as critical allies, helping to keep policy makers and practitioners alert to the dangers of trying to work too quickly and thus superficially. Values are not nurtured overnight, offenders are not transformed in an instant and victims can’t just produce forgiveness on demand. A community that journeys consistently and persistently with damaged people is vital to the success of restorative processes.

Fourthly, the alliance between restorative justice and churches is more than a social construct. That they have need of each other is certain, but that they essentially belong together, is a deeper and more substantive claim. Restorative justice is more

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<sup>276</sup> Lederach, J.P. (1999): *The Journey Towards Reconciliation*

than an effective democratic process and laudable system of values. It is, according to Marshall, “a manifestation of something deeper than that – something that explains its power and cross-cultural applicability. It is a practice that reveals the inherent nature of the universe. It is a phenomenon that makes visible the way reality is, the way God has made human beings and under the wider moral order to function”.<sup>277</sup> Drawing on the twofold New Testament claim – that in Jesus we see God – and through the crucified and risen Christ the ultimate meaning and the destiny of all created reality is found, Marshall concludes that “...the central principle of creation is not naked power or control or order – but love: valuable, passionate, forgiving, reconciling, self-giving, triumphant love”.<sup>278</sup>

To claim as Marshall does in the quotation above, that restorative justice reflects a transcendent order, is not new. Classical retributive justice also has claimed a metaphysical basis whereby the moral universe operates on the principle of “just deserts”. What is different is his claim that restorative justice reflects a transcendent order that is not based on the perfect balance of deed and desert, but on redeeming, restoring inter-personal love. Restorative justice, he claims, reflects the nature of the God we meet on the cross and is charged with the healing restoring power of love encountered in the cross.

However, modesty is needed because notwithstanding the case just presented, the church is a flawed institution and needs to be held accountable; and the relative weakness of the church in society makes the potential for civic partnership significant but small. The Church needs restorative justice partners to keep it alert to the dangers of becoming narrow and judgemental in its values and practices. There is a mutual correction and reinforcement of each other in the arena of nurturing and practising

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<sup>277</sup> Marshall, C.D. (2002) p.85

<sup>278</sup> Marshall, C.D. (2002) p.86

restorative values which deserve attention. The churches have shown themselves capable of turning kingdom ethics upside down and acting in ways that are contrary to the Gospel, for example the National Church in Germany aligning itself with Nazi ideals. Like any flawed institution the churches need to be held to account. Public trust is a vital attribute which is earned. An important question for any faith community seeking partnership in civil society is whether it has both the public trust and the necessary infrastructure to do the job. A key question therefore in this study, is whether the churches share and promote the values undergirding restorative justice in appropriate and complementary ways to other actors in the criminal justice system.

## IV

### **DATA FROM THE CASESTUDIES: LOCAL CHRISTIAN COMMUNITIES RESPONDING TO CRIME AND WRONGDOING**

Having described in Chapter I the methods used for undertaking the case studies, this chapter now sets out the results drawing together evidence from the field. The case studies record the responses of five local Christian communities to crime and wrongdoing and explore two types of intervention: three local congregations (case studies A, B, and C) and two para-church groups (case studies D and E). Using the interviewees' own words, together with other source materials gathered in the field, each case study is presented as follows: first, a description of the kinds of crime and wrongdoing encountered in the community; second, the attitudes of residents towards crime and wrongdoing; third, their views on the way the criminal justice system addresses these issues; fourth, some practical examples from within the case studies of responses to crime and wrongdoing.

#### **A. Case Study A**

An annual newsletter from the congregation comprising case study A, addressed to the community and wider friends, appeared in December 2008 with these words:

We are now virtually surrounded by derelict buildings. We feel it is important that the church centre continues to be a beacon of light and hope in these very depressing surroundings. We want the community to know that the church is not closing down! Once the demolition has taken place we are concerned that the area will look even more like a wasteland. We constantly have to repair and tidy up around the building and, whilst we have been able to rescue some shrubs from

empty properties, we still have an uphill battle to keep the place vibrant and alive.<sup>279</sup>

Case study A is a small worshipping community situated on a housing estate built in the 1960s. It was designed in ways that are now regarded as environmentally flawed.<sup>280</sup> Its many cul-de-sacs, concealed unlit walk-ways (popularly known as rat runs) and high rise tower blocks have contributed to its reputation as a “no-go area” or “trouble spot”. This impression is sustained largely by myth and prejudice but also supported by statistics that show it, according to crime and education criteria, to be an area registering within the top ten percent of the country’s most deprived neighbourhoods.<sup>281</sup>

<b>Deprivation Index 2010</b> (Note - the lower the figure, the greater the degree of relative deprivation, e.g. only 6% of communities have greater educational deprivation. Crime deprivation <sup>282</sup> is amongst the worst 10% in the country.)	Overall	12%
	Income deprivation	11%
	Employment	13%
	Health	20%
	Education	6%
	Barriers to services	57%
	Living environment	35%
	Crime	8%

Demographic information from the 2001 census about the area in which the community is situated is as follows:

<sup>279</sup> Case Study A Church newsletter Dec 2008

<sup>280</sup> Gorringe, T J. (2002) p99. *The Built Environment. Justice Empowerment and Environment*. Cambridge University Press

<sup>281</sup> *The English Indices of Deprivation* (2010) Department of Communities & Local Government, data accessed via [www.uklocalarea.com](http://www.uklocalarea.com) in August 2012

<sup>282</sup> Ibid, p15: Crime Domain: This domain measures the rate of recorded crime in an area for four major crime types representing the risk of personal and material victimisation at a small area level.

- Violence – number of reported violent crimes (19 reported crime types) per 1000 at risk population
- Burglary – number of reported burglaries (4 reported crime types) per 1000 at risk population
- Theft – number of reported thefts (5 reported crime types) per 1000 at risk population
- Criminal damage – number of reported crimes (11 reported crime types) per 1000 at risk population.

		<b>Case Study A</b>	<b>Average – England</b>
<b>Age Structure</b> <sup>283</sup> (Significantly more people aged under 18 and fewer over 64 than the national average)	Mean age of population in the area	34.33	38.6
	Median age of population in the area	32	37
	People aged under 18	29.0%	22.7%
	People aged 18-29	15.8%	15.1%
	People aged 30-34	22.0%	22.7%
	People aged 45-64	22.0%	23.8%
	People aged 65 +	11.2%	15.9%
<b>Gender</b> <sup>284</sup> (Similar to national average)	% Female	52.0%	51.3%
	% Male	48.0%	48.7%
<b>Ethnic Group</b> <sup>285</sup> (Predominantly White, with larger Mixed but much smaller Asian minorities than national average)	White	93.9%	90.9%
	Mixed	2.9%	1.3%
	Asian	0.5%	4.6%
	Black	2.3%	2.3%
	Other	0.3%	0.9%
<b>Health and Provision of Unpaid Care</b> <sup>286</sup> (Worse than national ave.)	General health: Good	62.8%	68.8%
	People with a limiting long-term illness	20.8%	17.9%
<b>Qualifications and Students</b> <sup>287</sup> (Worse than national average)	People aged 16-74 with 5 or more GCSEs grade A-C, or equivalent	16.2%	19.4%
	People aged 16-74 with no formal qualifications	47.2%	28.9%
<b>Economic Activity</b> <sup>288</sup> (Employment slightly below national average, self-employment significantly lower, unemployed almost twice national average)	People aged 16-74: Full-time employees	39.0%	40.8%
	People aged 16-74: Part-time employees	12.8%	11.8%
	People aged 16-74: Economically active: Self-employed	3.5%	8.3%
	People aged 16-74: Economically active: Unemployed	6.4%	3.4%
<b>Tenure</b> <sup>289</sup> (Home ownership well below national average – almost twice as many non-owner-occupied)	Owner occupied: Owns outright	13.7%	29.2%
	Owner occupied: Owns with a mortgage or loan	29.3%	38.9%

<sup>283</sup> 2001 Census Key statistics (KS02) from [www.neighbourhood.statistics.gov.uk](http://www.neighbourhood.statistics.gov.uk). 2011 Census information was not yet available at the time of writing.

<sup>284</sup> Ibid, Key statistics KS01

<sup>285</sup> Ibid, Key statistics KS06

<sup>286</sup> Ibid, Key statistics KS08

<sup>287</sup> Ibid, Key statistics KS13

<sup>288</sup> Ibid, Key statistics KS09A

<sup>289</sup> Ibid, Key statistics KS18

The local shopping area, near to where the congregation is located, consists of a row of flat-roofed shops protected by metal shutters, mostly covered in graffiti. Some shopkeepers have tried to remove the graffiti, but their paint leaves a heavy stain. Some of the shops seem never to open. The six shops include a general food store, a fruit and vegetable store, a pharmacy, an Indian takeaway, a hairdresser and a betting shop. The paved area surrounding the shops has grass growing up through the cracks between the slabs. A rubbish bin, concrete bollards and metal railings are the only features on this bleak landscape. Grass beyond the concrete zone slopes away towards the tower block flats on one side, the church building/community centre on another and, on a third side, the land reaches towards an assortment of run-down garages, workshops and old industrial warehouse buildings.

The shopping complex at the centre of the estate, situated a few miles from the church, has a covered market comprising mostly second hand or cheap bargain shops. The café situated in the centre of this market is a friendly and cheap but depressing environment. A new retail development neighbouring this original shopping complex is bringing recognisable high street names to the area, but there is a long way to go before it matches up to contemporary shopping sites elsewhere. Like many estates of this era, the tower blocks are particularly controversial. Three of them near to the church were earmarked for demolition in the early stages of the regeneration plans but following the economic downturn and government cutbacks this plan has changed. Instead of being demolished they are to be renovated and reallocated to elderly people and single parents. This plan, according to one member, will surely be revised again, given the fact that these towers are a hot spot for drug dealing and are notoriously unsuitable for children who need easy and safe access to outside play areas.

Local community leisure facilities have, over the years, gradually been closed and not replaced. In the regeneration plan leisure and recreation facilities are being integrated into the new schools being built. This decision is, according to the church's minister and members, totally unsatisfactory for residents because it does not cater for the needs of groups who meet during school times, and some community groups wanting to use the premises may not meet the criteria of the school authorities.

Against this backdrop of gradual environmental decline, the church records reflect a sad decade of long discussions in the church and community about the regeneration of the area. The church braced itself time and again for the hoped-for new era, imaginatively trying to prepare for it, and planning how they could be a significant part of it. The church brought in a student minister with the help of Baptist Union mission funds, in order to release the minister to focus very intently over a three year period on the redevelopment plans. This was a serious investment of funds, based on the conviction that the changes would be dramatic and the church needed to direct time and resources into this. The minister moved into the political arena, attending planning meetings and raising the profile and voice of residents. Unfortunately, redevelopment plans came and went many times, but at the end of the three years the redevelopment still had not started. Still the church kept planning, and even employed architects for a second time to help them make a bid for an imaginative new church-cum-community centre. These discussions, like many before, also came to nothing and when the 'credit crunch' hit it seemed as though the 'plug was finally being pulled' on their dreams.

## **i. Crime and wrongdoing in case study A**

In-spite of the high crime figures, the estate is, according to its neighbourhood police officer, a much better and safer place than many people think:

This is a quiet area. Nothing much happens here. Crime goes up and down, with different factors influencing the situation, but it's generally very quiet. And when it's not, you hear about it fast. Sometimes the kids from around the estate gang up and have spats with kids from neighbouring areas – territorial stuff. Vandalism of property is also quite common but the problems tend to be low level anti-social behaviour. The kids get bored, and then they get hold of some alcohol and then just play up. The arrival of new people recently occupying homes in the new housing development has created a spate of incidents, almost like the new people feel the need to establish their place in the community. We're monitoring this. But the big problem here is more domestic violence than violent attacks in the community or anti-social behaviour. It is often a case of parents repeating the behaviour of their parents.<sup>290</sup>

The perception of some of the members is not so sanguine about the area being quiet and safe. They see and feel crime and wrongdoing on many levels. Some, especially the older people, are frightened to go out. Others suffer nuisance neighbours for years on end. Others, especially the young – because of boredom, poverty or poor parenting – repeat the cycle of violence experienced in the previous generations. The prevalence of domestic violence, noted by the police officer, is reflected in the congregation, where a number of members have suffered. The victims often conceal this problem from the membership as a whole, partly because talking about it risks increasing the problem and partly because “it didn't seem right”. Most often the situation would be shared confidentially with a few people. In one or two cases the matter was common knowledge. In the programmes run by the church, domestic violence situations are also known to the staff and key volunteers, and support is

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<sup>290</sup> Case Study A Interview 9

offered informally to the kids; in extreme cases the matter is taken up with the authorities. A number of the members, through their professional work, are addressing these types of abuse. They testify to the complexity of taking action against parents and the feeling that, in the current climate, 'you're damned if you do and damned if you don't'.

## **ii. Understanding crime and wrongdoing in case study A**

Cameron, a member of the church, came to the area in the early 1990s. After leaving school he was keen to work with the church in an area more socially disadvantaged than the one in which he grew up. For Cameron the situation on the estate is fragile:

The older generation are basically very frightened of the younger kids ... walking at night in the underpasses is too intimidating. In the early years when I came here stones would be hurled at the church windows. I was frightened for Nick (the minister) who got stabbed in the hand and shoulder with a screwdriver by some of the kids when he tried to keep them out of the church one night.<sup>291</sup>

Things are not always that bad, but still there are plenty of signs of fear and intimidation arising from young people being bored and having nowhere to go at night. Pam, the church secretary, has never regretted the decision to come to live on the estate, but at the same time she can see that this great experiment of the 1960s has been neglected; she is sad and embarrassed by its poor facilities. The community is the 'unwanted child' in the borough. As she understands the situation, wrongdoing and crime are inevitable when young people have nothing to do and nowhere to go. There is, she thinks, no cause for surprise and much need for empathy and understanding when they get caught up in vandalism and fighting incidents:

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<sup>291</sup> Case Study A Interview 6

In this place life is tough. We've got very little to offer: no cinema, not that many clubs and most of the pubs are closed because of fighting and drugs. I think we see ourselves as the poor relation in the borough. The North side didn't really want us and we see that divide very much. So when you look round, for young people there is not that much on offer.<sup>292</sup>

Other long-term members in the estate, like Pam, add further reasons for the crime and wrongdoing:

The crime and wrongdoing in this area comes from lack of hope: if there is nothing for the future they take what there is now. Not the root cause perhaps but these are some of the reasons...<sup>293</sup>

Violent or harmful behaviour is indicative of a lack of love, and of trust. It's fear. People fight when they are frightened.

People want what others have, and if they can't afford it they find other ways of getting it. They don't see this as crime, but rather taking what is theirs by right.<sup>294</sup>

Crime and wrongdoing, then, are brought on by a lack of material facilities and opportunities, and also by the difficult emotional circumstances people find themselves in. Fear and the absence of hope, love and trust create a fragile climate.

Robyn, the youngest interviewee in this case study, has lived most of her life on the estate. She was the church member who was most suspicious of the research. It was, in her eyes, a middle-class study, framed to suit the crime reduction mentality of politicians, police and local authority planners. For many years, Robyn was in trouble at school and often found herself with friends on the estate "killing time" by decorating the environment with graffiti art, especially the underground passage ways. Because of connections with the church, this ASBO<sup>295</sup> kid found friendship and

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<sup>292</sup> Case Study A Interview 7

<sup>293</sup> Ibid

<sup>294</sup> Case Study A Interview 8

<sup>295</sup> Anti-Social Behaviour Order

refuge in the home of the minister. Nick, together with his wife Hannah and their two daughters, provided stability and love for Robyn at a critical moment. She is not, as a result, a total victim of her circumstances, but she is still scarred and damaged by them.

Like Robyn, many of the interviewees understand and interpret the crime and wrongdoing around them in structural terms. They point to stigma and discrimination, embodied in the way that disadvantaged communities and groups are treated by those in authority:

Here people are not heard and their views not respected. Redevelopment plans happen around them and to them...the regeneration agenda is about cramming in as much housing as they can...we can try to ensure that they do this with spirit and soul...the community is worthy of that. The plan is for a new high street with the church as part of that street...the plan is looking good for the street but not for the housing...just rabbit hutches crammed in all faceless. They are architectural 'gob-ons'.<sup>296</sup>

The minister, together with members like Cameron, Pam and Robyn's mother Madeleine, speak frequently about their disappointment with the regeneration programme. Madeleine bitterly complained that the regeneration goals of participation, consultation and local empowerment were rhetoric rather than reality in that estate. In their experience, regeneration programmes embody and exacerbate the structural and systemic problems they are intended to address. Regeneration becomes one more way for outsiders to exploit and violate the community.

Whenever these church members get into a conversation about the state of the community it doesn't take long for their concern about stigma and discrimination to surface.

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<sup>296</sup> Case Study A interview 1

“Outsiders perceive this estate as a dangerous place with high crime rates and therefore not safe to visit. They are sure that self-respecting residents will not stay there a minute longer than they need, but will move out at the first opportunity to improve their situation. I’m not moving out. I’m proud of this place”<sup>297</sup>

“Stigma is attached to the postal address. A person’s postal address has everything to do with how they are treated by social services. If you come from somewhere else, you get good treatment but if you come from this place you are ignored or marginalised.”<sup>298</sup>

Residents who use the church premises share this same understanding, that crime and wrongdoing in the area are expressed through structural and systemic abuse. They speak of the community being culturally “trashed”, in defiance of which they take obvious pleasure in displaying their art and dumbfounding their social critics:

“You should see the surprised disbelieving reaction of people in other parts of the borough when they hear that people on this estate want to paint and want moreover to sell their paintings. Outsiders believe that estate residents are uninterested in culture and without talent.”<sup>299</sup>

The minister and his wife came to the area because they wanted to be with white working class people, whom they felt were being forgotten and discarded. After many years in the area, and comparing it with a previous ministry in a middle class market town, he now sees more clearly how the problem of crime and wrongdoing is influenced and made worse through economic and social disadvantage. For example, in a half-humorous, half-cynical tone, he compares how differently a crisis is dealt with in middle and working class areas:

“The stereotype of the estate is that it is full of under-age drinking single parents and youths with baseball caps or hoodies In other words it is universally rough...well maybe some are, but not all. The same issues exist in middle class areas but nobody talks about that, the only

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<sup>297</sup> Case Study A interview 5

<sup>298</sup> Case Study A interview 8

<sup>299</sup> Case Study A interview 7

difference is that in posh areas you can hide the fact that your world is falling apart. How you speak and where you are living determines how much help you get”<sup>300</sup>

The police officer echoes this problem when he observes:

With poor people police officers don’t always show enough respect and with rich people in big houses with posh cars they show too much respect. Everyone needs to be treated equally.<sup>301</sup>

### **iii. Attitudes to crime and wrongdoing and to the criminal justice system**

Dorothy has suffered with a “neighbour from hell” for several years now and there appears to be no solution. She is torn about what to think and feel, because in many ways the neighbour is sick and needs treatment, but she also knows that an accident is waiting to happen and the victim will be one of the neighbours, so something needs to be done now, to take this violent and disorderly neighbour away, before it is too late.

Along with Dorothy, some members feel that justice appears arbitrary when it comes to dealing with criminals. Sentencing is sometimes too light and at other times is excessively strict. Far from being transparent and objective, the system appears random or perhaps prejudicial.

When Pam’s house was burgled and her personal jewellery was stolen, she remembers feeling more angry with the police than with the burglar because of the way the police treated the incident. The jewellery was not of value to anyone but her, but for her it was the loss of the memories attached to these items which hurt most. She remembers delivering a list to the police station of all the things she had lost and firmly telling the officer “this is not a shopping list – this is my jewellery and my

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<sup>300</sup> Case Study A interview 1

<sup>301</sup> Case Study A interview 9

memories”. She recalls how they seemed to be very little interested, so she went home and wrote a letter of protest noting that, had she lived somewhere more up-market, they would have treated her differently. The feeling amongst the members and residents like Pam is that, when it comes to crime and wrongdoing, they are more offended against than offending, and their frustration is that the crime statistics don’t recognise and record the many incidences of harm or wrongdoing – social and economic – which are done to the community on account of their postal code.

When the meaning of justice in the Bible was considered by a group of members they were clear that justice means being merciful and forgiving, but some felt that there have to be limits to this. They felt sure they would not feel able to forgive in certain situations and think people should not be pressured to do so.

#### **iv. Responding to crime and wrongdoing**

In the face of stigma and discrimination, and especially in the context of planners ignoring the opinions of the residents, the community understands crime and disorder in terms of wrong done to it. The Church in case study A has attempted to counter the effects of this practically by reaching out to people in need, but also politically through public protest and community action. The minister has tried to fulfil a role in the community as a champion for those without a voice:

“I try to represent the community. In the secular world I have tried to have a priestly role for those whose voice is not heard. People here are not used to having a voice ... “sink-estate” mentality ... this is changing, they know (the planners know) we won’t tolerate second hand stuff.”<sup>302</sup>

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<sup>302</sup> Case Study A Interview 1

But to be a champion for the community you need to have the confidence and trust of the key players, which Nick admits has not been easy. The different groups in the community compete and fight each other rather than working together to take on the planners.

One significant initiative for raising the voice and profile of the community has been Nick's regular column in the local newspaper. In this he seeks in a witty and challenging way to raise the voice of the residents and to challenge local authorities, commercial developers, the voluntary sector and residents alike, to keep talking to each other and to work together. Each article highlights a contentious issue in the regeneration process, usually reflecting the latest clash between residents and planners, so, for example, poor leisure facilities, the absence of green spaces, and the need to support locally owned and run initiatives all feature.

Another example of countering systemic harm through public protest has been direct action against the planners and local council by Madeleine. Angered and frustrated with the whole idea of regeneration she has taken her protest into the public arena by writing an open letter to the local authorities, in which she condemned the housing planners for failing to fulfil basic promises, and has refused to move out of her house unless and until promises that have been made are fulfilled.

Complementing these political actions by Nick and Madeleine against structural and systemic crime and wrongdoing, the community development activities of the church, and those of partner community organisations using the church premises, focus on working with vulnerable adults and kids who are suffering the knock-on effects of structural and systemic neglect. Art, music and drama are the key media. Many of the regular activities on the premises are aimed at building self-esteem and trust and developing basic social and creative skills. Some people need

help to 'get sorted' and regain a sense of control over their own lives, while others need reassurance and encouragement to feel loved and to believe in themselves.

Work with vulnerable adults is heavily funded by the authorities but just befriending getting along side people is what helps them to do the right thing, we provide a safe reference point. In the last six years it seems people are more and more objectified and classified by needs...when what they essentially need is simply befriending...giving time to these people is the greatest gift...if they want to give up addictions they will.<sup>303</sup>

The youth and community worker, Hannah, leads assemblies and runs activities with the schools and also runs after-school activities. The art club is attended by 12-15 kids each week:

They love coming here. It's informal, and it's not school, that's important. By coming here they are getting another kind of education. They are learning a whole lot about themselves and how to behave with others. They are getting some of the love which they lack and some consistency in their relations with adults.<sup>304</sup>

Hannah noted that the kids, who play truant regularly, come to the club every week by choice. They don't run away from situations where they feel, understood, accepted and fairly judged.

Pam now well into her 70's shows great enthusiasm for the work with kids, and welcomes the sound of the building filled with their noise because, as she put it:

There's nowhere else for kids to go! That's why we started to run programmes for them, and why we started 'Funky Ferret', the music recording studio. Nick gave up his office to make a recording studio, and he went to the National Exhibition Centre and got free carpet to sound-proof the walls<sup>305</sup>

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<sup>303</sup> Case Study A Interview 6

<sup>304</sup> Case Study A Interview 2

<sup>305</sup> Case Study A Interview 7

Pam, together with five other volunteers, also runs the centre café each Wednesday, where a good lunch at low cost is on offer to anyone who wants to come along.

In the café we can listen to people who are going through hard times. Listening is most important. They take from your comments as they choose. That's fine too.<sup>306</sup>

In an area where places to meet and socialise are scarce, and elderly and vulnerable people are left isolated, this is a positive, practical response.

### ***Initial findings from case study A***

In small but significant ways the church enters the public space, and challenges both structural and systemic harm and wrongdoing. Through political action they raise the voices of those who feel marginalised and excluded, and through participatory art they generate social interaction and mobilise community organisation. At the same time, through community care programmes, the church reaches out on an individual level to meet people's individual needs. They tackle the problems of crime and disorder by addressing some basic behaviour management issues and by addressing the personal social and psychological needs that arise in people as a result of harm and injury done to them.

### **B. Case Study B**

Case study B is a huge housing estate, situated on the south east side of a large city. Building started on the 260-acre site in the late 1950s. When the first residents moved

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<sup>306</sup> Ibid

in, shops and amenities were lacking and the first estate pub was not opened until 1962. Even today only a row of small shops stands at the centre of the estate, opposite the Church. A swimming pool, a library, a primary school, and most recently a new community college, have all been added, within a few hundred yards of the church. The city ring road cuts off the estate from older established communities along the feeder roads into the city centre, accentuating the feeling of isolation and poor relation.

The second phase of house building on the estate was completed in 1965. It included two 15-storey tower blocks with four two-bedroom flats on each floor. While these tower blocks, which dominate the landscape, met a need for accommodation, they quickly proved problematic. Residents complained of isolation; children had to be kept indoors; the lifts were faulty and the entrance areas were easily vandalised. These towers have recently been fitted with CCTV cameras as part of the city council's strategy to counter anti-social behaviour in trouble spots.

The final stage of what has become the largest estate in the city, took place during the 1990s, when a mix of housing association accommodation, private one-bedroom starter homes and a few council tenant dwellings were built. Mistakes were repeated from previous phases in respect of providing insufficient shops, public transport and general amenities. The shopping area near to the church is now generally very 'tired' and dilapidated. Shop windows and doors are all heavily protected with metal shuttering. The church, with its tiny windows and inaccessible exterior, could be mistaken for the police station, but in fact the nearest police station is four miles away. In 2010 a small base for the neighbourhood police team was established on the estate to increase police visibility and presence. With a wry smile on his face the vicar noted that:

There has been talk about plans to redevelop the area but it all seems to be blue sky thinking, whether there is any money I don't know.<sup>307</sup>

Information about deprivation in the area in which the community is situated is as follows:

<b>Deprivation Index 2010</b> <sup>308</sup> (Note - the lower the figure, the greater the degree of relative deprivation, e.g. only 8% of communities have greater educational deprivation. Crime deprivation is among the worst 5% in the country.)	Overall	12%
	Income deprivation	10%
	Employment	27%
	Health	16%
	Education	8%
	Barriers to services	15%
	Living environment	35%
	Crime	4%

Demographic information from the 2001 census about the area in which the community is situated is as follows:

		<b>Case Study B</b>	<b>Average – England</b>
<b>Age Structure</b> <sup>309</sup> (Significantly more people aged under 18 and fewer over 44 than the national average)	Mean age of population in the area	35.65	38.6
	Median age of population in the area	35	37
	People aged under 18	27.5%	22.7%
	People aged 18-29	15.0%	15.1%
	People aged 30-34	23.2%	22.7%
	People aged 45-64	20.5%	23.8%
	People aged 65 +	13.8%	15.9%
<b>Gender</b> <sup>310</sup> (Similar to national average)	% Female	51.4%	51.3%
	% Male	48.6%	48.7%
<b>Ethnic Group</b> <sup>311</sup> (Predominantly White, with larger Black & Mixed but smaller Asian minorities than national average)	White	87.2%	90.9%
	Mixed	3.0%	1.3%
	Asian	1.8%	4.6%
	Black	7.4%	2.3%
	Other	0.6%	0.9%
<b>Health and Provision of</b>	General health: Good	66.0%	68.8%

<sup>307</sup> Case Study B Interview 4

<sup>308</sup> *The English Indices of Deprivation* (2010) Department of Communities & Local Government, accessed via [www.uklocalarea.com](http://www.uklocalarea.com) in August 2012

<sup>309</sup> 2001 Census Key statistics (KS02) from [www.neighbourhood.statistics.gov.uk](http://www.neighbourhood.statistics.gov.uk)

<sup>310</sup> Ibid, Key statistics KS01

<sup>311</sup> Ibid, Key statistics KS06

		<b>Case Study B</b>	<b>Average – England</b>
<b>Unpaid Care</b> <sup>312</sup> (Worse than national ave.)	People with a limiting long-term illness	18.2%	17.9%
<b>Qualifications and Students</b> <sup>313</sup> (Worse than national average)	People aged 16-74 with 5 or more GCSEs grade A-C, or equivalent	16.2%	19.4%
	People aged 16-74 with no formal qualifications	45.5%	28.9%
<b>Economic Activity</b> <sup>314</sup> (Employment above national average, self-employment lower, unemployed in line with national average)	People aged 16-74: Full-time employees	41.6%	40.8%
	People aged 16-74: Part-time employees	15.1%	11.8%
	People aged 16-74: Economically active: Self-employed	4.0%	8.3%
	People aged 16-74: Economically active: Unemployed	3.5%	3.4%
<b>Tenure</b> <sup>315</sup> (Home ownership well below national average – almost twice as many non-owner-occupied)	Owner occupied: Owns outright	13.1%	29.2%
	Owner occupied: Owns with a mortgage or loan	26.3%	38.9%

### **i. Crime and wrongdoing in case study B**

As background to this, a neighbourhood police officer noted:

Crime and vandalism are much more common in wealthy areas than here. In a rich suburb of the city the ‘M&S’ supermarket loses over £100 worth of goods per day, and car vandalism is more common outside the estate than on it. The crime statistics show that this is not the dangerous place it is made out to be. <sup>316</sup>

Furthermore the statistics for crime on the estate are, according to the crime officer, on a downward trajectory. However, perceptions and fear of crime and disorder are high, so crime features prominently on the Parish Council agenda and in other

<sup>312</sup> Ibid, Key statistics KS08

<sup>313</sup> Ibid, Key statistics KS13

<sup>314</sup> Ibid, Key statistics KS09A

<sup>315</sup> Ibid, Key statistics KS18

<sup>316</sup> Case Study B Interview 9

meetings where concerns are regularly discussed with the police. Concern about crime and wrongdoing also features prominently and regularly in local press and media reports, especially issues such as drug dealing on the estate, anti-social behaviour and fly-tipping.

There have been a number of raids on a couple of houses by the police. Sometimes people let us know on the quiet where drug trading is going on. It's important as community officers that we have their trust.<sup>317</sup>

Drug dealing activities, as well as alcohol and substance abuse related incidents, have led to serious knife crimes in recent years.

One of the stabbing incidents outside the community centre was fatal and it still isn't solved, though we think we know who did it. People are afraid to talk for fear of revenge.<sup>318</sup>

After two violent attacks outside the community centre bar, the council responded by closing it and designating the area an alcohol-free zone. However the community centre naturally continues to be a regular gathering point for young people, and their activities give rise to many complaints about noise and anti-social behaviour.

## **ii. Understanding crime and wrongdoing in case study B**

The church members who have lived on the estate for many years see crime and wrongdoing as symptomatic of the circumstances people find themselves in. Alma has lived on the estate from the outset. She was born and grew up locally, so remembers the history of the area well. She views much of the harm done between people as a consequence of circumstances beyond their control:

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<sup>317</sup> Ibid

<sup>318</sup> Case Study B Interview 4

Violence is a defence mechanism. People think they are going to be attacked or shouted at, called names or bullied and so they hit out. It's something they do automatically. They try to defend themselves. Sometimes with words, abusively, sometimes physically...<sup>319</sup>

I say to folks "Can't you just calm down, relax and think about it instead of reacting". There's no point in swearing and getting angry. I don't believe in that ... best to calm down and talk rather than hitting out and shouting. They have tempers, they can't help it, they get frustrated and can't help it ... it's in the genes ... they are used to that sort of thing. I learnt calmness from my mother. I think violence can be treated...<sup>320</sup>

The notion that criminal or harmful behaviour is often a defence mechanism that can be managed and overcome is echoed by Jane, the youth and community worker employed on the estate by the diocese. Her view stems from the work she does in the local academy to help excluded kids with behaviour management problems. Many explain crime and wrongdoing as consequent to the lack of opportunities. The poor facilities for social gatherings, coupled with growing unemployment and debt, are causing problems:

The noise and trouble at night on The Green arise from a lack of opportunities for leisure and social gatherings on the estate.<sup>321</sup>

Economic hardship is growing, along with unemployment, and debt has led to some incidences of suicide on the estate.<sup>322</sup>

The post-2008 'credit crunch' has inevitably reduced employment opportunities, with a wave of redundancies and short working weeks being introduced in 2009 at a major local production factory.

Add to these factors the iconic status of the estate – particularly since the 1990s – as a dangerous place notorious for crime and disorder. One interviewee,

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<sup>319</sup> Case Study B interview 1

<sup>320</sup> Ibid

<sup>321</sup> Case Study B interview 4

<sup>322</sup> Ibid

recalling those troubled times, tried to put the reasons for this reputation in perspective:

I remember the riots. But it was the media that made it a lot worse. TV producers made programmes and the whole world knew about us! They made it much worse than it was. It was hot and people were not keen to go to bed. If it had it been cold they probably would have stayed in. I didn't see them, just heard about it. That's why the pavement round the church is now raised to stop it ... The traffic island was created to stop the joy-riders, because the island area is where the cars swung round. People were standing on the railings and on their balconies watching it like a racing event. Then there was a fight and someone got stabbed ... someone probably called someone a name, I expect.<sup>323</sup>

As the vicar noted, life on the estate is hard for many families and debt is a serious problem. Drug trafficking underlies much of the crime in the community, whilst mistrust and a culture of fear mean that no one speaks out.

### **iii. Attitudes to crime and wrongdoing and to the criminal justice system**

Alma and John, both long term members of the community and active in the church, feel strongly that the justice system does not treat people equally or respectfully. Moreover the prison system, according to John, is a blunt instrument. It breaks up families and social relations and does little to help a person desist from repeat offending.

You have to get to know the person first and find out what interests them. If you lock them up they'll just come out and do it again. You have to make contact with them to show them that they can live differently and have a better life.<sup>324</sup>

Alma believes prison should work to bring out the best in its inmates.

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<sup>323</sup> Case Study B interview 1

<sup>324</sup> Ibid

Some youngsters in prison discover that they can do art, they are really clever ... well they must be clever to fool the police. They could redirect their interests into something that would improve themselves and the community...people who think that's soft, and go on about the punishment fitting the crime, should try prison themselves and see how soft it really is!<sup>325</sup>

The sympathetic, rehabilitative attitude expressed by Alma and John was typical of many member responses. They feel that crime and wrongdoing are to do with self-control, and that they can be treated and controlled by channelling people's energy in creative and productive ways. There needs to be more work done with offenders, practical relational work, to prevent patterns of crime being repeated.

Garry, a single father and ex-soldier, added to this the need within the community for positive role models and for building a co-operative culture.

People need an alternative model, which I have tried to do with my son Ryan. We need to start young to teach them that they can have more by sharing more rather than grabbing and keeping everything for themselves. I am a very committed co-operator. I have benefitted from courses at the co-op college and have helped the co-op introduce that ethos to customers on the shop floor. We must start now or we will be in big trouble.<sup>326</sup>

Whilst compassion was evident in the mood of those interviewed, this changed in particular contexts where people felt a line had been crossed. For example, the interviews took place against the background of two incidents, one national and the other local. National news covered a story about the fatal shooting of a police woman responding to a call for help. The reaction of more than one member to this story shifted from compassionate to hard-line, suggesting that the only appropriate response to this kind of offence was hanging.

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<sup>325</sup> Ibid

<sup>326</sup> Case Study B Interview 2

A less hard-line, but still more retributive, stance was evident also in the community response to a local manslaughter incident. The death of several of the estate children in a road accident left the community divided and angry over what kind of sentence would meet the demands of justice. As a result, the life of the driver responsible for this tragic accident was felt by some to be at risk within her community.

#### **iv. Responding to crime and wrongdoing**

The church members claim with pride a good track record in the church of starting up major social support initiatives and then letting the community run them. An example of this is the longstanding and very much needed Community Credit Union scheme, which was started over twenty years ago by the church and was managed by the church community worker till 2009. The co-operative was set up so that people on the estate could save money and obtain loans without going to 'loan sharks'.

At its peak around 2000, the scheme had more than 600 members, was lending about £120,000 a year and had almost £200,000 in investments and savings. However, by 2005 it made loans totalling only £35,000 and membership was down to 200. In June 2010 the Credit Union announced the suspension of its loan service to new customers until September, due to cuts in Government funding and a lack of new grants. The funding crisis forced it to lay off the two part-time staff members needed to process applications.

Some other important newer projects in the community also have the support of the clergy and the congregation, such as the Community Development Initiative ("CDI"). This work with estate kids and, in partnership with the police, seeks to address issues such as gun and knife crime in the estate.

However, with church income on the decline, the decision was taken not to replace the church community worker who retired in 2009, with the consequence that community outreach is inevitably much less visible than previously. A few small church-based initiatives that strive to meet community needs continue, but the fact that the church is not so actively involved in the community today is acknowledged and discussed openly by the members.

There is a realism about their declining capacity to respond. Many regret that more cannot be done, but at the same time see no way to change this. There is also some ambiguity about where the real problem lies. Many reasons are cited: lack of denominational funding, many changes in leadership, and an aging and declining membership. All of these factors have inevitably contributed to the present situation.

The church does less new things than in the past ... but we are an aging group and the resources (people) are more limited than 17 years ago. My perception is that it is more difficult ... People are reluctant to put their head over the parapet for fear that the estate's reputation will cause others to say "who are you? Get back to your joy riding".<sup>327</sup>

There was some deep hesitancy amongst the members when asked about what the church could practically do to respond to crime and wrongdoing. They have little expectation of new resources being assigned by the church sponsoring body to change the situation. The minister commented:

There have been some suggestions at the sponsoring body level for some socio-economic survey of needs to be done. This might be a good way forward, but realistically it's not my forte, so it would need someone else to do that and the resources are declining at present.<sup>328</sup>

However, 'downhearted but not defeated' tends to be their response. There is a defiant sense of the continuing relevance of the church derived from its being a

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<sup>327</sup> Case Study B interview 3

<sup>328</sup> Case Study B interview 4

permanent presence. The added value which the church brings to this community is its loyalty, longevity and dogged commitment to be there.

I think we are there, and unlike most social schemes and regeneration schemes and all sorts of schemes we are there and committed to being and staying there as a community for the estate.<sup>329</sup>

They emphasise that the membership is largely made up of locals, not well-wishers from outside:

We are not eclectic; most people coming to the church live on the estate and walk to church, and we are growing, embracing African newcomers.<sup>330</sup>

They also emphasise that the church buildings, with their central location, are a great asset for supporting community initiatives:

We have buildings and land which we would like to make more available as appropriate to the community, as needs are identified and we have people who get involved in one way or another in social and charitable concerns.<sup>331</sup>

The pastoral work of the clergy is core to the current ministry. While this mainly revolves around working with individuals and families at times of bereavement or for weddings and baptisms, it sometimes also involves mediation and reconciliation work in the community in times of crisis. Where families are separated through prison sentences, or are victims of tragic incidents, criminal or otherwise, the clergy seek to offer support. However for reasons of confidentiality, the clergy could not release specific examples for this study.

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<sup>329</sup> Ibid

<sup>330</sup> Case Study B Interview 3

<sup>331</sup> Case Study B Interview 4

In contrast to the importance placed on the pastoral ministry, partnership between the church and statutory services is much less of a priority. According to the community police, relations are cordial but not at present particularly active. They expressed the desire for more partnership and assistance from community stakeholders including the churches:

The churches are important for us. They are places where people gather and the community interacts. We go along to the church when they hold a fete or something like that, but it's hard to get into a real relationship. It needs to be two way. Some of my colleagues are wary of going into the church for fear of being hit with religion! So we need to overcome the distance on both sides.<sup>332</sup>

Partnership is beginning to flourish in two areas: the first is with a newly-planted independent community church, and the second with a diocesan-sponsored youth and community organisation. The ecumenical congregation, having seen the readiness and capacity of these new arrivals to engage in work on the estate, has welcomed them to use their premises as a base for reaching out to the community, and understands their work as an extension of the church's own outreach.

The community church runs numerous sports events, including coaching football and netball teams; it runs dance classes and cheer leader workshops, and a range of special social events like the girls "glam glitz evening". All of this work is funded by the local authorities. In addition to this, and funded separately by a network of community churches, they run courses and events that introduce the kids to the Christian faith. These events promote pro-social values and positive character development. A central strategy for this work is a peer mentoring scheme. Roughly a third of the activities take place on case study B's premises.

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<sup>332</sup> Case Study B interview 6

The youth and community organisation employs June, a final year student studying for a youth and community ministry degree, as the trainee staff member on the estate. She facilitates an open youth club, originally initiated by the ecumenical congregation, regularly attended by between 10 and 15 young people. Besides this, and increasingly, her time is committed to working in the local academy school, where the head teacher has welcomed her involvement in running assemblies, after-school clubs, and taking sessions with kids who have behaviour problems.

The last of these involves one-to-one support with those who are on the point of receiving exclusion orders and with those who are on the way back in after a period of exclusion. She also mentors groups with learning support needs. June's behaviour support work with kids addresses emotional literacy needs, such as anger management, using learning techniques such as journal-writing and music-making. It aims to help the kids express their feelings, as well as understand and manage their emotions. Her work also includes victim/offender sessions, using restorative justice techniques to try to resolve disagreements between pupils. Her learning support work involves mentoring groups who are experiencing difficulties in the context of the class. These include selective mutes, who for a variety of reasons (trauma, abuse, shame or fear) elect not to talk to people or only to a few whom they trust, and sufferers from self-harming and eating disorders.

### ***Initial findings from case study B***

The scarcity of resources, human and material, in this indigenous congregation means there is only a very limited capacity for the congregation to respond to crime and wrong doing. However their realism and pragmatism enable them to reach beyond their means. Through partnership with other faith-based organisations, their reach is

extended into the community in ways appropriate for addressing issues of crime and wrongdoing. The result is an impressive programme of church community outreach, which is extending the reach of the church into the community and enabling engagement with vulnerable adults and kids.

### C. Case Study C

Case study C congregation is located in a city centre. Established in the 1650s, the church has a distinguished history. The congregation cherishes its long tradition of religious tolerance. In the 18<sup>th</sup> century this meant being open to believers of different persuasion on matters of conscience, particularly relating to baptism. The congregation seeks to continue this tradition by being open ecumenically, and inclusive towards those marginalised and stigmatised on grounds of creed, race, gender or sexual orientation. Shortly before research observation took place, the church welcomed a new minister. This was a period when the congregation found itself re-orientating both to a new ministry and to a new ‘mode of being’ in relation the regenerated city square where they were located. Typical of city centre churches, the membership is geographically dispersed, most living out in the suburbs. They see and know the area more as frequent visitors than as residents.

Information about deprivation in the area in which the community is situated is as follows:

<b>Deprivation Index 2010</b> <sup>333</sup> (Note - the lower the figure, the greater the	Overall	16%
	Income deprivation	43%
	Employment	31%

<sup>333</sup>*The English Indices of Deprivation* (2010) Department of Communities & Local Government, accessed via [www.uklocalarea.com](http://www.uklocalarea.com) in August 2012

degree of relative deprivation, e.g. 2% of communities have greater health deprivation. Crime deprivation is within the worst 10% of local communities.)	Health	2%
	Education	47%
	Barriers to services	5%
	Living environment	22%
	Crime	6%

Demographic information from the 2001 census about the area in which the community is situated is as follows:

		Case Study C	Average – England
<b>Age Structure</b> <sup>334</sup> (Predominantly young adults, with all other age groups well below national average)	Mean age of population in the area	27.6	38.6
	Median age of population in the area	21	37
	People aged under 18	4.8%	22.7%
	People aged 18-29	71.3%	15.1%
	People aged 30-34	11.6%	22.7%
	People aged 45-64	7.1%	23.8%
	People aged 65 +	5.3%	15.9%
<b>Gender</b> <sup>335</sup> (Significantly fewer women than national average)	% Female	42.8%	51.3%
	% Male	57.2%	48.7%
<b>Ethnic Group</b> <sup>336</sup> (Predominantly White, with larger Other (mainly Chinese) & Mixed minorities than national average)	White	85.3%	90.9%
	Mixed	2.5%	1.3%
	Asian	4.5%	4.6%
	Black	1.8%	2.3%
	Other	5.9%	0.9%
<b>Health and Provision of Unpaid Care</b> <sup>337</sup> (Better than national ave.)	General health: Good	78.4%	68.8%
	People with a limiting long-term illness	9.1%	17.9%
<b>Qualifications and Students</b> <sup>338</sup> (Inconsistent)	People aged 16-74 with 5 or more GCSEs grade A-C, or equivalent	4.5%	19.4%
	People aged 16-74 with no formal qualifications	5.9%	28.9%
<b>Economic Activity</b> <sup>339</sup> (Employment, self-employment and unemployment all below national average)	People aged 16-74: Full-time employees	16.3%	40.8%
	People aged 16-74: Part-time employees	2.8%	11.8%
	People aged 16-74: Economically active:	2.1%	8.3%

<sup>334</sup> 2001 Census Key statistics (KS02) from [www.neighbourhood.statistics.gov.uk](http://www.neighbourhood.statistics.gov.uk)

<sup>335</sup> Ibid, Key statistics KS01

<sup>336</sup> Ibid, Key statistics KS06

<sup>337</sup> Ibid, Key statistics KS08

<sup>338</sup> Ibid, Key statistics KS13

<sup>339</sup> Ibid, Key statistics KS09A

		<b>Case Study C</b>	<b>Average – England</b>
	Self-employed		
	People aged 16-74: Economically active: Unemployed	1.7%	3.4%
<b>Tenure</b> <sup>340</sup> (Home ownership well below national average – more than twice as many non-owner-occupied)			
	Owner occupied: Owns outright	9.5%	29.2%
	Owner occupied: Owns with a mortgage or loan	7.4%	38.9%

### **i. Crime and wrongdoing in case study C**

The church is situated on the central square in the western part of the city. For over 100 years it was hidden from public sight, tucked away in a corner of the square within a secluded courtyard. The square has for a long time been a gathering point for alcoholics and drug users. The image of the area as unsafe increased when many nightclubs opened in the surrounding streets. It was hard for the church to handle the situation, with members feeling vulnerable and uncertain about their role. The church closed its coffee shop as a result of drug users coming into the toilets to use and then depositing their needles on the floor. At night, the church porch-ways became the regular sleeping area for homeless people who were too drunk to be given a place at the night shelter.

The city council put forward proposals in 2007 for the renovation of the square, citing reduction of crime and anti-social behaviour amongst the objectives. A number of stabbings outside nightclubs in 2009 received media attention and increased public concern about alcohol abuse and knife crime. In response to this the

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<sup>340</sup> Ibid, Key statistics KS18

council, the police and other authorities jointly adopted a high profile strategy for law and order issues.

The renovated square is now a popular congregating point, with bench seating areas and floodlit terracing, attracting many people day and night. Young people in particular hang around for hours. The police are very present in or near to the area, especially in the evenings, due to the proximity of the clubs. The church engaged actively with the renovation plan and, with the courtyard and its railings removed, now faces directly onto the square.

## **ii. Understanding crime and wrongdoing in case study C**

One member recalls how the problem of anti-social behaviour on the square had worried him for some years:

There was a policing problem, a social disorder problem with the square. I used to think sometimes “here I am living in the leafy suburbs and not down there where our church flat tenant has to contend with a lot of trouble with the guys on the forecourt”. I knew something had to happen, and that something was regeneration of the square.<sup>341</sup>

Whilst happy with the changes made to the square, some members expressed concern about those who were moved on, and that the long term challenges for the church in relation to questions of crime and wrongdoing might nevertheless increase:

Our problem was ‘designed out’. I don’t know where the folks have gone. What’s interesting is that the vast majority of the congregation including me are thinking that what we have now is a vast improvement and yet in reality we have not solved a problem, just displaced it.<sup>342</sup>

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<sup>341</sup> Case Study C interview 2

<sup>342</sup> Ibid

While the alcoholics and drug addicts have been moved on, the church porch is now open to the world. With the courtyard gone, the church is busier than ever, with needy people coming off the street into the church for a free coffee and a chat. As Laura, one of the church volunteers noted, many of the people who come in, just like the former occupants of the courtyard, are seen by the social service agencies as problem cases, whose anti-social habits and mental health issues make them intimidating to those around them. It would appear that one group of needy people has been displaced by another group with different but acute needs. However, whereas formerly the alcoholics and the homeless preferred to meet and talk outside in the courtyard, the new meeting space is inside the church. For the volunteer members who run the “Open Church” ministry, it has become a more volatile, tense and threatening space, which they are finding increasingly hard to manage.

### **iii. Attitudes to crime and wrongdoing and to the criminal justice system**

The former church secretary, Norman, reflects the ambiguity the congregation feel about their relationship to the community when he describes the problem of addressing crime and wrongdoing as something too difficult and perhaps not even appropriate for them to tackle:

Many street dwellers congregate around the church. For a long time now we have talked about them as a problem ... some thinking they were no hoppers but most believing that by not getting involved we are acting responsibly, after all there are professionals whose job it is to work with these people ... they know how to handle them ... <sup>343</sup>

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<sup>343</sup> Case Study C interview 2

This response has to some extent evolved since Carol, the new minister, arrived in 2007. She quickly made an impression on the congregation by going out into the courtyard and getting to know the people who frequent the church doorstep. Indeed, recalls Norman, she seemed to positively thrive on it:

From day one, she has sat on the benches outside the church with the street dwellers, learning their names and listening to their stories. In the vestry she has written up the names of each person she has met as an aide memoire for herself ... but for some of us this board of names has become an eye opener ... to think how year in year out we walked past and sometimes over these people to get into church, we never talked with them let alone got to know their names, they were nameless tragic broken people.<sup>344</sup>

However the church is now responding to the needs of a different and equally vulnerable group of people, who were there before the renovation of the square but were too intimidated to come into the courtyard because they did not want to mix with the alcoholics and drug abusers. While some of these new visitors are generally regarded as similarly deviant, anti-social and undesirable, the volunteers who give them hospitality each day between 11 am and 2 pm have a different view: most are simply vulnerable people who have fallen through the social net:

I find a lot of the violence around here is not drug or drink related but money related. The people who walk in here some of them don't have anything and people assume that because they are poor they deserve it, they have no sense of responsibility they don't want to work. This attitude inevitably creates animosity and ill feeling.<sup>345</sup>

Laura, a faithful volunteer, noted that that these new regulars, like the old ones, are written off as 'no-hoppers':

Many of them experience violence first hand, because of their vulnerable natures. They are not big but timid shy people, who have been abused. They have taken their lot as if it's acceptable to be beaten

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<sup>344</sup> Ibid

<sup>345</sup> Case Study C interview 3

and knocked about. The homeless amongst them are abused by people coming out of the clubs. Some have been beaten around like a football. I know these guys and believe me, some of them are angels, but they have a heck of a life.<sup>346</sup>

One of them said to me the other day “Here people treat me as a person and smile, but outside I am treated with disdain and disgust” and then they asked me “Why is this?”<sup>347</sup>

As in the previous era, however, there are incidences of anti-social behaviour, which challenge the volunteers beyond their limits. Volunteers Mandy and Stephen chatted with me in the kitchen whilst washing up after a particularly difficult session, when amongst forty visitors there had been several highly troublesome characters. They reflected that, while calling in the police is sometimes their only option, it does not leave them feeling good about their work. They do not consider law enforcement to be the appropriate response mechanism to people who are homeless or suffering from mental health issues.

#### **iv. Responding to crime and wrongdoing**

The response of the congregation to concerns about crime and wrongdoing has evolved over the years in a number of ways. Their primary response mechanism to people affected by these issues has been the ‘Open Church’ ministry. For many years this work with the lonely, homeless and alcoholic people functioned at a low level. Volunteers handed out tea and coffee to visitors, and offered time and space for people to chat.

Carol, the new church minister, envisioned Open Church as much more proactive. She sought to model to the volunteers a way to mingle with and befriend

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<sup>346</sup> Ibid

<sup>347</sup> Ibid

these people, spending many hours each week sitting on the benches in the forecourt with the street-dwellers and addicts who had made this their space. In the course of conversations she would often tell them the Bible story she was going to preach on the following Sunday, and they would give their views on it. Inspired by their textual insights, she integrated their comments into her sermons, explaining that she was now as a matter of course consulting two types of commentaries: “the big books on my bookshelf, but then the courtyard commentators too – real people with great spiritual insight”.<sup>348</sup> Through her sermons the congregation began to encounter the strangers on their doorstep and to receive from them.

Although impressed and inspired by her actions, the other church volunteers did not join her on the benches but stayed inside. Like the rest of the congregation, they did not know how to engage with these folks and some felt intimidated by them. Her response quickly became a vicarious ministry for the congregation. They felt connected through her with the courtyard people, and challenged to reflect on their own past patterns of response.

In parallel to Open Church, the church offers rented space to voluntary agencies working with similar categories of vulnerable people, for example, Alcoholics Anonymous and an employment agency helping people to find jobs or do extra training. While these are commercial relationships for which the church receives rental income, the church and minister also see them as an extension of the Open Church ministry. Carol makes a point of building relations with the staff in these different projects and extending the moral support of the church to them.

The congregation has embarked on two further responses to crime and wrongdoing, which bring the church into closer contact with the criminal justice

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<sup>348</sup> Case Study C interview 1

system. The first of these, which will be considered in more detail in a later case study, is the city's Street Pastor initiative. It seeks to address wrongdoing and abuse at night on the city centre streets, and involves volunteers from the church together with members of others churches in the city. Councillors and the police expressed strong support for the churches' initiative, so a new "Urban Trinity" partnership between the churches, the City Council and the police was forged.

The second new initiative which also brought the church into closer contact with law and order issues was the relationship established between the church and the local asylum detention centre. This again was the initiative of the minister. With the full support of the church, and with the readiness of members and students to help out with services when this is needed, she now works half a day per week as a part-time chaplain in the detention centre

### ***Initial findings from case study C***

This case study encountered crime and wrongdoing from a very different perspective to the previous case studies. The city context means that a sense of community and solidarity amongst people is not as strong as on the estates, and the work is altogether more transitory in nature. The location of the church means that, without any effort on its part, people are drawn into the church looking for shelter, refreshment and somewhere safe. Those who come into the church on a semi-regular basis for help are often those who have fallen through the social security net and have mental health issues. These people often end up in trouble with the law because the social help they need has not been available, or they have not accepted it. A 'law and order' response brings many of these people into the court system.

## **D. Case study D**

The first three case studies looked closely into the lives of individual worshipping communities. In each of these situations there were signs that members sometimes volunteer beyond the local church, pooling their resources with volunteers from other churches and organisations in order to have greater impact. In case study C, the Street Pastor initiative formed a key part of the local church's response to crime on the streets. Case study D now looks from the wider national perspective at this initiative. It asks the same questions of these volunteers as were asked of the local church members.

Les Isaacs, co-founder with David Shosanya of the Street Pastor movement, dates the beginnings of the initiative to the mid-1990s, when a spate of gang shootings and murders in London was raising alarm and distress in the community where he pastored.<sup>349</sup> Challenged by this, he organised meetings in church halls in London, Birmingham and Manchester with church members, police and community representatives. The halls were packed, and the problems identified in these gatherings were drugs, gangs, housing, poverty, education, and broken families. He challenged churches theologically and practically to become credible partners alongside the local authorities and the police in the struggle against crime.

### **i. Crime and wrongdoing in case study D**

The street pastors interviewed distinguished between two types of street crime, gang culture and club culture. In their view, gang-related crime is caused by territorial

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<sup>349</sup> Case Study D interview 1

disputes, social marginalisation, poor parenting and the legacy of slavery<sup>350</sup>, and is often violent; club-related crime is caused by drug dealing disputes and alcohol-induced antisocial behaviour, often taking the form of physical and emotional abuse.

David Shosanya (the other co-founder of the movement) spoke about crime and wrongdoing from his personal experience as a young person growing up in Brixton and knowing intimately the gang culture. He rejected the idea that gun crime is an exclusively working class or black problem.<sup>351</sup> It may be better hidden amongst the white middle and upper classes but it is there and it is intimately linked to drug usage:

There is gun crime everywhere, you just don't see it. Gun and knife crime is all about drugs. Don't make any mistake about that. It's everywhere. The little boys are in Brixton, the bigger guys in Knightsbridge and the barons are in Oxford.<sup>352</sup>

David sees many criminals, most of the time, as 'good guys'. The problem, as he sees it, is when someone crosses the line, (physical or psychological) and then "good guys lose it". Two of his friends, both bouncers, are now serving time because in the heat of the moment, they went crazy:

A friend, a night club bouncer, was insulted by a black guy. This friend, who is a martial arts expert, chased the black guy and got him but was caught on camera emptying six bullets into him. Another bouncer I know well recently killed a man and then shot at the police. It's madness but some of these people are the nicest people, they'll not

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<sup>350</sup> Beckford, R. p42-47. The legacy of slavery, according to Beckford, is the continuation of colonial mentalities in post-colonial Britain. The ways in which African and Caribbean people are treated and represented in the media and in daily life perpetuate slave images, making it a present day phenomenon. This is compounded by Black and Caribbean people playing up to this negative image. Physical slavery has been replaced by psychological slavery.

<sup>351</sup> Beckford, R. (2004) p4. This view finds some support in Beckford's analysis of gang culture. Some gang members are very rich business people. Beckford notes that gangs operate on at least three levels and the culture and ethos are very different between them. At the top are economic gangs whose members are "very professional", drug dealers, making vast sums of money and using significant violence to protect their markets.

<sup>352</sup> Case Study D interview 1

nick your purse if you leave it around and they are tender fathers and husbands, but if you cross the line they are psychopathic.<sup>353</sup>

In a similar way he sees kids learning early on to be territorial. They develop a false sense of ownership. They stake out public spaces as their territory. They try to create an environment and say “this is mine”:

Young people claim the front of the chip shop or a park bench and if you try and take it you got trouble. I had the experience of assaulting someone as he walked through a park. I said don't walk through the park ... because we thought the park is ours ... but he kept walking. I said” let him walk” but then he came back and he was hurt in the process ... but I needed somewhere to call mine.<sup>354</sup>

The attitude of kids and teenagers to territory revolves around a twisted logic. It's either their space to be defended or it's public space to be ‘trashed’:

Not having the emotional and moral intelligence to channel their energies, they ask why don't they (the council) ever put money into our communities, and reckon if these two windows are broken I'm going to smash the rest of them so they are all the same.<sup>355</sup>

When it comes to gang crimes there is, he insists, no such things as random “shoot-outs”. These happen when someone goes out of their own territory. He recalls incidents of this kind:

A friend of mine got involved with a young lady, and her previous boyfriend came into the club. A little altercation took place and my mate was warned by his friends to go easy ... but he didn't take the advice. A few days later the same guy came up and shot him in the back. He is in a wheel chair now and is as mad and crazy as ever.<sup>356</sup>

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<sup>353</sup> Ibid

<sup>354</sup> Case Study D interview 1

<sup>355</sup> Ibid

<sup>356</sup> Ibid

Lewis is a street pastor in south London. He knows first-hand the violence of the streets, having slept rough for many years. His life fell apart when a steady relationship suddenly and tragically broke up, leaving him emotionally damaged and homeless. He became more and more dependent on alcohol to get through, and finally lost his job. His recovery is thanks to the homeless ministry of St Martin-in-the-Fields plus “a random evangelist”. Today Lewis is an active member of a Baptist church. He is employed as a social worker mentoring kids at risk, and is a volunteer with Street Pastors. He continues to love clubbing, and for that reason is most at home when street pastoring in that world:

Most violence I see as a street pastor is drink induced. They’ve come out for a good night out - normally you shrug it off but people react aggressively. They are also hot and tired and people lose their temper more easily.<sup>357</sup>

The fights between the guys are bad enough but the domestic arguments are worse ... and the girl fights are the worst, they go hammer and tongs, take stilettos off and hit each other over the head ... trying to talk to them before the fights starts is sometimes possible.<sup>358</sup>

Cab rage is quite common, as in fighting over taxis. Some people feel that if they don’t have a fight it hasn’t been a good night out.<sup>359</sup>

## **ii. Understanding crime and wrongdoing in case study D**

The crime and wrongdoing of which David and Les speak stem from a complex story involving gang cultures, gun and knife crime, drugs, territorial disputes, domestic abuse and the lasting legacy of slavery.

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<sup>357</sup> Case Study D interview 2

<sup>358</sup> Ibid

<sup>359</sup> Ibid

In addition to social or psychological explanations, Les Isaacs pointed to further and deeper structural reasons, such as the malformation of generations of young blacks arising from dysfunctional families. Kids, he notes, lack the emotional and moral intelligence that comes from good parenting. They do not have the moral framework to deal with life:

When dad is in prison, the kids think he is on an extended holiday ... the kid feels unloved. Kids with absent fathers try to grow up and become independent. When mum in frustration says “you’re like your dad” ... then lots of repressed anger comes out and is directed towards the mother ... the bond is broken ... the kid goes out and treats women the way dad did.<sup>360</sup>

David particularly highlights the way that offending behaviour is a repeating cycle which gets passed on through generations. Slavery from the past, for example, has an ongoing impact in the current younger generation:

Losing the stable pattern of a family life ... is part of the pathology of slavery. Historically young kids were separated from their enslaved parents ... now human persons adjust ... but 400 years of slavery has to have an impact ... the men were so ashamed. Take my dad, when he first came to this country he went to get a job and was reduced to factory work even though he was a trained electrician ... Dad has to explain himself to his son and it’s as hard as talking about the war... distance grows because the father is ashamed ... children are left to struggle alone.<sup>361</sup>

### **iii. Attitudes to crime and wrongdoing and to the criminal justice system**

The Street Pastors interviewed were committed to partnership, though not an uncritical one, with the police and the criminal justice system. Those working with

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<sup>360</sup> Case Study D interview 2

<sup>361</sup> Ibid

gangs and gun crime, for example, feel strongly that the justice system is not applied fairly. Young blacks are being systematically targeted by the police and the courts:

The system itself is less problematic than the way it is interpreted and administered. I witnessed a 19-year-old 6'4'' black guy possessing a firearm who was immediately sentenced to 9 years in prison ... The churches argued "you are criminalising this man".<sup>362</sup>

The fact that it is 'cool' to be on the wrong side of the law is cited by street pastors as evidence for why the system is doomed to fail; it is not respected:

The criminal justice system speaks for itself. It is not working. It is not respected. Many children fall through the net by 13-14 years. An ASBO and jail sentences are treated as achievement awards or as a status symbol.<sup>363</sup>

Those working in the club scene see the need to distinguish the trouble-makers from the regular club-goers:

Club-land and ASBO culture are synonymous in the eyes of some people but most clubbers are just out to have a good time. It's just some coming into the city from other places that give everyone a bad reputation.<sup>364</sup>

#### **iv. Responding to crime and wrongdoing**

Two types of street pastoring have evolved; the earlier of these tackles the gun, knife and gang culture, the second responds more generally to the needs of the clubbing culture. The focus on low level anti-social behaviour in the pub and club culture represents, for some volunteers, a watered down version of street pastoring. As one

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<sup>362</sup> Case Study D interview 1

<sup>363</sup> Case Study D interview 1

<sup>364</sup> Case Study D Interview 2

street pastor explained, there is huge difference between those for whom anti-social behaviour is a life style choice and those for whom crime and wrongdoing seem the only way out of a life without choices:

The pub and club culture reaches many people who choose to get drunk ... With this group street pastors have a transient one-off encounter. But elsewhere choices are more limited, such as the people shaped by urban marginalisation coming from communities which suffer multiple deprivations and need on-going sustained help.<sup>365</sup>

The broadening of the response however reflects the need for street pastors to support interventions in diverse contexts and for the context to shape the nature of the response.

When it comes to addressing the effects of crime and anti-social behaviour street pastors might therefore be found sitting in pubs, clubs or in takeaways and on street corners, befriending young, middle-aged and old people. Their visible presence helps to reduce both crime and the fear of crime. More proactively, street pastors can be found mentoring young people who have been referred to them by the police, or by statutory and voluntary agencies. They also try to provide diversionary sports and social activities. The aim and the hope are “to get kids on the right road; the goal is transformation and the hope is that God is already at work in these young people’s lives”.<sup>366</sup>

### ***Initial findings from case study D***

Street pastoring is a pioneering effort by local churches to directly reach beyond the level of single congregations in order to respond to problems of crime and

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<sup>365</sup> Case Study D Interview 4

<sup>366</sup> Case Study D interview 5

wrongdoing on the streets at night. The Street Pastors UK initiative has grown rapidly in ten years. Over 1,000 people are now trained as street pastors and are working in over 40 locations. Police are in some cases approaching the churches and requesting that they start up a programme because they have seen the positive effect in other areas. The aims of the street pastoring movement are not faith-promoting, and this is reflected in the local protocols which are clearly worked out and agreed between local churches, the local police authorities and the local council. The protocol always excludes evangelism and faith-promoting activities. That said, however, there is a clear recognition that the pastors are motivated to do this work because of their faith and the public knows this.

Growth in the movement is easier to measure than success. Crime statistics are one indicator. Street Pastors UK correlates prayer and presence on the streets with crime statistics, and where their presence appears to have positively impacted on the crime rates, they celebrate what they see as beyond the programme itself – God’s Spirit at work in and through them.

Beyond statistics, the stories amongst the street pastors about their steady persistent relationships with gang members provide a further indicator of the long-term positive impact of the work. In this respect, David Shosanya’s correlation between gang culture and religious experience is noteworthy:

Young gang members understand power and they understand hierarchy. When they engage with religion sometimes they sense a power greater than themselves. The intensity of the religious experience is greater than the intensity of the gang culture. What they don’t know or have is a community that can nurture pro-social behaviour. The church needs to be that therapeutic community. The thing that stops them harming has to be stronger than the power that drives them ... it could be falling in love with a lady - that also works!<sup>367</sup>

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<sup>367</sup> Case Study D interview 1

## **E. Case Study E**

In December 1998 the Prison Fellowship England and Wales piloted a restorative justice programme called The Sycamore Tree Project at H.M.P. The Mount. Now running in 40 prisons across England and Wales, it is a victim awareness programme that teaches the principles and application of restorative justice. The content is covered in six weekly sessions designed to enable prisoners to understand the impact of their crime on victims, families and the community. It also encourages prisoners to accept personal responsibility for their actions, and points to the need to make amends. Surrogate victims come into prison to tell their stories. At the end of the programme, prisoners are given the opportunity to make a symbolic act of restitution, taking the first step towards making amends for their past behaviour.

### **i. Crime and wrongdoing in case study E**

Since the Sycamore Tree Project operates within prisons it necessarily deals with a wide variety of crime and wrongdoing. Access to prisons by volunteers from the community is a long-established part of the prison ethos, and the work of the Sycamore Tree Project falls within that tradition. The prison chaplaincy service coordinates the work of the Sycamore Tree Project as a recognised component within the prison service curriculum. In the context of overcrowding and stress on the service, Prison Fellowship volunteers noted that the inmates found the relaxed and friendly nature of the Sycamore Tree workshops to be a welcome change from the normal daily routine. The more equal volunteer-inmate relationship, the refreshments

(tea and biscuits) and the first name terms all made a significant and positive difference.

## **ii. Understanding crime and wrongdoing in case study E**

The Prison Fellowship volunteers experience the inmates attending their course as ordinary people much like those on the outside. During the course they hear about offences and talk about crime and wrongdoing in people's lives, but the volunteers encounter offenders who are very reasonable, likeable people:

It's hugely challenging ... when you know them as people, then it's hard to understand their violence which they tell you they have been involved in. They seem like perfectly fine people.<sup>368</sup>

Volunteers see something of themselves in many of the people they meet. What separates them is not moral goodness or badness, but the ability to control conduct and behaviour. The personal and social skills needed to manage and contain behaviour separate those who are inside prison from those on the outside:

I see, I think, amongst these prisoners something in all of us but in the case of these prisoners is not well held together ... I might want to punch someone but never have... these people because of many reasons haven't got these constraints ... their anger is very close to the surface. ... I can get worked up quite quickly but am a long way from expressing it.<sup>369</sup>

Besides the ability to control behaviour, which depends on inner personal coping skills, the difference between volunteers and inmates is, according to the interviewees,

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<sup>368</sup> Case Study E interview 1

<sup>369</sup> Case Study E interview 2

a matter of social chance. Under different circumstances of background and environment some felt sure that they would have been on the inside:

I grew up in a working class setting and from the age of 11 became aware of the disparity in choices and opportunities people have. I have a sense that, given different fortune, I would have done the same or worse. This helps shape the way I understand and relate to the offenders.<sup>370</sup>

The causes of crime and anti-social behaviour are multiple, and often external or circumstantial. The key factors identified by volunteers were dysfunctional families and other significant relationships:

Breakdown of relationships is the root ... drink and drugs are secondary, they are the symptoms of other things that have already gone astray. The essential core is the breakdown of relations ... no father figure, the loneliness, unsupportive families, fallen outside of the school system, everyone has given up on them ... all prepares the way for the secondary causes.<sup>371</sup>

Volunteers stressed the importance of family and friends being a primary network of relationships in which values are formed and maintained:

I think that society has lost some of the restraints that were on it to behave reasonably. Breakdown of moral values, if you like, or breakdown of family life I think just leads people to behave instinctively, and human instinct contains aggression and unless that aggression is channelled or moderated by something then it will express itself, they will be aggressive.<sup>372</sup>

Beyond the breakdown of the family, many other structures were seen to be failing. Factors arising from social disorganisation contribute to their offending behaviour:

The causes are not all within their control: housing, employment, family, substance abuse, peer group pressure can all be factors.

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<sup>370</sup> Case Study E interview 5

<sup>371</sup> Case Study E interview 1

<sup>372</sup> Case Study E interview 4

Substance abuse is a factor for half of all offenders. They are either dealers or users or both.<sup>373</sup>

### **iii. Attitudes to crime and wrongdoing and to the criminal justice system**

The volunteers' underlying respect for the prison staff and system is balanced by their frustration about its limitations and shortfalls. Their experience of the Sycamore Tree Project convinces them of the potential to help inmates address the problems they face and to equip them for re-integration into society:

The prison system is doing the best it can ... within the context in which it is working at the moment. ... I have to accept that incarceration after crime is needed ... but incarceration that doesn't offer something like the Sycamore Tree Project alongside is plain wrong.<sup>374</sup>

Volunteers advocate the need to counter stigma and hate toward offenders, and to promote non-prison sentencing options:

The whole Daily Mail agenda – crime, horror, lock' em up stories ... does not shake my belief that we have to do something else.<sup>375</sup>

Their particular grievance is the failure of the system to reintegrate offenders into normal life after their sentence, the process for which they perceive to be almost non-existent. This undermines the good work done in prison. Their frustration is voiced often from the perspective of conversations with inmates whose expectations for their future ranged from fear about how they could go straight, without jobs for them to earn the money to live and pay the rent, to deep cynicism towards a society where the label 'ex-offender' disadvantages them indefinitely:

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<sup>373</sup> Ibid

<sup>374</sup> Case Study E Interview 1

<sup>375</sup> Ibid

The expectation and experience of many prisoners is that forgiveness will be withheld. The stigma of having been in prison means the past is always with them. .... They say “You have affirmed us, but what will happen when we go out? ... The vast majority don’t want to know an ex-offender”<sup>376</sup>

Beyond the challenge of finding work, an even more important challenge is to find friends and networks of relationships to support them. As one inmate wistfully remarked: “One of my real wishes is that I can have friends outside like you’ve been to me inside”. Volunteers express frustration with the justice system since they know that this is highly unlikely:

The statistics say that it won’t happen. 75% of prisoners re-offend, in part because the company they keep and their circumstances militate against their starting a new life. Employers don’t want to recruit ex-offenders, accommodation can’t be found without evidence of income, and communities don’t forget.<sup>377</sup>

Some volunteers have used their experience as volunteers to advocate restorative justice within the legal system, such as a lawyer who heads up the Sycamore Tree course in a London prison. Conscious of her colleagues’ suspicion of restorative justice, she now invites them into the prison, giving them a direct experience of the course:

Restorative justice touches concepts and language that are in essence in opposition to the roots of the modern justice system. ... when [colleagues] hear about restorative justice as a process ... it is easy to shoot it down as an easy option, or idealistic ... but they come along and observe the amazing and extraordinary things that happen ... they are often knocked sideways ... and that is the way to further the cause.<sup>378</sup>

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<sup>376</sup> Ibid

<sup>377</sup> Case Study E Interview 4

<sup>378</sup> Ibid

The volunteers believe that bringing restorative practices into the prison embodies the way the system needs to be changed and improved. What they are doing is “a drop in the ocean” but they believe the impact is positive, and as time passes support from the prison governors and staff is growing:

We have a governor who likes the Sycamore Tree Project and backs it. We are also getting wider recognition from probation and addiction programme teams, as something valid and not just nice and frilly on the side.<sup>379</sup>

#### **iv. Responding to crime and wrongdoing**

The Sycamore Tree Project is a restorative response to crime and wrongdoing. It is a course which uses a story-telling technique to raise awareness in offenders about their victims and to help them be honest with themselves about their crime. Sometimes it leads to acts of apology and reparation.

The course is based around the biblical story of Zaccheus (“Zach”). According to the volunteers, the story keeps the conversation focussed and rooted in Christian values and principles. As the story unfolds, words and images of confession, repentance, forgiveness, restitution, reparation and reconciliation open up conversation amongst the inmates. They are encouraged to adapt and use these ideas freely in order to apply them to their own story. The fact that the course is faith-based but not faith-promoting is both challenging and formative for the volunteers.

I find it a huge challenge to be able to talk about confession, salvation, repentance - we use all these words - and have wonderful discussions without it being an explicitly Christian conversation. ... I find this so exciting.<sup>380</sup>

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<sup>379</sup> Ibid

<sup>380</sup> Case Study E Interview 2

There is both a challenge and a danger in the Sycamore Tree Project approach. Christian values like reconciliation, repentance and forgiveness can be taken and separated off from God. If it motivates people to change, that's doing some good. But of course if it leaves people to their own resources without grace and hope, that falls short of the good news Zach discovered.<sup>381</sup>

The course begins by inviting the offenders to write a narrative that tells the story of a crime that they have committed, or alternatively to write in the third person about another crime:

By creating a climate of confidence the course helps the inmates to look at their crime and to speak or write about it. They are invited to talk about their own or another crime, and well over half talk about their own crime.<sup>382</sup>

Story-telling is understood in restorative justice as truth-telling. Initially not all are ready to tell their story.

Initially they are suspicious ... and just a few are frightened that we might expose them before the others. Their body language speaks this clearly. They come in and listen politely but are a bit cagey. With time, when they see that we are not snooping, that we won't harm them, and we won't let them down in any way, then they relax ... They are not anti, in fact most are quite positive, but just a bit cagey. You can see the change between week 1 and week 5 ... how they gradually open up.<sup>383</sup>

Sometimes the act of telling the story has a profound effect on the offender:

When they start to tell their story ... some have never done this before, not even in court. They shake because they realise that what they have done is offensive to someone else. As they hear themselves saying these words, admitting in front of everybody what they have done, so they want to do something to put it right ... to say sorry and make it better.<sup>384</sup>

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<sup>381</sup> Case Study E interview 4

<sup>382</sup> Case Study E interview 4

<sup>383</sup> Ibid

<sup>384</sup> Case Study E interview 2

Tutors speak enthusiastically about the way the course can also help offenders, especially the encounter with a surrogate victim, though not all are equally open:

For a few of the offenders, this course will prove to be transforming ... they are changed people ... and mostly it's because ... something in that week three meeting with a victim of crime has touched them ... that is the pivotal week and then how we build on from that week is crucial. There will be some amongst the group at the other end of the spectrum, who don't want to respond ... or who are just going through the motions.<sup>385</sup>

While the focus is on the offenders, the course also offers some opportunity for the needs of victims to be addressed. Some surrogate victims find that being able to talk to offenders about their injuries helps them to find healing:

During this last course I took someone in who had been the victim of a very violent attack about 2 and half years ago. She was ... unable to cope with going out on her own and was receiving counselling .... One of the prisoners on the course ... was devastated to hear her story ... because it was so like his own. ... He asked to speak with her and he went and confessed to her what he had done. The next day she told me that she felt ... a burden had been lifted.<sup>386</sup>

Some see it as a weakness of the course that the offenders are unable to meet their real victim:

I personally am very conscious that the course has a very limited impact, because restorative justice would want the offender to meet the victim and we can't do that, we have to arrange a surrogate victim and that quite honestly is second best.<sup>387</sup>

Some, seeing the limited capability of the prison and probation systems to reintegrate ex-offenders into society, seek additional ways to help with this. One volunteer keen to integrate different initiatives with offenders speaks of her hopes as she starts to mentor ex-offenders:

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<sup>385</sup> Case Study E interview 1

<sup>386</sup> Case Study E interview 1

<sup>387</sup> Case Study E interview 4

A little charity called 'Future Skills' ... is just about to take on ten ex-offenders. They will each be mentored by a volunteer from the church. I will see one once a week for mentoring sessions. ... Future Skills is a tripartite approach between police, probation work and church.<sup>388</sup>

## **Concluding remarks**

Having described in the case studies five responses to crime and wrongdoing mounted by local Christian communities, and noted the attitudes of those interviewed both to crime and wrongdoing and to the way the criminal justice system is perceived to work, some broad findings begin to emerge. First, responses range from very traditional to some new and innovative initiatives. Second the capacity to respond is changing and expanding through inter-church approaches and through new partnership possibilities with local governance, police and criminal justice bodies. Third, where crime and wrongdoing were identified as structural the capacity to respond appeared to be more limited.

The evidence emerging overall points to modest but significant involvement by local Christian communities in tackling the problems of crime and wrongdoing in the community. The picture varies across the studies, where the focus of their response varies between personal and structural forms of wrongdoing, and the nature of the response is sometimes direct and at other times indirect. In the next chapter the results will be assessed in more detail and then critically evaluated using the restorative hermeneutic.

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<sup>388</sup> Case Study E Interview 1

## V

### **ASSESSING AND EVALUATING THE CASE STUDY DATA**

The evidence in Chapter IV points to modest but significant responses by local Christian communities to crime and wrongdoing. The picture, as already noted, is not straightforward since the focus of the response varies between personal and structural forms of crime and wrongdoing, while the nature of the response is sometimes direct and at other times indirect. This chapter has three stages. The first stage describes (a) the model used to categorise and assess the data and (b) the restorative hermeneutic for evaluating the results. The second stage assesses the data from Chapter IV with reference to the model and to relevant research, and, building on this assessment, evaluates the responses using the restorative hermeneutic. Finally the main conclusions emerging from the chapter are summarised.

#### **A. The methods used in this chapter to critically assess and evaluate the responses of local Christian communities to crime and wrongdoing**

##### **i. Assessing the responses**

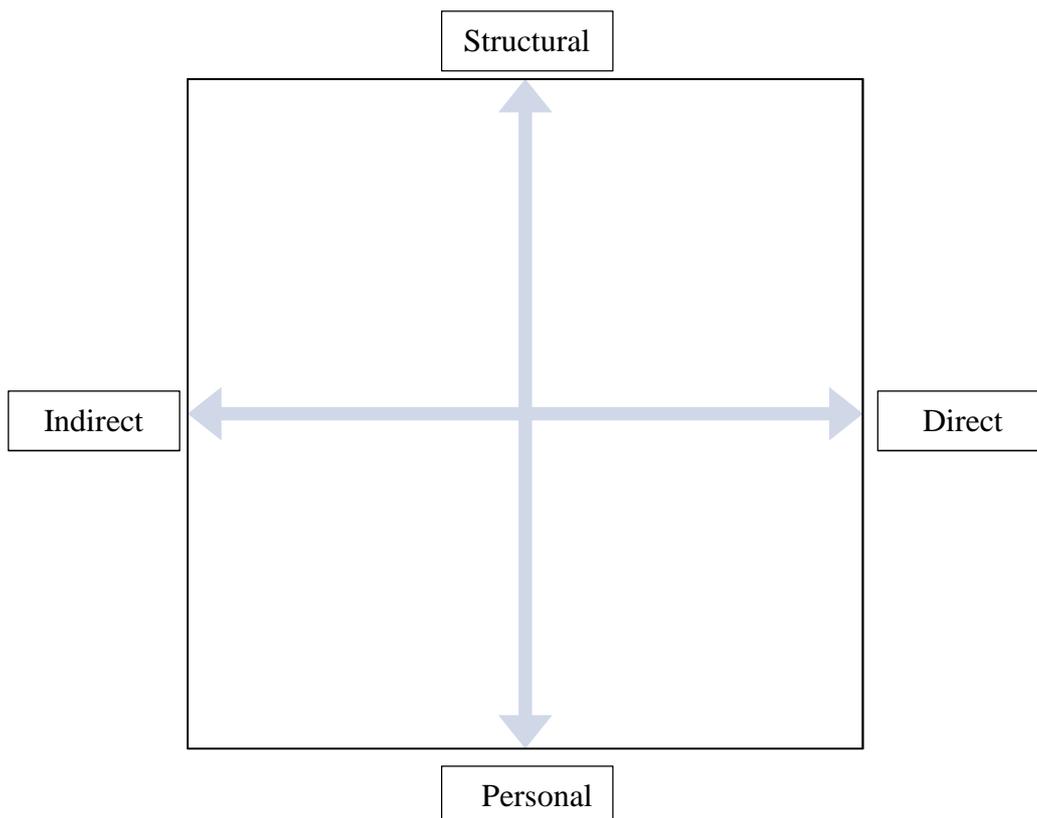
The model used to assess the data from Chapter IV involves two dimensions. The first categorises types of crime and wrongdoing as personal or structural. The second categorises ways of responding to crime and wrongdoing as indirect or direct. These categories are defined as follows:

- Personal crime and wrongdoing means acts of crime and wrongdoing against property or person perpetrated by an individual or group. Structural crime and

wrongdoing means crime or wrong done to individuals or communities caused by structural or systemic disadvantage.

- Indirect type responses work generally with the community to build healthy individuals and strong networks of support, in order to prevent or deter crime. Direct type responses work with offenders and victims, addressing the consequences of crime and wrong doing. By analogy with public health prevention and care, indirect responses correspond to primary and secondary interventions and direct responses correspond to tertiary interventions.<sup>389</sup>

Visually this may be represented as follows, where the personal/structural dimension is represented by the vertical axis and the indirect/direct dimension by the horizontal axis:



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<sup>389</sup> For the purposes of this analogy, the following categorisation is assumed: Primary health prevention is intended to prevent the onset of disease and is usually directed at the general population. Secondary health care focuses on early detection of conditions or a disease in the population, in order to restore affected persons to a state of wellness. Tertiary treatment in health care seeks to prevent deterioration where injury has occurred.

For example, the upper-left quadrant represents indirect responses to structural crime and wrongdoing.

Assessment of the case study responses using this model has shown that it is often difficult to dissociate personal crime and wrongdoing entirely from their context of structural disadvantage. The judgement as to where to locate each response on the personal/structural axis has been influenced by which of these is assessed as being the primary aim or motivation behind the response.

## **ii. Evaluating the responses**

The restorative hermeneutic that has emerged from the mutual critical dialogue between restorative justice and atonement theology in Chapters I-III of this study is not a precision instrument designed to measure scientifically the restorative value of a response or programme, but is an interpretative framework intended to help local Christian communities critically reflect on their response to crime and wrongdoing. The hermeneutic consists of a series of questions derived from the three core principles of restorative justice: (i) radical participation; (ii) righting wrong in a morally serious way; and (iii) re-integration. The questions also help to keep in focus the areas of concern identified, in Chapter III, in the dialogue between restorative justice and atonement theology, where practices can fall short of the vision and values inherent in the principles.

The restorative hermeneutic has a three-fold structure and may be summarised as follows:

First, the principle of radical participation gives rise to questions about the number of stakeholders and the nature of their involvement. Who has a stake in this

situation? How can the process be made inclusive of all and all stakeholders fully committed to the principles and values undergirding the process? The dialogue between restorative justice and atonement theology established that there is a tendency for both, in different ways, to narrow the principle of radical participation – for example, by not involving all stakeholders or by limiting the participation of some to a part of the process only. The guiding question arising from this principle is: how far does each case study engage a wide range of different stakeholders?

Second, the principle of righting wrong in a morally serious way gives rise to questions about how different people have been affected. Who has been hurt? What are the causes? Whose obligations are these? As stories are shared, revealing different experiences and perspectives, feelings of empathy, repentance, apology and forgiveness may find expression. The dialogue between atonement theology and restorative justice established that there is a tendency for both, in different ways, to lack moral seriousness – for example, to be too lenient or too punitive towards wrongdoing; to place too little emphasis on the human dynamics in forgiveness; or to give too little attention to the social and structural nature of wrongdoing. The guiding question arising from this principle is: how far does each case study express or lack moral seriousness?

Third, the principle of re-integration gives rise to questions about future orientations and outcomes. What will need to happen beyond mere words to repair and restore the relationships of all those affected? The dialogue established that restorative justice and atonement theology both recognise the importance of a community of shared values for restoring and re-integrating lives, but their understanding and use of the term “community” diverges, with significant implications for the treatment of members seeking re-integration. They agreed that, in terms of values, restorative justice practice needs to be anchored in communities

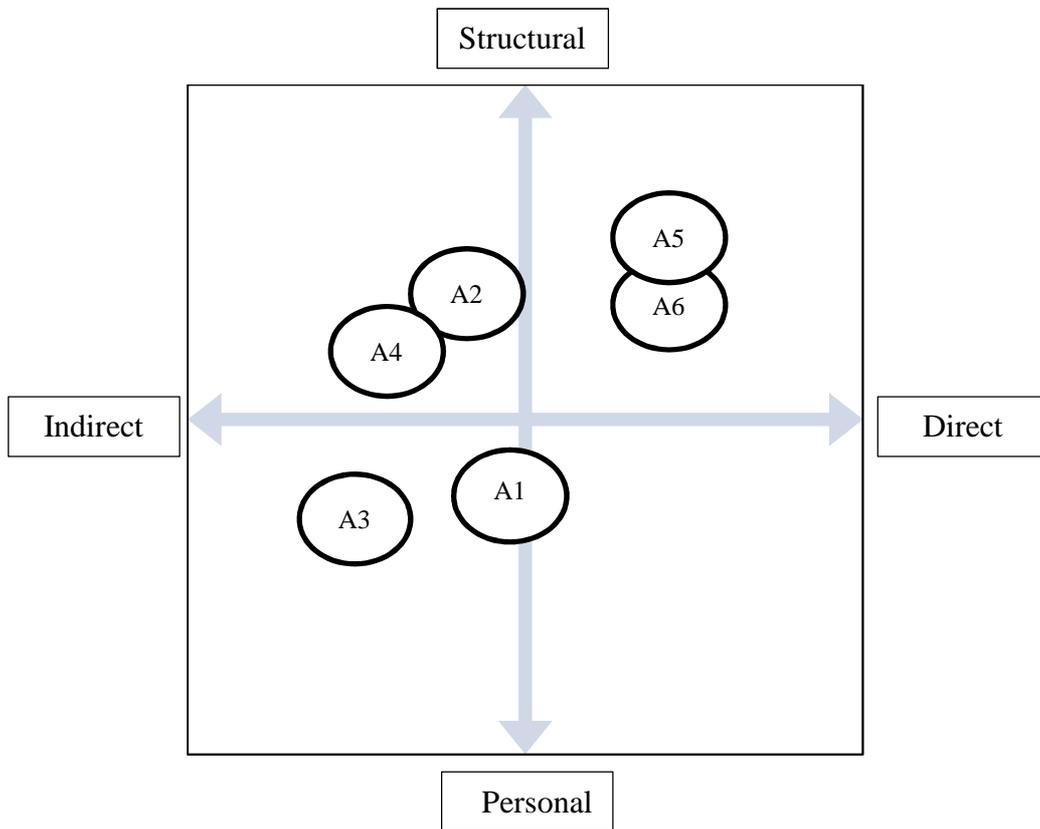
which place a high value on mutual care, accountability, honesty, compassion, confession, forgiveness and reconciliation. The discussion in Chapter II also highlighted the need to attend to outcomes as well as process. The guiding question arising from this principle is: how far does each case study address both process and outcomes?

## **B. Case study A**

The majority of case study A interventions are of a recreational nature. The congregation has invested a major share of its energy and resources over the past ten years into developing arts and recreational activities in the community. The Community Arts Project coordinates the work of the church community centre and “does almost anything so long as it’s fun!” Some of the activities are run by the centre staff (i.e. the minister and the community worker) but the aim is to enable local people to set up and run activities for all ages: from children’s clubs to self-help groups to shows and performances.

### **i. Assessing the case study A responses to crime and wrongdoing**

The assessment in this section indicates that case study A responds both directly and indirectly to crime and wrongdoing, with a predominance at the indirect end of the continuum. On the personal-structural axis their interventions appear more often at the structural end of the continuum. The responses A1 to A7 set out below map onto the assessment model as follows:



The centre provides space for the local young people, which is a safe alternative to school and home. The children who come to the centre often don't feel they fit into school and end up playing truant or are under exclusion orders. Others come to the club because violence and abuse in the home mean that it is not a welcome or safe place to be. They come because they enjoy the unstructured informal style of the activities, and experience relationships with adults that are affirming and accepting rather than authoritarian or abusive. They learn how to engage with their peers in a positive way, to give and take and co-operate. They learn how to handle conflict and disagreement. They develop a sense of personal identity and explore possibilities and aspirations for their own lives, which will hopefully prevent repeat patterns of criminal or abusive behaviour. This response (A1) is assessed as having both direct and indirect elements, in that it interfaces with young people who are themselves victims of both personal and structural disadvantage (direct), but in ways that are not

addressing structural wrongdoing itself, rather alleviating the effect and reducing the likelihood of their involvement in personal crime and wrongdoing. It therefore also has both personal and structural aspects, with the structural assessed as more the backdrop to than the target of the response.

The centre offers a safe, warm and friendly place for elderly people, as well as those with mental health issues, to gather and socialise. The hospitality offered to them alleviates the lack of social facilities in the neighbourhood and provides social interaction in the daytime for those who fear going out alone or at night. Also housed in the centre is a voluntary sector organisation for carers. It provides home carers with practical advice, emotional support and a vital link to support services. Response A2 is assessed as dealing more with structural than personal wrongdoing, and towards the indirect end of the axis.

In local schools, the centre volunteers help with the citizenship curriculum, giving training sessions on subjects such as anti-bullying and anger management skills. The partnership between the community centre project staff and the school is in line with government policy for greater community participation in the life of schools. At present this partnership is relatively informal. This response (A3) is assessed as indirect, aimed at promoting pro-social behaviour and thereby preventing personal crime and wrongdoing.

In response to the poor environmental and social conditions of the estate, many case study A interventions are strongly family-oriented, community-building events. Beyond the enormous fun generated, the community drama performances, concerts, story-telling nights and other seasonal festivities bring pride to the community, and strengthen identity and organisational capacity within families and across the community. This response (A4) is indirect, and relates mainly to structural

issues. Nevertheless, as in social bond theory<sup>390</sup>, the benefits of a stronger community should ultimately disincentivise individual decisions to engage in criminal activity.

Community social actions such as the Parents Action Community Team mobilise residents on a local political level, representing the views of families within the community in order to influence the provision and development of services. In the context of this neighbourhood, where a primary problem is the lack of social interaction, networking and organisation, initiatives like these which build social capital are vital. Response A5 again addresses primarily structural issues, in ways that seek to engage both victim and ‘offender’ in addressing problems of social service provision, so are assessed as more direct.

The media campaign led by the pastor represents a more overtly political intervention to highlight the economic and environmental difficulties faced in the area. It exposed the problems faced by the community caused by social disorganisation, negative portrayal by the media, inadequate social services in the area and undemocratic, non-participatory processes in the regeneration scheme. Its effectiveness was, however, weakened by the absence of any planned follow-up to the newspaper articles. This response (A6) is again assessed as a direct response to specific structural issues, albeit with less involvement of the victims themselves.

## **ii. Commentary on responses to crime and wrongdoing in case study A**

The comments below highlight evidence-based research suggesting that arts and recreation-based activities empower people and communities, helping them to

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<sup>390</sup> Hirschi, T. (1969); the logic of Hirschi’s social bond theory is that the greater the experience of social exclusion the weaker the social bond. Where bonding is weak crime rises. The moral challenge is to identify and tackle those structures and processes within society which undermine social bonds.

overcome effects of crime and wrongdoing in their lives. Furthermore, responses to crime and wrong-doing in case study A can be understood through social capital theory as bridging and bonding activities.

The arts-based approach adopted by case study A promotes learning through informal and semi-structured activities. While many of these activities are explicitly designed with the objective of people having fun, they also nurture skills and empower people who have been wronged, emotionally and socially as well as physically, to address the effects of wrongdoing and learn how to cope in the future.

The existing evidence base<sup>391</sup> in the arts and criminal justice sector suggests that participatory arts activities can promote pro-social behaviour. Specifically, four types of impact are identified:

Changing individuals' personal, internal responses to drivers or triggers that lead to offending; changing the social circumstances of individuals' lives by equipping them with personal and social skills that can help them build different relationships and access opportunities in work and education; changing and enriching institutional culture and working practices; changing wider communities' views of offenders and the criminal justice system.<sup>392</sup>

The research literature also suggests that participatory arts interventions in criminal justice contexts are successful because their approach differs from other forms of education:

They offer a non-traditional, non-institutional, social and emotional environment; a non-judgemental and un-authoritarian model of engagement; and an opportunity to

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<sup>391</sup> REACTT stands for Research into ARTS and Criminal Justice Think Tank. It was established in 2002 by the Home Office Unit for Arts and Offenders, with the aims of establishing partnership research in the arts in criminal justice sector; developing a research programme to distil high quality evidence of outcomes from arts interventions in criminal justice settings; and feeding the results of research back into the development of a coherent evaluation framework for arts activities in criminal justice settings.

<sup>392</sup> *Doing the Arts Justice: (2003) p11 A Review of Research Literature, Practice & Theory* was commissioned by Arts Council England, the Department for Culture, Media and Sport and the Offenders' Learning and Skills Unit at the Department for Education and Skills, as core partners in the Research into Arts and Criminal Justice Think Tank (REACTT).

participate in a creative process that involves both structure and freedom. At the same time engagement in the participatory arts requires respect, responsibility, co-operation and collaboration.<sup>393</sup>

Congregation A's participatory arts focus stresses the importance of holistic personal transformation. It maintains that each person is special and emphasizes inclusion and acceptance within the community. It encourages the shared values of responsibility, mutual care and respect.

Research on social capital theory<sup>394</sup> shows that, where social disintegration is highest, the forces of violence and deprivation are self-perpetuating.<sup>395</sup> The church's priority to enable networking and the development of strong community organisational structures through community art is therefore very apposite. While their primary motivation is to create a thriving community, helping to reduce crime and wrongdoing is a welcome side-benefit.

Following a community development model, case study A see their primary role as a building self-esteem and empowering networks and social organisation through 'bridging and bonding',<sup>396</sup> activities, so that when it comes to neighbourhood problems such as matters relating to social services, or housing or crime matters, they will find the solution from within the community. They mistrust regeneration and crime reduction schemes, because they feel these are ways of containing rather than liberating deprived neighbourhoods. Their nervousness about entering into partnership and funding relationships with the statutory authorities is because they feel that it skews the power relationship, and perhaps deters or prevents them from taking a critical stance on policy issues.

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<sup>393</sup> Ibid p11

<sup>394</sup> Putnam, R. (2000) p.23

<sup>395</sup> Anderson, H.S. (2002) pp.153-169

<sup>396</sup> Putnam, R. (2000) p.19

### **iii. Case study A evaluated using the restorative hermeneutic**

The local Christian community featured in case study A has intervened in indirect and direct ways to empower people to counter personal and structural forms of crime and wrongdoing. This section considers the restorative value of this work, evaluating the extent to which it:

- i. Engages a wide range of different stakeholders;
- ii. Expresses or lacks moral seriousness; and
- iii. Identifies and realises restorative outcomes.

Case study A does not specifically bring offender, victim and community together and so does not strictly adhere to the first principle of radical participation. Nevertheless, proximity to the principle is evidenced in actions of the congregation that encourage people to work together in a genuinely participatory way, with a sense of shared responsibility. There was less evidence of engagement with those representing wider interests, such as statutory and local authorities. Caution and suspicion, based on negative experiences, make them wary of entering into these partnerships. However the activities in case study A have the potential for generating participatory responses to crime and wrongdoing.

The second principle (righting wrong in a morally serious way) asks questions about how restorative values are nurtured and expressed. There is a penumbral relationship between the arts-based activities promoted by the congregation and this second principle. Their programmes place high importance on people finding ways to understand and express their feelings and emotions. Drama, theatre and concert

media are used to help people with trauma or low self-esteem to engage with the effects of wrongdoing in their life.

However, where conflict arose in the community, both personal and structural in nature, issues were not always confronted and restorative solutions were not sought; either they were not known to them or thought not to be relevant to their situation. The hesitancy of the congregation to engage in a morally serious way with personal and structural crime and wrongdoing stems from a lack of strategy rather than of moral nerve.

The third principle (re-integration) seeks, by looking forward, to evaluate whether and how lives are restored and re-integrated, and how much this is achieved to the satisfaction of all stakeholders. The evidence observable from case study A again suggests approximate rather than strict adherence to the principle. This is a local congregation with deep roots in and a long-term commitment to the community. They understand their role to be to journey with each person so long as this is needed and wanted. Values such as patience and perseverance are deeply embedded in its culture, while its people-centred practices are thoroughly holistic and participatory. While this local Christian community deals to only a limited extent with victims and offenders of crime and wrongdoing, its activities that seek to replace despair and cynicism with hope and confidence do align partially with the third principle. In a stigmatised and marginalised community, they attempt to integrate inhabitants as full members of society. The pride of the art club members in their art and in their community was a clear example of how resilience can be fostered in a community, and channelled to great effect. The dominant discourse that nothing good can come from that place is turned upside down by the fact that their art is being exhibited and celebrated in the city centre art gallery. The image that no one wants to live within

that postcode is countered by those residents who say “this is home and I wouldn’t want any other”.

### **Concluding remarks on case study A**

The case study A responses fall predominantly but not exclusively into the two ‘indirect’ quadrants. Those assessed as direct were oriented structurally, but were relatively modest in scope and impact.

While not strictly aligned with restorative principles, they show proximity with principles one and three, and to a lesser extent with principle two. However the community’s participatory focus and forward-looking perspective demonstrate strong restorative potential, which could be realised through greater awareness of the principles and adoption of the hermeneutic to reflect on their practices.

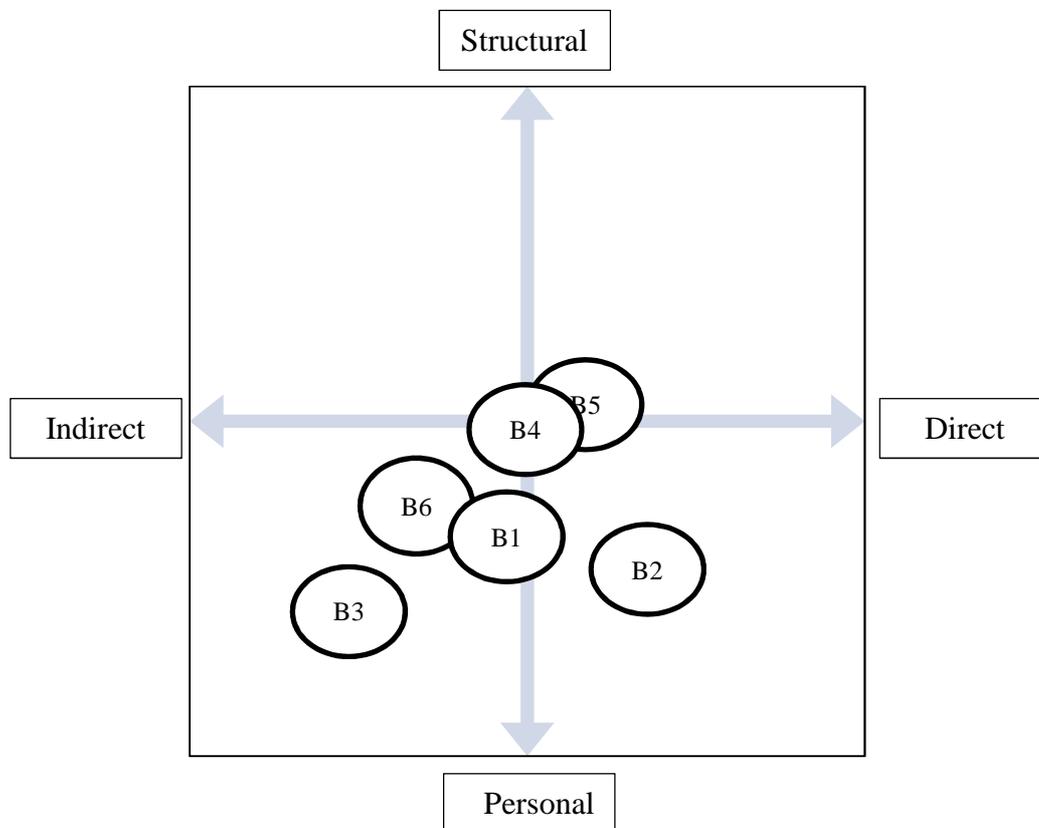
### **C. Case study B**

Case study B responds to crime and wrongdoing through long-standing community initiatives, such as the credit union scheme, and through new youth initiatives, which combine sports and leisure activities with mentoring and mediation schemes. This youth work, although done by actors from beyond the immediate membership of the ecumenical congregation, has substantially enhanced the local Christian community response to crime and wrongdoing.

Responses also included regular pastoral support for individuals but, as noted in Chapter IV, specific examples could not be accessed so this response is not considered further in this chapter.

**i. Assessing the case study B responses to crime and wrongdoing**

The assessment of the responses of case study B shows that a number of innovative interventions are being made in response to crime and wrongdoing. These are predominantly indirect responses to both personal and structural crime and wrongdoing, while direct responses are fewer but important. The responses B1 to B7 set out below map onto the assessment model as follows:



The church-sponsored open youth club is small-scale but important intervention work with 10-15 estate young people. It enables them to cope with many problems – social, psychological and economic – and to experience safe space and positive adult relationships. Through open youth club activities the families of young people attending the club are also reached. Typically these families are struggling with

addiction and abuse as well as economic hardship. In relation to personal crime and wrongdoing, this response (B1) is analogous to secondary public health intervention, since the individuals are at-risk or in the early stages of offending behaviour. Similar considerations to those for response A1 apply in respect of the structural backdrop.

Work done with young people through the local school directly addresses behaviour problems such as bullying and self-harming. Mentoring and special group work promote pro-social values, helping to reduce the risk of being drawn into a criminal lifestyle. Restorative justice practices are explicitly used in the school through the citizenship curriculum, and with those excluded or at risk of being given exclusion orders. Because the young people have already been specifically identified as offenders within the school system response B2 is assessed as having a more direct (tertiary) character than B1.

The larger scale interventions with young people by the community church, using sports and recreation activities, help to foster cooperation and team building skills and to encourage healthy living. An impressive range of 26 different activities are organised for young people each week. The organisers are viewed by funders as a highly professional faith-based youth and community organisation, working with a definite target group. This has resulted in substantial partnerships with local authority funders and with Charitable Trusts. There is no sign here of the apprehension witnessed in the first case study about entering into partnership with statutory bodies. Response B3 is assessed as an indirect (preventive) response to personal crime and wrongdoing.

The credit union scheme is a direct intervention aimed at reducing personal crime and wrongdoing arising from underlying structural disadvantage. Lack of access for low income earners to conventional finance services makes them vulnerable to loan sharks, and increases the possibility of their being victimised or of

entering into criminal activity for economic reasons. This response (B4) combines indirect personal and direct structural elements and is positioned near the midpoint of both axes.

The community church complements its impressive range of recreational activities with a mentoring scheme designed to address the negative effects of social disorganisation in the lives of young people. Through relationships of trust, responsibility and accountability, structures can be developed and maintained and a basis established to build characters that can thrive in mainstream life. The successful combination of a sports-cum-mentoring scheme is a strategy that works well but its success depends upon long term commitment. As with B4, this response (B5) is assessed as combining indirect personal and direct structural elements.

Through the Community Development Initiative many, including the rector and those involved in running the sports and mentoring schemes, have collaborated to tackle gang and knife crime on the estate. Illegal activities such as drug trafficking and petty crime, adopted to fund addictive lifestyles, can escalate into turf wars and gang violence. This study classifies it as an indirect response (awareness-raising and prevention) to personal crime and wrongdoing. (Response B6)

## **ii. Commentary on responses to crime and wrongdoing in case study B**

Sports and leisure activities for at-risk young people are increasingly cited in the research literature as ways by which to re-channel their energies, giving them space to excel, to be praised and to help build character and focus on positive behaviour. Coalter divides the programmes into two main categories: preventive programmes with 'at-risk' populations seeking to use sport as a diversion from criminal lifestyles; and rehabilitative programmes that use sport (and various types of outdoor activities)

to re-channel and re-focus the energy and attitude of offenders to desist from further offending.<sup>397</sup>

Nicholls categorises sports activities as primary, secondary or tertiary interventions.<sup>398</sup> In this case study primary level interventions promote healthy lives and relationships generally amongst the population and encourage social skills that will equip people for employment. The mentoring schemes are good secondary level interventions, assisting people to desist from criminal lifestyle choices. The mediation and restorative conferencing activities with young people on referral orders are tertiary level interventions. Collectively, these interventions seek to help young people already exposed to criminal norms and values through family and peer group pressure to re-evaluate their lifestyle choices and to develop the critical skills needed to moderate or manage anti-social behaviour.

Much of the research on the relationship between sports and crime reduction is characterised by methodological difficulties, and questions remain about the long-term positive influence of sport on those with offending behaviour.<sup>399</sup> However the research does suggest that, when combined with mediation and mentoring schemes, it is better able to tackle the personal and structural disadvantages that young people face, and so to reduce crime. Coalter concludes that sport appears to be most effective as part of broader developmental programmes.<sup>400</sup> He also concludes that greater understanding is needed of the nature of the processes of participation that might lead to reduced criminality. This will enable sports programmes to be more

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<sup>397</sup> Coalter, F. (2007) p115-116

<sup>398</sup> Nicholls (2007) p5

<sup>399</sup> Nicholls (2007) p9 & Coalter (2007) p117

<sup>400</sup> Coalter, F. (2007) p32-37, & p117

proactive in managing outcomes. Interestingly he notes that the nature of the sport may be less important than the social processes involved.<sup>401</sup>

### **iii. Case study B evaluated using the restorative hermeneutic.**

Case study B presents a picture on the one hand of being a steady low-key pastoral presence and on the other hand supportive of innovative initiatives that will meet the needs of vulnerable and at risk people. The restorative value of this work is now evaluated against the three principles outlined previously.

The restorative justice work undertaken by the youth worker in the local school is the only work in this case study that strictly meets the principle of radical participation. This stems from the diocesan-backed youth organisation which employs her, and whose culture and ethos are shaped by restorative principles and practices. They first began to use restorative justice to deal with crime and wrongdoing amongst kids in work on another nearby estate. From this they adopted the principles into the organisation and are now actively involved in restorative justice work through partnership programmes in schools across the city. They also work in partnership with the regional police authority, whose crime reduction strategy has pioneered restorative justice policing in the UK. The work in this case study with young people in trouble with the law or threatened with exclusion orders from school is carefully and professionally managed, and is a clear example of the church in partnership with the justice system responding to crime and disorder. The sports and mentoring programmes do not satisfy the first principle strictly but they proactively

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<sup>401</sup> Ibid pp122-123

engage the participation of people who are at risk and also the participation of the wider community through coaches and mentors.

In relation to the second principle, the response that comes closest to righting wrongs between victims and offenders is the work done in schools, dealing with both conflict and with conflict prevention. However this represents a relatively small component of the responses. The sports activities, which are more extensive, do not deal with victim-offender situations, but are nevertheless nurturing restorative values and practices within the lives and relationships of young people, particularly through their associated mentoring and coaching schemes. They seek to provide positive and supportive role models for young people in order to counter the low expectations that have defined many young lives in marginalised and disadvantaged environments. Learning to nurture and maintain relationships in competitive sports environments, to play by the rules, and to express a good spirit in victory or defeat all relate in a penumbral way to the nurturing of restorative values and habits embedded in the second principle.

The third principle (reintegration) seeks to evaluate the forward-looking nature of the restorative process and to evaluate outcomes. There was little evidence of offender reintegration back into the community, although some work diverted young people already in trouble with the law into programmes that seek to give them a new start. Much of the work did however have a forward looking aspirational objective. Crucial in this work is recruiting and retaining the participants for the long term. It needs time and commitment by young people and adults for an extended period if positive character development is to take place.

## **Concluding remarks on case study B**

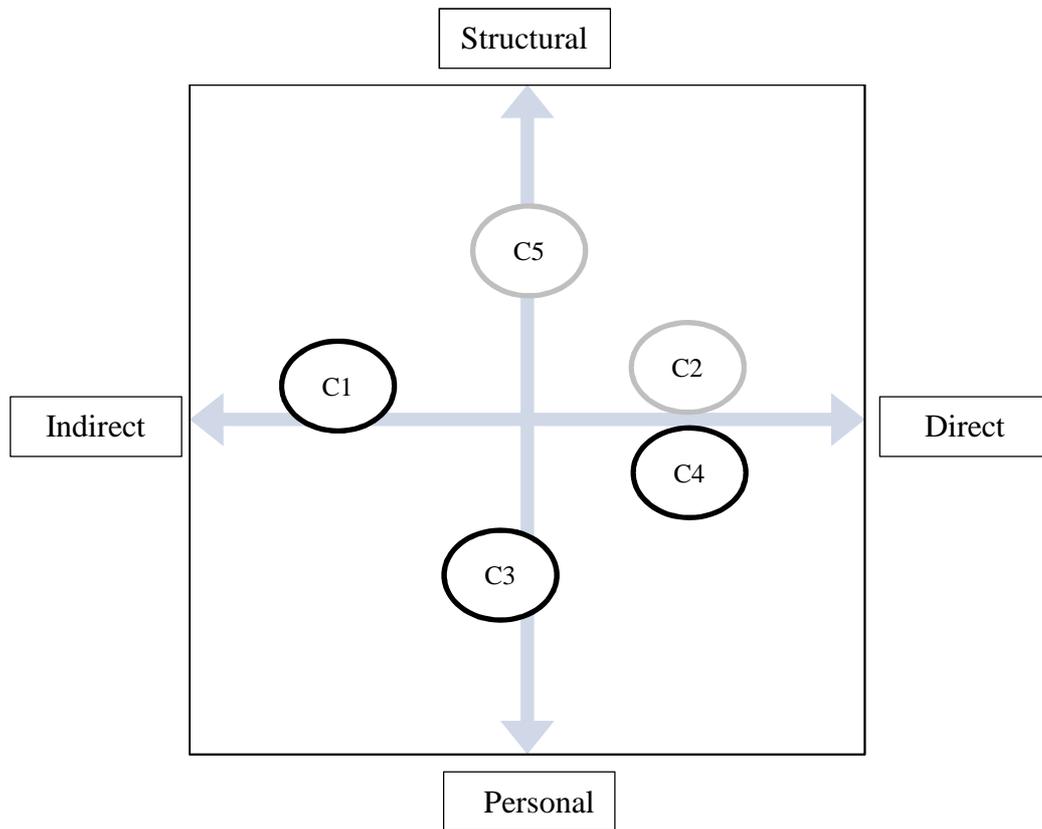
Case study B responses to crime and wrongdoing corresponded in a limited way with restorative principles, the clear exception to this being the work done in schools.

## **D. Case Study C**

Case study C seeks, through diverse activities, to meet the needs of people suffering from personal and structural disadvantage. The main mechanism of response is the Open Church ministry run by the minister and a dedicated team of volunteers.

### **i. Assessing the case study C responses to crime and wrongdoing**

Its responses are concerned both with personal and structural crime and wrongdoing. They also range between indirect than direct. The responses C1 to C5 set out below map onto the assessment model as follows:



The Open Church activity is a form of unstructured (i.e. indirect) community outreach. Its objective is, just as its name implies, to affirm and welcome everyone. Amidst the noise of the city centre and crowded work spaces the church offers a very welcome quiet restful retreat. For many, who experience rejection and abuse from people in the streets and feel discriminated against or put down by social services, this place of welcome is enormously important. The minister adopts the role of a community worker encountering people on the city square, while volunteers support her by welcoming any who come into the church. The range of needs is very wide: homelessness; alcohol addiction; refuge from hurt, abuse and rejection; difficulties re-entering the job market. Aggressive behaviour by individuals sometimes occurs at Open Church; mostly the aggression stays outside but occasionally takes place inside. The response (C1) addresses both personal and structural elements of crime and wrongdoing, but with a greater emphasis on the latter.

The premises are rented out to groups and organisations, some of whose work complements Open Church. The relationship between the congregation and the social service providers who operate from the church premises is traditionally one of tenant/landlord, but the minister has developed the relationship beyond this in recent years. Welfare and support services (e.g. employment and substance addiction) use the church premises both day and night for vulnerable and at-risk people to access help through these agencies. While substance addiction indicates a linkage to personal offending behaviour, response C2 is assessed as more structural in orientation, operating towards the direct end of the axis.

In comparison to the Open Church work, the street pastoring work undertaken by church members is a more structured and direct response to the growing problem of crime and anti-social behaviour on the city streets. It is one of the results of the growing night-time economy. The church members who are also street pastors express the hope that they can help late-night revellers who have consumed too much alcohol to keep out of trouble and get home safely, and to help vulnerable people to stay safe. The activities of the Street Pastor movement are assessed at a more granular level in case study D. For the purposes of this case study, the response (C3) is positioned near to the centre of the indirect/direct axis, with a primary orientation towards personal wrongdoing.

In the nearby detention centre the minister and volunteers have direct contact with asylum seekers whose circumstances are often traumatic. The aim of this contact is to bring friendship and dignity to their situation. The possibility for detainees to tell their story and to share their fears is important. The detention centre has had a very poor reputation for living conditions and standards of accountability. Many of the detainees are kept there indefinitely. Riots amongst the inmates in recent years resulted in a very critical prison inspection report. The situation has subsequently

stabilised but conditions remain basic and overcrowded. Many have fears about violence in their home countries. All are awaiting deportation so their psychological state is very fragile. While the basis for their detention is as offenders (i.e. personal), the motivation of the case study respondents is significantly concerned with the structural causes of their situation. It is assessed as a direct response (C4) to both of these elements.

The congregation sometimes undertakes political campaigning and awareness-raising. They feel keenly their history as a dissenting protestant community and the contemporary implications this has for standing alongside those whose liberty and dignity is threatened. For example, a public act of witness on the square was organised for homeless people to tell the public why and how they have become victims of a system that discriminates against people who are without a fixed address. On another occasion a large trailer exhibition, raising public awareness about the way asylum seekers are treated by the UK immigration policy and procedures, was invited by the congregation on to the church forecourt for a week. Hundreds of people passed through the trailer and then took up the offer of refreshments and informal discussion in the church to chat with others about the issues raised in the exhibition. The involvement of victims in the first example shows a degree of direct response, while the second example (awareness) is more indirect, so response C5 is positioned at the mid-point of the direct/indirect axis, addressing structural crime and wrongdoing.

## **ii. Commentary on responses to crime and wrongdoing in case study C**

It was observed that this case study responds to a real local need, if in a relatively limited way. It illustrates research findings relating to the inter-linking of crime control and social welfare policies.

Although the city has many coffee houses, their cost is prohibitive for homeless, jobless and low income people. Moreover people who suffer with mental health issues don't always find it easy to join clubs or regular facilities. They are often lacking the care and support within the community that they need. Their aggression and unpredictable behaviour need careful monitoring and medical controlling, and when this does not happen it puts members of the public at risk. The informal but supportive space afforded by Open Church is a vital but also risky intervention by the church. A more focussed approach might be good for the work, but it would require training and managing staff in ways that are not presently possible.

Research shows that mental health problems often remain undetected or unaddressed, and the first intervention may not be by the welfare services but the police, when called to deal with a social disturbance.<sup>402</sup> The police, not being trained social workers, may misread disturbed behaviour as deviant and use strong methods of restraint to control people. Law enforcement officers are frequently caught in a no-win situation, being obliged to arrest people with mental health problems for causing a disturbance, but then hours later obliged to turn them back out on to the street because the forensic medical examiner considers them to be not sufficiently ill to warrant 'sectioning'.

Knepper<sup>403</sup> notes how begging, rough sleeping and alcoholism, extreme forms of marginalisation, have been linked in research to crime in a number of ways. Some research highlights that marginalised people are more likely to be victims of crime than perpetrators. Ballantine's study of rough sleepers in Glasgow, Swansea and London revealed that 78% of rough sleepers have been the victims of crime on at least

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<sup>402</sup> Knepper, P. (2007) p.126

<sup>403</sup> Knepper, P. (2007) p122-124

one occasion and the same number say they fear victimisation. Nevertheless there also is evidence that homelessness affords a greater likelihood of participating in crime.<sup>404</sup> Wilson and Killing<sup>405</sup> argue moreover that the very visibility of marginalised people incites crime: “be it begging, public intoxication, graffiti painting or broken windows, it communicates a message that no-one cares and incites illegal behaviour”. A significant consequence of this last theory has been the development of zero-tolerance policing and the criminalisation of marginalised people.

### **iii. Case study C evaluated using the restorative hermeneutic**

This section evaluates the restorative value this work against the three principles outlined previously.

Measured against the first principle (radical participation), Congregation C reaches a wide audience and in this way has contact with many vulnerable at-risk people. Case study C also connects reasonably effectively with the statutory authorities and voluntary bodies most directly concerned with welfare issues.

There is moral seriousness (second principle) in the way that it addresses personal problems connected with homelessness, addictions and mental health issues. Although congregation C does not work explicitly with restorative processes or seek to mediate in conflict situations, except a little through street pastoring, its Open Church ministry has many restorative qualities. Volunteers seek to listen to marginalised people, giving them the opportunity to tell their story, and helping them to overcome victimisation and discrimination. It also addresses structural

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<sup>404</sup> McCarthy, B. and Hagan, J. (1998) *Mean Streets: Youth Crime and Homelessness* (Cambridge: Cambridge University Press.)

<sup>405</sup> Wilson, J.Q. and Kelling, G. (1982) pp 29-38 “*Broken Windows: The police and neighbourhood safety*”. (Atlantic Monthly 127 (March))

disadvantage and systemic failure in the community through events on the square, where networking, capacity building and empowering of individuals and grass-roots groups and organisations take place.

In relation to the third principle (re-integration), outcomes from the work in case study C are hard to measure. Many individuals in the church speak highly of the work of done by the Open Church team and observing the work, in the course of this study, it was possible to see why it attracts high praise. However without more systematic research, initiatives of this type are evaluated solely on the basis of impressions and anecdotal evidence. The church consequently lacks the means by which to analyse their efforts and to critically reflect on how best to develop their work in the future.

### **Concluding remarks on case study C**

Restorative values are to some extent already embedded in the culture and ethos of the congregation. This in part is encouraged from the pulpit, and is central to the minister's preaching. However if restorative justice principles and values were adopted more into the life of the congregation, the movement outwards into the community would be far better resourced and realised. Skills development and mentoring are needed, at least for the Open Church volunteers, but ideally more generally. Learning how to deal with conflict, to give space for others to voice their concerns and to work with those who feel unrecognised, would enhance not only the Open Church ministry but would build up the life of the congregation.

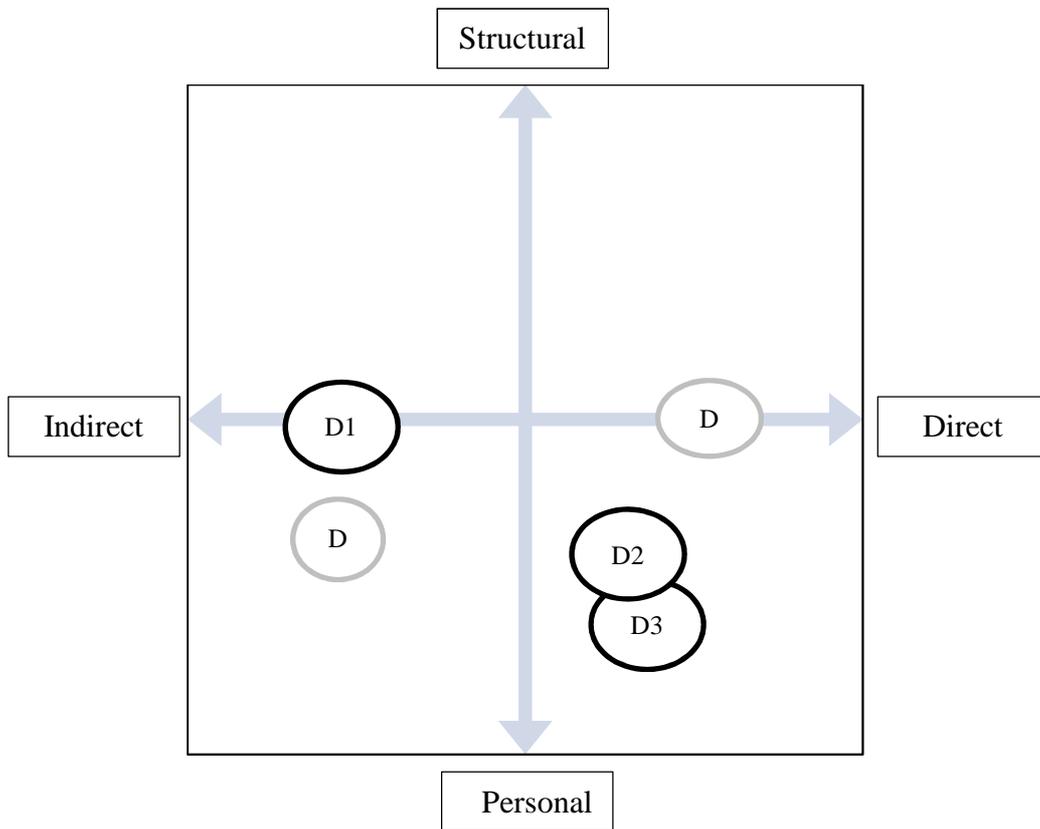
## **E. Case study D**

Street Pastors is a national/local initiative between churches, whose members work together to respond to crime and wrongdoing on the streets. It operates in two distinct areas. The subculture of guns and gangs is a world in which marginalised people find identity and acceptance. The needs and problems faced by gang members are not widely known and are often misunderstood by mainstream society, so reaching this audience takes time and skill. Street pastors working with gangs often come from that culture originally and so understand it well.

The night time economy, with its clubs and leisure attractions, is a different scene from the gang world, but again its participants are often misunderstood or viewed as suspect. Street pastors reaching out to clubbers often go clubbing themselves or have siblings who do. They appreciate it and want it to be a positive experience for those who participate.

### **i. Assessing the case study D responses to crime and wrongdoing**

On the personal/structural axis case study D is located more to the personal end of the continuum though there is also a real concern with structural crime. The responses identified include both direct and indirect elements. The responses D1 to D5 set out below map onto the assessment model as follows:



Visibility and befriending (Response D1): In areas where gangs operate the street pastor will often hang around significant places like the fish and chip shops or other popular gathering points. They will seek to befriend the local traders and to win the trust of gang members, young and old. The decision to position themselves in the streets at a time and place where personal crime is likely to occur is a sign that these volunteers are committed to engagement with issues of crime and wrongdoing. Street Pastors seek indirectly to reduce the effects of structural crime and wrongdoing in gang members lives.

People often initiate God-talk, especially when they are drunk and the feelings, emotions and questions that lurk in the subconscious emerge. The pastors are trained to listen to whatever people want to talk about, and are comfortable answering faith questions directly and personally, however handing out tracts or seeking to evangelise is strictly not permitted.

In assessing this response it was noted that the underlying motivation in the ‘gang-land’ context was more towards structural causes, whereas in the ‘club culture’ context it was more towards keeping people safe from personal harm. In both cases the activity is towards the indirect end of the scale.

Response to specific needs (D2): Street Pastors are trained to intervene as “good Samaritans”, especially where people need help, because of excess alcohol consumption or substance abuse, to get home or in more serious cases to be taken to hospital. This kind of intervention is necessary when friends leave them behind or are themselves not sufficiently sober to sort out the situation. Simpler “good Samaritan” scenarios include handing out flip flops to weary women carrying stiletto shoes or handing out free bottles of water to people who are dehydrated. This is categorised as a direct response to personal anti-social behaviour. It includes responding to people who have self-harmed and to situations of interpersonal conflict. There is also an element of containing or limiting harm, by encouraging and enabling people to get home safely before situations escalate to more severe forms of crime or wrongdoing.

Inter-positioning (D3): This response adopts a recognised method in conflict resolution activities, whereby local civil society groups position themselves to protect vulnerable individuals. In situations where people get into fights, typically domestic fights in the night-time economy, the street pastors can offer to help if asked, and will try in these situations to cool and calm tempers. The physical presence of street pastors teams appears to have a calming effect. Whereas in the early part of the evening their presence is met with banter and some gentle amusement, when the clubs close in the early hours of the morning there is genuine recognition that they help to prevent violence. In such instances the wrongdoing may range from anti-social behaviour to actual bodily harm, and is categorised as personal, while the response is categorised as direct, though often in a preventive capacity.

Mentoring (D4): Street Pastors counter the harm done by structural disadvantage through mentoring of young people who have been referred to them by the police, or by statutory or voluntary agencies. The aim and hope are to contribute to diverting young lives out of criminal lifestyles. The response here can be seen as having two components, one of which relates to structural disadvantage, acting in a direct manner with young people who are falling through the system; the other relates to personal crime and wrongdoing, again directly, in that these young people are identified as potential or actual offenders. Consequently it is positioned near the midpoint of the personal/structural axis, on the direct response side.

Recreational activities (Response D5): Although not core to their role, Street Pastors in a few cases also provide sports and social activities as a diversion from criminal behaviour and to build on the befriending and mentoring responses. This is categorised as an indirect response (preventive) to personal crime and wrongdoing though, as in other cases, it might also be argued that such wrongdoing arises in part as a consequence of social disorganisation (i.e. structural).

## **ii. Commentary on responses to crime and wrongdoing in case study D**

Peacekeeping in violent situations has often been seen as the weak link in conflict resolution work. It is perceived as containing conflict rather than resolving conflict or building peace. However this perception is changing. In recent conflict theory literature peacekeeping is being viewed more constructively within a spectrum of non- violent conflict resolution strategies.<sup>406</sup> Peacekeeping is measured against two criteria: the degree to which a third party presence is able to contain conflict i.e. its

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<sup>406</sup> Andreu S. M. (2005) p4-7

capacity to achieve negative peace and the degree to which it is able to resolve and transform conflict i.e. achieve positive peace. In the international framework, UN peacekeeping has added the task of resolving conflicts to its function as a conflict stabiliser. Thus, peacekeeping is understood as a type of third party intervention which can promote transformative policies.

In local crime theory the idea is that when a guardian supervises the suitable target, and a handler supervises the likely offender, then in both cases, direct physical presence serves to discourage crime from occurring. Thus, social control in society requires keeping suitable targets near capable guardians and likely offenders near intimate handlers.<sup>407</sup> Applied to the street pastor role, the challenge is for them to position themselves as capable guardians and handlers.

In gang and knife crime areas the possibility for street pastors to interposition themselves between gangs depends on whether they are known and trusted by the group members. Trust comes through knowing and respecting the individuals and recognising the problems they face with society. The credibility of street pastors with this group is dependent upon their readiness to demonstrate their disapproval of the structural disadvantages faced by these gang members. In some situations they win respect when they decline the offer of radio contact with the police. By choosing to preserve their autonomy they maintain the trust of the gangs. The more they can build relationships of trust with gang members and leaders the better they are able to fulfil the role of mentors and friends helping them through times of trouble with the law.

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<sup>407</sup> Felson, M. (2008) Rutgers University, Newark

Consistent presence and independence from the police are, according to some street pastors, are fundamental to their effectiveness. Independence from the law enforcers is not always welcomed by the police, but is deemed essential by the street pastors who seek to befriend gang members. It enables to mix more freely with them on the streets, and so to understand the issues that concern them and which create violent outbursts. This wins them respect and helps them to empathise. It also enables them to advocate for them in dealings with police and justice authorities.

### **iii. Case study D evaluated using the restorative hermeneutic**

With reference to the principle of participation, case study D does not formally bring together stakeholders into a restorative process. The informal character of the interactions does not make that feasible. There is a breadth of participation: victim, offender, street pastors and police – representing key stakeholders – are all present on the streets where conflict erupts. However the stakeholder participation is limited in duration and depth; the arrival of the police to these situations usually marks a dramatic change in the dynamics and the end of the street pastor's role. A greater quality of participation is possible in the befriending and mentoring responses with gangs, which are less limited by time and situation.

In terms of principle 2 (righting wrong in a morally serious way), the role of street pastors offers limited but not insignificant opportunities. They are attempting a restorative process when they enable people in conflict to stand back and listen to each other, to desist from wrongdoing and, if not reconciled, at least to go their separate ways. They deter violence by inter-positioning themselves in conflicts between groups and individuals; this work requires both moral courage and practical mediation skills. Mediation and mentoring provide the greatest opportunities for

aligning more closely with restorative processes, but these form a relatively small proportion of their activity.

In terms of the third principle (re-integration) the outcomes of this work are extremely hard to evaluate. There is no formal recording of situations dealt with on the local level and no systematic measurement of whether or how crime has been reduced or prevented by their work. The organisation does track crime statistics and informally observes some correlation between its work and crime reduction, but this is not hard evidence based on rigorous research and analysis. The degree of stakeholder satisfaction is impossible to measure scientifically but, on the basis of observing their work on a regular basis, the work of the street pastors is greatly appreciated by the public and by the police. Night revellers are often amazed and inspired by the idea of volunteers giving up time to help them feel safe and keep out of trouble.

### **Concluding remarks on case study D**

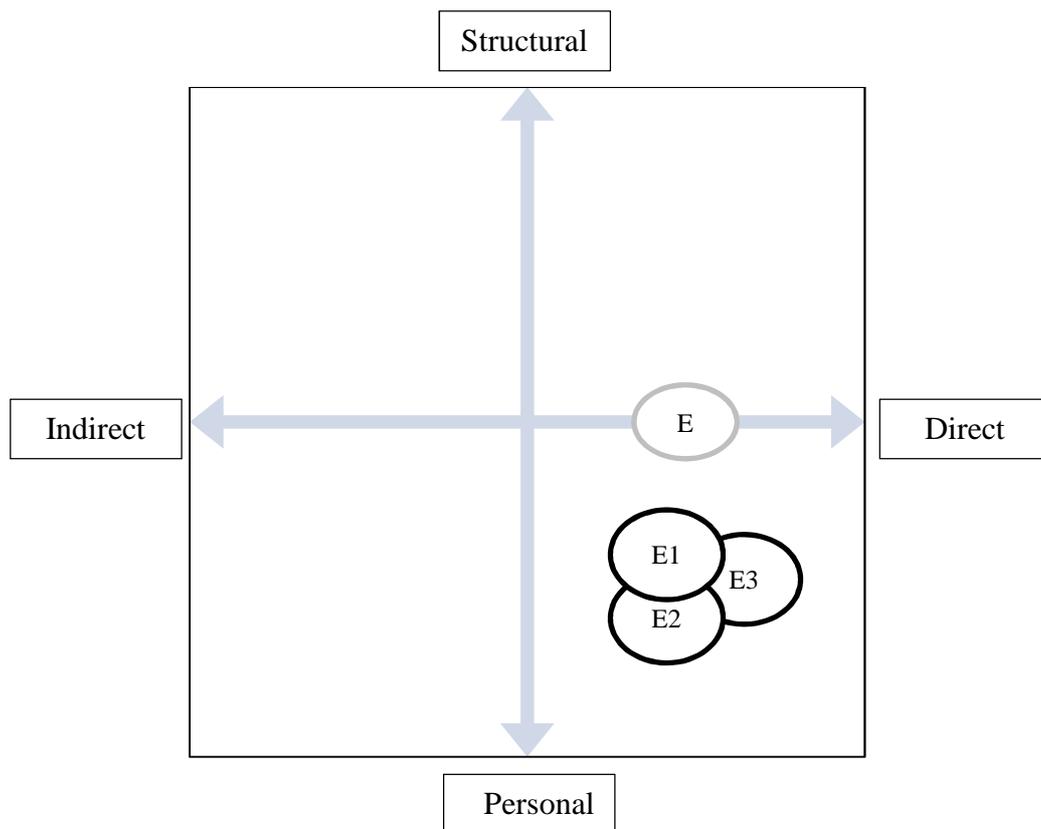
For the organisation to grow and develop as a restorative justice actor, skills and practices relating to the principles need to be nurtured. Critical reflection on the work of street pastor teams using the restorative hermeneutic would help this process, and would potentially assist in establishing its place as a critical friend of the criminal justice system. Good potential exists for Street Pastors UK to become a recognised ambassador for restorative practices.

**F. Case study E**

Sycamore Tree Project volunteers are local church members working in teams within prisons as victim awareness trainers. They seek, using restorative principles and practices, to work with offenders to confront the situations that placed them in prison and, where possible, to experience restoration and reconciliation. The programme facilitates a journey back to the scene through the mind and the imagination of the offender and those with whom they share their story.

**i. Assessing the case study E responses to crime and wrongdoing**

The responses E1 to E4, set out below, map onto the assessment model as follows:



The Sycamore Tree programme tries to achieve a comprehensive response by means of three components: truth-telling, victim/offender mediation and offender reintegration.

Truth-telling (Response E1): The programme uses narrative reconstruction therapy with offenders, achieving considerable effect in a significant number of cases. The offender's story is written and re-written in the light of discussions and experiences within the course. First, the offender is invited to write their story. Often in this first telling of the story there is no victim. Second, the story of Zaccheus is read and discussed. It opens up ways of looking at personal values and behaviour and exploring the possibilities of grace, forgiveness and reconciliation in their situation. Third, a surrogate victim brings their story to the group. Hearing from a victim can trigger memories and feelings in an offender related to their own offence. It is a powerful experience, offering a different perspective, and can be the moment when they realise that their crime had victims and what harm they have done. After looking at their story in different ways and especially from a victim's perspective, the truth begins to emerge in a new way.

Mediation (Response E2): The programme advocates victim/offender mediation but does not fully facilitate it. The course does not bring together victim and offender, but simulates a similar experience through the encounter with a surrogate victim. While the encounter can be beneficial to both victims and offenders, it stops short of mediation with the actual victim and so is not fully restorative. Nevertheless the impact of the encounter can lead them to want to make contact with their victims in order to apologise. The possibility exists in some establishments for them to request, through the prison chaplain, such a meeting to be arranged. This is outside the control of the Sycamore Tree team, though volunteers

viewed very positively this initiative by offenders. They expressed frustration that the prison service appears ill equipped to react speedily or effectively to these requests.

Re-integration (Response E3): While challenging offenders to confront the truth of their wrongdoing, the programme also seeks to embody hospitality, forgiveness and affirmation in anticipation of their re-entry into society. As was evident in the interviews, this approach is warmly received by participants but leaves them unpersuaded that the same reception will be true when they leave prison. The offender frequently struggles with the knowledge that the system and society do not forgive, not in the same way that is talked about on the course. They know that they will face repeated rejection by prospective landlords, employers and the local community.

Supplementary responses by individual volunteers (Response E4): Some volunteers, seeing the limited capability of the prison and probation systems to reintegrate ex-offenders into society, seek additional ways to promote reintegration, such as mentoring ex-offenders.

Responses E1-E4 are all categorised as primarily direct responses to personal wrongdoing, though E4 also shows a conscious attempt to respond to structural failure so is mapped to the midpoint of the personal/structural axis.

## **ii. Commentary on responses to crime and wrongdoing in case study E**

Through the case study E interviews it was observed that, while Prison Fellowship UK is active as a service provider to the prison system through projects such as Sycamore Tree, it does not appear as yet to have taken on a role of ‘critical friend’ to the system in the way that some of its international affiliates have. Prison Fellowship International, for example, is strongly engaged in lobbying for penal reform through

United Nations forums.<sup>408</sup> The emergence of the Churches' Forum for Criminal Justice<sup>409</sup> demonstrates a need within the churches in the UK for a credible agency to speak on these matters.

Prison Fellowship UK has not been involved in penal reform advocacy because the membership felt that their calling was to give pastoral care to offenders and their families. Those who may have felt that penal reform was a legitimate area of interest in addition to pastoral care have not pursued this because of the difficulties encountered in the early stages of Prison Fellowship UK, when its association through Chuck Coulson, the founder of Prison Fellowship USA, with moral majority politics gave cause for concern in the prison service.<sup>410</sup>

Nevertheless the considerable skills that have been developed within the organisation to negotiate and build a very credible partnership with the prison service, together with the experience of the Sycamore Tree Project as a flagship restorative justice programme in the prisons<sup>411</sup>, position Prison Fellowship UK well to expand its scope and engage more directly with questions of public policy. They have the advantage of a committed core of volunteers whose experience as visitors and trainers gives their voice credibility; they have an organisational infrastructure that is more

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<sup>408</sup> Dan Van Ness is a former staff member of Prison Fellowship US. He represents Prison Fellowship International at international gatherings on restorative justice, and was a primary architect of the development and eventual endorsement by the United Nations of Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters.

<sup>409</sup> Churches' Criminal Justice Forum is a network of CTBI whose purpose is to uphold Christian values in the field of criminal justice. Members seek: to share concerns arising from the field of criminal justice; to increase awareness and understanding in congregations, with a view to enabling individuals to engage with the issues in informed and practical ways; to formulate approaches to Government, or Government agencies, regarding reforms; to encourage measures to counter social exclusion and encourage agencies working with ex-offenders.

<sup>410</sup> Case Study E interviews

<sup>411</sup> As shown in Chapter IV, the programme has rapidly expanded into many and diverse types of prison, reflecting the growing confidence in the quality of the course and the capacity of the volunteers. Prison chaplains have increasingly welcomed this initiative. A mark of its acceptance and success is that prison staff regard it not as an add-on but as a real part of the curriculum.

financially robust than mainstream ecumenical agencies, and they are well connected into prison reform debates worldwide through Prison Fellowship International. There is therefore good potential for Prison Fellowship UK to contribute to such debates by advocating greater use of restorative justice principles within the prison system, for example in reintegration procedures.

Prison Fellowship UK's involvement in the Sycamore Tree Project reflects an evolution in policy from informal prison visiting to volunteer trained and accredited programme delivery on the basis of a partnership agreement with the Home Office and Prison Services. Arguably it also reflects a radicalising of policy at the organisational level, and a consequent strategic shift in thinking about the ways in which it engages with the prison population. It also suggests a theological shift in the way volunteers understand and approach prison ministry. A faith-based but not faith-promoting programme reflects a broadening of perspective in the volunteer base.

### **iii. Case study E evaluated using the restorative hermeneutic**

Of all the case studies this is the most overtly consistent with restorative justice principles, though less so with the third than the first two.

It adheres to the first principle (radical participation) to a large extent but crucially does not bring victim and offender together. Rather a surrogate victim meets the offenders midway through the course. Furthermore, the participation of inmates is not always voluntary, and where this is the case their commitment and engagement to the course cannot be assumed. This element of coercion contravenes the principle.

Case study E conforms with the second principle, righting wrong in a morally serious way, by facilitating the restorative journey from apology to forgiveness to

restoration and reconciliation. It does this in a way that involves all the stakeholders: victim, offender and community, the latter represented by the volunteers. It enables:

- a. offenders to tell their story and to reflect on it with members of the community. It is a radical departure from the court system, because it encourages offenders to engage with their offence and to recognise harm done to victims as a consequence of their actions. They can also consider mediation options in order to apologise and make amends.
- b. victims to tell their story and, through the encounter with offenders, to gain some sense of healing and release .
- c. volunteers from the community to hear these stories and to help offenders to face up to the needs of victims and their obligations to them.

Despite this positive assessment, it is not a fully restorative programme. Clearly it has worth and does well in a large number of cases but still the principal goal of victim and offender meeting is not in most cases even a remote possibility. Moreover, the shortage of victims ready to come forward means that they are sometimes used several times which, in the opinion of the course leaders, is not ideal since repeated telling of their story risks becoming a performance rather than a genuine encounter.

The case study conforms partially with the reintegration principle in that it introduces a forward-looking perspective for the stakeholders. Victim and offender both entertain the possibility of new beginnings. However there is a keen awareness amongst the volunteers of the need for more to be done in terms of re-integration. The poor provision for re-integration within the prison system was a major source of their criticism. They see this as undermining the good done in this and other courses that seek to prepare the offender for life in mainstream society. To compensate for this, some volunteers are beginning to engage in re-integration programmes being pioneered by the churches.

## **G. The case studies: a comparative evaluation using the restorative hermeneutic**

### **i. Introduction**

As explained in Chapter I, a decision was made in terms of methodology and design to move beyond the local congregations as the sole unit of analysis to a broader level of para-church initiatives, in which local church members came together as volunteers. These initiatives were selected for their potential to enrich the data obtained from the study.

This chapter has assessed the responses of local Christian communities in the five case studies by reference to a model based on indirect/direct and structural/personal dimension. This indicated that, in general, the three congregations (A, B and C) responded indirectly more than directly whereas there was an opposite tendency for the para-church initiatives (D and E). Intuitively this aligns with the expectation that congregations will be more generalist and broad-based in their responses, while the focus and expertise of para-church groups will better enable them to intervene at a tertiary level.

In general the case studies responded more to personal rather than structural crime and wrongdoing. Case study A was the clear exception to this, with case study D having a slight orientation towards structural issues. Where interest was demonstrated in structural crime and wrongdoing, the response was more often direct rather than indirect.

In the case studies, there was good evidence of local Christian communities reaching out to a wide range of people affected by crime and wrongdoing. The

emphasis is on empowering offenders and victims to become active in the process of repairing and restoring the harm done to their relationships. There was also plenty of evidence of the risk-taking and cost involved in this work, and of faith communities prioritising restorative work.

## **ii. The first principle of the restorative hermeneutic**

The principle of radical participation is concerned about both the quantity and quality of a response. The responses varied significantly from programme to programme in nature and extent. While all stressed the importance of participation they interpreted and applied it in different ways.

In studies A, B and C the local congregations facilitated broad-based participation by the community in social activities, for example, through arts, leisure and sports activities, which do not specifically bring offenders and victims together. There is however a correspondence or approximate fit to the first principle in the way that they encouraged and enabled a demonstration of shared responsibility that individuals have for each other and for the community. The work done through church/school partnerships, such as case studies A and B, also demonstrates a measure of conforming to the participation principle. By mediating both between pupils and also between pupils and the figures of authority within the school, the stakeholders are brought together.

In case studies D and E the encounters between offenders and victims correspond more closely to the principle of radical participation. Of all the five case studies, E most directly conforms to the principle: offenders, victims and the wider community come together to address the consequences of criminal wrongdoing. But

even here the involvement a surrogate rather than the actual victim falls short of full compliance.

It can be observed that there is a correlation between the relative positioning of local congregations (A, B and C) and para-church organisations (D and E) on the indirect-direct axis and their overall degree of compliance with the first principle. The former group shows partial or approximate compliance, whereas the second group shows a closer proximity.

### **iii. The second principle of the restorative hermeneutic**

In relation to the second principle (righting wrongs in a morally serious way), the dialogue between restorative justice theory and atonement theology, particularly the penal atonement model (cf. Chapters II and III), highlighted the dangers of cheap grace and the importance of taking wrongdoing seriously through processes of truth-telling, apology, forgiveness and reconciliation.

Atonement themes were evident in all of the case studies, but in different ways. In case studies A, B and C good work was done in the community using sports, arts and leisure activities, such that persons vulnerable to crime and wrongdoing were influenced positively towards pro-social behaviour. Supplementing these 'general' activities with more targeted activities, such as one on one mentoring, enabled restorative practices to be nurtured. The work in schools, described in case studies A and B, adheres still more closely to the principle; the conditions are potentially more conducive for the stakeholders to engage in a journey of reconciliation. Overall the combination of activities undertaken by the local congregations can be said to approximate to the second principle.

The role of street pastors in case study D includes mediation alongside the ‘good Samaritan’ activity. Apologies offered in the context of a street fight are morally serious and, though they are qualitatively different from those that arise from a process of deep reflection, they nevertheless promote restorative practice.

Case study E clearly goes further than the others along the journey of reconciliation, the process constituting a core objective of the Sycamore Tree course. However as was noted, the conditions are not ideal, due for example to the involvement of surrogate victims and offenders sometimes being coerced into participation.

Referring again to the analogy of public health care and prevention, the case studies illustrate opportunities for restorative interventions at primary, secondary and tertiary levels. The challenge in each of these phases is to be as fully restorative as possible.

#### **iv. The third principle of the restorative hermeneutic**

In relation to the principle of re-integration, this study has highlighted how reconciliation is described in scripture and embodied in the liturgy as the goal towards which repentance, apology and forgiveness strive. In contemporary atonement theology, particularly the moral influence model, the cross is depicted as radical hospitality. Through the outstretched arms of the crucified Christ, the stranger or the outsider is welcomed into the community.

The call to be welcoming to the outsider, and to extend love and solidarity to those whom society excludes, is a very strong motivating factor in the work done by local Christian communities and was consistently observed across the case studies in

their responses to crime and wrongdoing. In a general sense, therefore, there was strong underlying resonance with the third principle.

However it was difficult to observe, record and evaluate outcomes. Where the congregations are involved in long-term and more structured activities, such as the restorative justice work done in local schools and the sport mentoring scheme, there is ongoing contact with the victims and offenders that allows gives some indication of outcomes. However with the prison work and the street pastoring, and the less structured congregational work like Open Church, people move on and contact is lost, so the outcome is not known in many cases.

This difficulty was faced in a very particular way by case study E and was recognised by the volunteers. Efforts by some to become involved in reintegration programmes were a mark of their desire to attend to outcomes as well as process.

### **Concluding remarks**

Having thus evaluated the degree to which local Christian community responses to crime and wrongdoing adhere to the principles of restorative justice it is clear that some of the responses do come close to strict conformity with one or more of the principles, though none fully expressed all three.

All of the case studies, with the exception of A, focused more on personal than structural crime and wrongdoing, and even the congregation in case study A felt a real frustration with their limited ability to engage with the underlying structural root causes. This imbalance invites a critical reflection on why structural crime and wrongdoing receives less attention and what it would require for them to achieve a more equal balance, assuming that be an appropriate goal.

Many of the responses were not motivated primarily by a desire to address crime and wrongdoing. What emerged in the study was that their work in the community did nonetheless engage with these issues. The challenge presented by this evidence is whether local Christian communities are prepared to make a conscious connection between their outreach and engaging with criminal justice, in order to shape current and future programmes to be more effective as responses to crime and wrongdoing. It is the conviction of this study that the restorative hermeneutic has the potential to help shape those programmes.

The next chapter will explore the implications for local Christian communities adopting a more restorative approach. To engage with crime and wrongdoing in more participatory, morally serious and forward-looking ways implies a commitment to engage in sustained critical dialogue and reflection between theology and secular theory; to maintain a more even balance between addressing the personal and structural types of crime and wrongdoing; to develop a more critical understanding of the root causes of both categories of crime and wrongdoing; to build capacity within local Christian communities to respond in a comprehensive and coherent way; and to develop the potential for strategic partnership so that local Christian communities can tap into resources and expand their reach.

**VI**

**RESTORATIVE PRACTICE**

**CONCLUSIONS, RECOMMENDATIONS AND THEOLOGICAL**

**REFLECTIONS**

The previous chapter critically assessed the results arising from the local studies and evaluated them using the restorative hermeneutic. Based on these empirical findings this thesis now reaches conclusions which seek to be theologically rigorous as well as practical and strategic. The central argument is as follows: first, the churches have distinctive insights to contribute into the public debate on the criminal justice system, deriving from the dialogue between atonement theology and restorative justice; second, restorative justice principles provide local Christian communities with criteria for nurturing and evaluating their practical responses to crime and wrongdoing in the community.

The key insights from the theological examination in Chapter III that underpin the argument of this chapter are as follows:

- The shift in atonement theology from a retributive to a restorative paradigm and the development of a more robust theology of forgiveness have made possible the dialogue between restorative justice and atonement theology.
- The notion of costly forgiveness was seen to avoid the extremes of cheap grace on the one hand, where sin is ignored or downplayed, and retributive justice on the other hand, where punishment is experienced more as revenge than repair.

- Restorative principles, informed by an understanding of forgiveness as a costly journey of empathy and endurance, ensure moral seriousness in the judicial process; they hold out the hope of reconciliation, while not making light of sin.

This chapter offers four reflections on challenges facing local Christian communities seeking to be more restorative in their responses to crime and wrongdoing. Their common purpose is “to promote a critical consciousness which exhibits itself in political as well as practical action to promote change”.<sup>412</sup> They address four different stakeholder groups: the local Christian community; institutions; individuals; and the wider public.

The first challenge concerns the divide between faith and ethics. Congregational formation is identified as key to addressing this problem. The reflection argues for restorative principles and practices to become a core template for congregational formation. In the sacraments of baptism and the Lord’s Supper, and in other practices, Christians learn in community how to embody restorative reflexes and habits, which in turn inform and shape their response to crime and wrongdoing.

The second challenge concerns understanding the structural and systemic roots of crime and wrongdoing, and responding effectively. The reflection recognises that churches generally struggle to challenge institutions and powers on their practices. Rather than confront structural and systemic failure, they seek to alleviate the suffering that it causes. This reflection uses the insights of atonement theology and the restorative principle of moral seriousness to make the case for churches engaging themselves on the political level as honest broker or critical friend.

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<sup>412</sup> Grundy (1987) p154

The third reflection addresses the challenge of achieving positive change in individual behaviour. It draws upon the third restorative justice principle, re-integration, and on contemporary atonement theology, which defines repentance as more than paying a debt for past action; it requires turning or reorienting toward the future. It argues that churches need moral imagination to undertake innovative and risky ventures that encourage and enable such reorientation.

The final reflection concerns the capacity of local Christian communities to speak into the public sphere on crime and wrongdoing. This requires them to link practical wisdom, derived from local action (e.g. work on homelessness or gang crime or offender re-integration difficulties), with policy and advocacy work at the political level. The reflection makes the case for using the restorative hermeneutic to develop a critical consciousness, connecting practical action with advocacy.

The chapter has three sections. In section one, the overall contribution of the study to the advancement of practical theology is discussed. Section two consists of four theological reflections on the challenges outlined above. The relevance of the restorative justice principles and contemporary atonement theology which undergird this thesis is highlighted in each of these discussions. In section three some conclusions and questions are raised identifying areas for research arising from but going beyond the scope of the study.

#### **A. This Study as a Contribution to Practical Theology**

The rationale – personal, contextual and methodological – for locating this study within the discipline of practical theology was highlighted in the first chapter. It is

appropriate now to consider how the study has been shaped by and furthered the work of practical theology.

### **i. The Aims of Practical Theology**

The tendency in the 1960s and 70s, when Positivist thinking was shaping penal policy, was to conceive of practical theology in pastoral terms as essentially professionalising pastoral care according to the norms and values of clinical psychology and counselling theory and techniques. Michael Taylor (1983) has argued persuasively that pastoral theology and pastoral care should not be conflated but held in critical tension.<sup>413</sup> Likewise, Pattison has recently argued that a middle way or balance needs to be achieved between practical theology and the social sciences.<sup>414</sup> He affirms that the emphasis on empirical data within the social sciences is important for practical theology but cautions against a kind of scientism where theology sells out to another discipline abandoning the distinctive contribution of faith and reducing practical theology to little more than a second class social science. Voicing a similar concern Duncan Forrester writes:

There is too much which passes for practical theology today which rarely if ever addresses theological questions or draws on theological resources in a serious and sustained way. I am referring to congregational and ecclesiological studies which do not in practice allow theology a share in defining the problem, or the approach, and do not even present sustained theological reflection on the empirical data that is secured.<sup>415</sup>

This study has avoided the kind of problem cited above by undertaking a clear dialogue between theology and social theory in which neither voice was eclipsed by

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<sup>413</sup> Cf. Taylor, M. (1983) p.74

<sup>414</sup> Cf. Pattison, S. (2007) pp.256-7

<sup>415</sup> Forrester, D. (2010) p.207

the other and the distinctive contribution of each to the problem addressed was critically heard. The interests of practical theology have been furthered in this study with respect to methodology and argument. In relation to methodology three comments should be noted. First, the conversation undertaken between restorative justice principles and atonement theology has sought to enable a mutually critical dialogue, not to give undue deference or normative status to the claims of either theology or the social sciences. Second, many voices from local Christian communities have been represented, thereby testing the tidy nature of abstract theory against the messiness of local reality. The critical meeting between lived experience and intellectual ideas lends integrity to the results. Finally, because “the starting point and the conclusion of practical theology...is the question of action”<sup>416</sup> the conclusion to this research frames the answer to the question in terms that are intentionally theological and practical. It seeks “to promote a critical consciousness which exhibits itself in political as well as practical action”.<sup>417</sup>

In addition to methodological considerations, the issues that concern practical theology are taken up in the thesis in three major respects. First, it reflects the focus in practical theology on the relationship between faith and wider culture, particularly the social sciences. It tries to honour that approach through the engagement between faith and social theory on the causes of crime and through the dialogue between restorative justice theory and atonement theology. Second, the study takes up the interest of practical theology by focussing on the relationship between theology and ethics or faith and social engagement. The concern of the Christian community truly to be the “body of Christ” has been central to this study. It has identified concerns and raised questions for the future about moral formation. It

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<sup>416</sup> Forrester, D. (2010) p.211

<sup>417</sup> Grundy (1987)p154

has highlighted the importance of reflecting theologically on themes such as forgiveness and sacrifice to develop the practices that make forgiving, restoring and reconciling habitual and instinctive. It has identified concerns which raise questions for the future about public theology and the importance of churches speaking truthfully and confidently but with humility in the public sphere. Third, voices from local communities have brought experience and local insight into the dialogue between faith and culture, and between ecclesiology and ethics. Largely through the influence of liberation theology, the praxis of listening to the voices of the victims and the marginalised has come to be valued as a hidden source of wisdom emerging from life on the edge.

In summary, then, by critically engaging faith with criminal justice matters and evaluating the practical response of churches to crime and wrongdoing in the community this study brings together the considerations of theory and practice, and develops a hermeneutical tool for nurturing and evaluating restorative practices in the churches and in the community.

## **B. Restating the Argument and Exploring Four Challenges**

From the empirical data gathered and categorised in the case studies and subsequently analysed using the restorative hermeneutic, this study revealed that the response of local Christian communities to crime and wrong doing is limited. The type and extent of their response has two characteristics. First, it is generally more personal than structural: churches deal better with individual offenders and victims of harm than with structures and systems and the harm they cause. Second, it is more indirect than direct: their activities often complement statutory provision but lack critical engagement with social theories on crime and wrongdoing. Clearly, a more coherent

and strategic response to crime and wrongdoing needs to be developed within local Christian communities.

The challenges which are addressed are illustrative of the issues congregations face, when tackling crime and wrongdoing. The method used for these reflections follows the pastoral cycle. First some insights from critical theory and practical experience are gathered. The insights are distilled and further reflected upon in the light of the Christian faith. The actions arising from these reflections can then over time be tested against the principles and practices of restorative Justice as was also the case in the case studies.

Each of these reflections is in its own right a topic for further research.

**i. Reflection 1: Bridging the divide between Faith and Ethics**

*The first challenge is for local Christian communities to bridge the divide between faith and ethics.*

**a. Step 1: The Issue Stated**

One of the initially baffling and disturbing reactions to the research question was the blank look on people's faces when asked, what is your church doing to respond to crime and wrongdoing in the community? This question put them off because it did not fit with their perception of the purpose (or 'calling') of the church or, indeed, connect with personal faith. The frequent answer was that this was not really their concern, or at least not in the form posed by the question. In other words, the call to live faithfully and authentically as the body of Christ has become disconnected from

the struggle to engage faith with wider culture.<sup>418</sup> As conversation developed, however, it became clear that their response involved considerable pastoral outreach to vulnerable people who are either victims of crime and wrongdoing, or people at risk of offending. The work in schools with excluded children, with the homeless through “open church” or with estate kids through sports and mentoring programmes, are all examples of local Christian communities addressing crime or crime-related problems. What is missing or is under-developed is the critical reflective process between faith and ethics to strategically shape and inform the response. The hesitation expressed by case study interviewees to the question underlined the persistence of an old problem which is the tension between Christian faith on the one hand and socio-ethical commitments on the other. Augustine’s *City of God* is a classic example of an attempt by a church theologian to integrate faith and ethics in a manner which engaged with culture.<sup>419</sup> This problem has been freshly visited through ecumenical debate in recent years. In a consultation designed to bring ‘faith and order’ and ‘church and society’ issues together, Jose Bonino (1975) presented the problem in the form of a question: “Is the separation between the theological concerns of faith and order and the socio ethical commitments of the [World Council of Churches] a natural polarity of the Gospel? Or is it a sickness developed in the churches? Or an artificial separation erected by the systematizing “obsessions” of the theologians?”<sup>420</sup> The case studies show that this gap between ecclesiology and ethics is not simply the abstract problem of theologians or the peculiar concern of the global ecumenical movement: it affects the life and identity of local churches. Partial and uncritical responses to crime and wrongdoing are not simply a problem of capacity

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<sup>418</sup> Cf. Graham, E. *et al.* (date) pp.10-11

<sup>419</sup> Cf. Augustine: *City of God* 19.4

<sup>420</sup> Bonino, J. in, World Council of Churches (1993) p.59

and strategic planning but a problem whose roots go deep into the theology and self-identity of Christian communities.

**b. Step 2: Engaging with Social Theory**

This section examines the socio-historical context underlying the gap between faith and ethical engagement in the churches, notably the narrative of religious decline in the 20<sup>th</sup> century, articulated through the theory of secularisation. Three general trends in society have most often been cited in secularisation theory to undergird this narrative of decline: (a) the declining importance of religion for the operation of non-religious roles and institutions such as those of the state and the economy; (b) a decline in the social standing of religious roles and institutions; (c) a decline in the extent to which people engage in religious practices, display beliefs of a religious kind, and conduct other aspects of their lives in a manner informed by such beliefs.<sup>421</sup>

Together, these trends have been regarded as signs of the church in terminal decline. However, the interpretation of these trends is not so straightforward. Whilst the demise of formal participation in institutional religion proceeds rapidly in the western world, the re-enchantment of society with the sacred and the rise of religious pluralism have required significant restatements of the secularisation paradigm. David Voas' study using data from the European Social Survey (ESS) categorises respondents into three groups: the patently religious, the patently unreligious and those in between.<sup>422</sup> Voas estimates that 40-60% of the population belongs to the in-between category. This third category may well participate in religious rites and

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<sup>421</sup> Cf. Bruce, S. (2002) p.3

<sup>422</sup> European Social Survey (ESS): [www.europeansocialsurvey.org/](http://www.europeansocialsurvey.org/) (an academically-driven social survey designed to chart and explain the interaction between Europe's changing institutions and the attitudes, beliefs and behaviour patterns of its diverse populations.)

nominate themselves Christian in a census form, but religious belief is of little importance.<sup>423</sup> He concludes:

The dominant attitude towards religion...is not one of rejection or hostility. Many of those...who are neither religious nor unreligious, are willing to identify with a religion, are open to the existence of God or a higher power, may use the church for rites of passage and might pray at least occasionally. What seems apparent though, is that religion plays a very minor role in their lives.<sup>424</sup>

Building on a counter-secularisation theory, based on the persistence and resilience of religion, Fink and Stark combine rational choice theory into the persistence paradigm, and argue that a free and competitive religious market can create and sustain a vibrant religious culture.<sup>425</sup> For Grace Davie, this accords with American culture and to some extent resonates with the increasing shift from obligation and duty to personal choice among British churchgoers.<sup>426</sup> However, the danger inherent in free market religion, as Martyn Percy persuasively argues, is that elements of social responsibility and ethical norms that are central to orthodox belief are cut loose:

Despite my reticence to accede too much ground to proponents of the secularisation theses, I readily acknowledge that the twentieth century has been the most seminal and challenging period for the churches in all their history...the biggest issues the churches have had to confront is, ironically, a simple one: choice. Increased mobility, globalisation and consumerism have infected and affected the churches just as they have touched every other aspect of social life. Duty is dead, the customer is King. It is no surprise therefore to discover churches adopting a consumerist mentality and competing with one another for souls or members, or entering the marketplace itself and trying to convert tired consumers into revitalised Christians.<sup>427</sup>

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<sup>423</sup> Cf. Voas, D. (2009) pp.155-168

<sup>424</sup> Voas, D. (2009) p.164

<sup>425</sup> Greeley, A.M. (1972) p.16; the Persistence paradigm is an alternative account of religious transmission in response to the secularisation theory. It characteristically regards religious belief and practice as constants within human nature.

<sup>426</sup> Cited in Gill, R. (2012), p176

<sup>427</sup> Cf. Percy, M. (2005) p.48

The debate around secularisation theory is complex, but this brief reflection has highlighted that the shifting patterns of religious believing and belonging, and particularly the re-packaging of religion to meet the free choice values of consumerism and individualism, may offer a more enlightening explanation for the conceptual gap between faith and ethics than the narrative of church decline presented by secularisation theory.<sup>428</sup>

**c. Step 3: Faith engaging with social theory**

The current ecumenical discussions on ecclesiology and ethics suggest that the gap is not simply a consequence of cultural and social change but is also theological, and specifically stems from a flawed vision of unity:

Cheap unity avoids morally contested issues because they would disturb the unity of the church. Costly unity is discovering the churches' unity as a gift of pursuing justice and peace. It is often acquired at a price, costly unity is precisely to transcend loyalty to blood and soil, nation and ethnic or class heritage in the name of the God who is one and whose creation is one. It is the unity of the church accomplished on the way of the cross ... Its enemy is cheap unity – forgiveness without repentance, baptism without discipleship, life without daily dying and rising in the household of faith (the oikos) that is to be the visible sign of God's desire for the whole inhabited earth (the oikumene).<sup>429</sup>

McIntyre also sees the problem in ecclesiological terms but argues that the gap is not derived from a flawed understanding of unity but rather from a flawed understanding of ethics. He criticises contemporary ethics as individualistic and thin, and lacking the deep structures of community and tradition. His attention to the place of narrative and tradition in setting ethical norms, and to the place of virtue ethics in the life of the church, has been taken up and critically developed in different ways by a number of

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<sup>428</sup> Davie, G. (2000) p.7

<sup>429</sup> World Council of Churches (1993) pp.9-10

writers.<sup>430</sup> The appeal of his analysis is that it attempts to reconnect doctrine with social commitment. Starting from the precept that ethics is not a private individual matter but is corporate, it emphasises that Christian ethics is about moral formation which arises from within the life and tradition of a community of faith whose world view is shaped by the life and ministry of Jesus Christ. To live faithfully and authentically as the body of Christ means to embrace a social ethic that is shaped by the story of the faith. Whilst this is not a new idea, it revisits in a fresh way the interest of Augustine and Aquinas in Aristotle, whose understanding of ethics was based on virtue and habit rather than rules.<sup>431</sup>

In the context of this study, the restorative turn in atonement theology resonates with a McIntyrean understanding of moral order that is based not on structures or hierarchy but on ethical coherence, and where morals are derived from a community of shared values. If this analysis of the root causes of the gap between faith and ethics is correct, then the core question becomes: how might local churches become restorative communities where the principles, values, virtues, habits and practices of restorative justice are able to counter negative effects of secularisation such as fragmentation and individualism, and critically shape their response as a moral community to crime and wrongdoing?

#### **d. Step 4: Theory into Action**

In “God’s Companions”, Samuel Wells analyses the discipline of Christian ethics through the lens of Christian worship, and most particularly in the sacrament of the

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<sup>430</sup> Wells, S. and Quash, B. (2010) pp.181-205

<sup>431</sup> Augustine: *Of the Morals of the Catholic Church* 15 ([www.logoslibrary.org/augustine/morals/15.html](http://www.logoslibrary.org/augustine/morals/15.html))

Eucharist. Taking the different actions of the Eucharist, he highlights the restorative practices that might be derived from these particular moments. In relation to the first action, the gathering, he writes:

“The Eucharistic gathering becomes one element, albeit the key one in a pattern of shared action, reflection, planning and experimentation. Life is no longer a linear sequence of one thing after another but a rhythmic ebb and flow, a constant sending out to love and serve and share, a constant return and gathering to praise and repent and ask”.<sup>432</sup>

Proceeding down this same sacramental route, Forrester suggests that the moral power of the Eucharistic meal means it cannot be taken lightly:

...the Eucharist brings into the present age a new reality which transforms Christians into the image of Christ and therefore makes them his effective witnesses. The Eucharist is precious food for missionaries, bread and wine for pilgrims on their apostolic journey. The Eucharistic community is nourished and strengthened for confessing by word and action the Lord Jesus Christ who gave his life for the salvation of the world. As it becomes one people, sharing the meal of the one Lord, the Eucharistic assembly must be concerned for gathering also those who are at present beyond its visible limits, because Christ invited to his feast all for whom he died. Insofar as Christians cannot unite in full fellowship around the same table to eat the same loaf and drink from the same cup, their missionary witness is weakened at both the individual and the corporate levels.<sup>433</sup>

Alan Kreider *et al.* go beyond worship to emphasise how the educational practices of the church are central to shaping the character of individual Christians. They urge that an evaluation is needed within churches, to assess the materials used for teaching baptismal candidates; for new members' classes; and for adult and children's programmes generally. Do they impart the necessary knowledge and skills for peace-making?<sup>434</sup> Kreider also notes that churches which do not have procedures to address conflict risk hiding or burying it, and warns that such hidden conflict has a habit of erupting when least expected.

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<sup>432</sup> Well, S. (2006) p128

<sup>433</sup> World Council of Churches (1982) E.26

<sup>434</sup> Kreider, A. et al (2005) P60, 72-82, 93.

John Paul Lederach offers a profound and practical example of how to manage conflict in his book *The Journey Toward Reconciliation*.<sup>435</sup> This example is quoted at some length here, because reducing the text to headlines would not do justice to the story. Crucially it illustrates how restorative practices inspired by the Christian tradition are appropriate for use both within congregations and beyond the community of faith. It is an important illustration also of how restorative values necessary to reconciliation (truth, mercy, justice and peace) can be misused to work against one another. It suggests how the churches might go about developing their role as honest broker between community residents and those in authority, such as the regeneration planners in case study 1. Lederach writes:

“The psalmist says in Psalm 85:10; ‘Truth and mercy have met together. Justice and peace have kissed’. In these two short lines are four important concepts and two paradoxes. The psalmist seems to treat the concepts as if they are alive ... They become people who can talk. I started to call forth this community of four people in my training workshops on conflict resolution. In a worship for pastors and leaders I divided them into four small groups designated respectively as Truth, Mercy, Justice and Peace. One person named by each group became the spokesperson for the group. The exercise involved each group through their representative being interviewed. In response to the interviewer they spoke about themselves, who they are and what they believe in. Then they are invited to engage in a conversation with each other, and here the suspicion and fear each has of the other comes to the surface”.<sup>436</sup>

In the course of this poignant dialogue Lederach draws out some lessons for peace making:

“the primary task for those working for reconciliation is to help create the dynamic social space where Truth, Mercy, Justice and Peace can truly meet and talk things out ... too often we take these social energies as contradictory forces violated by different persons within the conflict. They are seen as pitted against each other. Those who cry out for truth and justice are seen as adversaries of those who plead for mercy and truth ... the vision of the psalmist is different. Reconciliation is possible only as each sees the place and need for the other. This approach means that each ... is incomplete without the other ... When we hear these four voices as contradictory we are forced into a false position of choosing one or the other ... we are not

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<sup>435</sup> Lederach, J.P. (1999) p52ff

<sup>436</sup> Ibid p53

asked to choose between rain and sunshine. Each is different, both are needed ... such is the case with Truth and Mercy, Justice and Peace.”<sup>437</sup>

Lederach’s closing remark sums up the essence of restorative justice, as being:

“(to) create the social space that brings Truth, Mercy, Justice and Peace together within a conflicted group or setting. Then energies are crystallized that create deeper understanding and unexpected new paths, leading toward restoration and reconciliation.”<sup>438</sup>

The story illustrates how the values which shape are capable of forming and mal-forming us. Competing values lie deep within the roots of conflict, but by addressing the conflict in this creative way the situation can be repaired and relationships restored. This thesis contends that restorative principles and practices, imaginatively employed, as in this story, can create social spaces that give energy to restoration and reconciliation processes.

## **ii. Reflection 2: Undertaking dialogue with Social Theory**

*The second challenge is for congregations to better understand and address the structural and systemic roots of crime and wrongdoing.*

### **a. Step 1: The Issue Stated**

The analysis of local Christian communities responding to crime and wrongdoing, in Chapter V, revealed their struggle to engage fully with root causes, and to counter structural and systemic injustice. In Case Study A, for example, the congregation particularly identified as their priority the need to tackle the underlying structural

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<sup>437</sup> Lederach, J.P. (1999) p60

<sup>438</sup> Ibid p61

causes of crime and wrongdoing, meaning economic and social deprivation arising from stigma and discrimination. However, without critically engaging faith with social theory or connecting social theory with practice they were not well placed to mount a significant response. In Case Study D, street pastors who assisted individuals in trouble were acutely conscious of having no answer to the wider structural problems that give rise to the alcohol excess and substance abuse so prevalent in the night-time economy. Similarly in the prison ministry featured in Case Study E, where victim awareness was the focus of the programme, volunteers recognised and reflected upon the structural disadvantage facing the offenders once they were released, but felt powerless to do anything. Local Christian communities experienced difficulties in addressing structural and systemic causes in all these cases, revealing insufficient capacity to critically engage with social theory and thereby to understand and confront the structural and systemic dimensions to criminality.

**b. Step 2: Critical Engagement with Social Theory**

Early pioneers of disorganisation theory, Clifford Shaw and Henry McKay, linked crime and delinquency with the inability of a community to realize common goals and solve chronic problems.<sup>439</sup> According to their study, poverty, residential mobility, ethnic heterogeneity, and weak social networks decrease a neighbourhood's capacity to control the behaviour of people in public, and hence increase the likelihood of crime. Their study revealed how high delinquency rates persisted in certain Chicago neighbourhoods for long periods of time despite changes in the racial and ethnic composition of these communities. They concluded that neighbourhood conditions have greater influence on crime rates than the characteristics of individual residents.

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<sup>439</sup>Knepper(2007) p20

Control theorists like Travis Hirschi (1969) do not focus only on the environment but also on the relationship between social and environmental factors and rational choice. Hirschi reasons that most people abide by the law, not because they are afraid of arrest but because they have too much to lose.<sup>440</sup> They are bonded to society in a way that makes rule-breaking unattractive. In social bond theory Hirschi identifies four components that serve to make crime unattractive: attachment (sensitivity to the opinions and approval of significant others), commitment, (pursuit of conventional behaviour on the basis that deviation jeopardizes chances of success), involvement (time spent in conventional activities means less time to get into trouble) and belief (respecting the law and accepting that people should obey the rules). This theory contends that the greater the experience of social exclusion the weaker the social bond. Where bonding is weak crime rises. The challenge is to identify and tackle those structures and processes within society that are excluding and undermine social bonds.<sup>441</sup>

The phrase “social exclusion” came into the vocabulary of the Labour government post 1997 in order to signify: “a moral commitment to helping the poor with a comprehensive programme”.<sup>442</sup> However as Levitas argues, the slippage in the use and meaning of the term ‘social exclusion’ leaves open room for confusion. Redistribution discourse (RED) understands exclusion to be the direct consequence of poverty, and access to resources, economic and social, holds the only hope for correcting the problem. But other discourses see it differently. Social Integration Discourse (SID) sees unemployment as the cause of exclusion, and makes returning to work rather than support for the out of work its prime focus. Potentially this can be

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<sup>440</sup> Cf. Hirschi, T. (1969)

<sup>441</sup> Cf. Knepper, P. (2007) p.30

<sup>442</sup> Knepper, P. (2007) p.39

very stigmatic, singling out those who are unemployed as unproductive and welfare dependant. The third approach is a Moral Underclass Discourse (MUD), which moves fully in the stigmatic direction, defining groups of people as dangerous or criminal on account of their race, or ethnicity, or gender etc.<sup>443</sup> Government departments, according to Levitas, make use of all three discourses. Depending on the discourse that is being used at any one time, the political maxim “tough on the causes of crime” takes on a very different meaning.<sup>444</sup> Levitas shows how the connection between social exclusion and crime can easily become a moral underclass discourse<sup>445</sup> that stigmatises disadvantaged and unemployed people as a criminal underclass, rather than focussing on the redistribution of income and opportunities in their favour. Not only do these three competing discourses (RED, SID and MUD) reveal conceptual un-clarity around the meaning of social exclusion; they also highlight the risk of confusion and inconsistency in criminal justice sentencing practice.

In the context of the social exclusion debate, social disorganisation theory has been linked to the erosion of social capital.<sup>446</sup> Social capital theory’s logic is the converse of social disintegration, namely that by building a more participatory cohesive community, and by strengthening commitment amongst its members, pro-social values will be adopted, and crime will be reduced and controlled. Relationships, obligations and shared values are the bonds or glue that hold the community together.

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<sup>443</sup> Levitas . R. (1999) p5

<sup>444</sup> Knepper, P. (2007) p39

<sup>445</sup> Wacquant,L. (2008) p 44 The term underclass is highly contested but according to Lois Wacquant it has become a blanket term that frames urban blacks as behaviourally and culturally deviant “This menacing urban Hydra is personified on the masculine side by the defiant and aggressive ‘gangbanger’ and on the feminine side by the dissolute and passive welfare mother...”

<sup>446</sup> Nan Li ( 2001 ) p 55 Social capital theory focuses on the resources embedded in social networks. “Resources are defined as valued goods which ... when invested for expected returns in the marketplace, become social capital.

Robert Putnam, an ardent advocate of social capital theory, explicitly argues for the potential of the churches as bonding and bridging agents:

Churches provide an important incubator for civic skills civic norms and community interests, and civic recruitment. Religiously active men and women learn to give speeches, run meetings, manage disagreements and bear administrative responsibility...regular worshippers and people who say that religion is very important to them are much more likely than other people to visit friends to entertain at home, to attend club meetings and to belong to sports groups... etc. <sup>447</sup>

Whilst his argument is focussed on the churches in the US, the same argument has been made by researchers in the UK. For example research undertaken by a team from Sheffield Hallam University<sup>448</sup> asked the question: “How far can faith organisations and their members contribute to social capital that not only bonds people together, but also enables them to cross boundaries and build bridges and links with others in civil society?” The report concludes:

“Faith communities contribute substantial and distinctive bridging and linking social capital through their co-presence in urban areas, their connecting frameworks, the use of their buildings, the spaces that their associational networks open up, their engagement in governance, and their work across boundaries with others in the public domain. But more could be done if they did not face various obstacles: the misunderstanding and suspicion of others, financial barriers, inappropriate buildings, state managerialism and regulation, and various issues of capacity.<sup>449</sup>

While social capital theory can offer a positive approach to building community, and churches have much to give in this area, Levitas’ critique of social exclusion reveals that the political and social landscape is more uncertain and perilous than it appears at first sight. Local Christian communities therefore need sufficient depth or critical

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<sup>447</sup> Putnam, R. (2000) p.66-7

<sup>448</sup> *Faith as Social Capital : Connecting or Dividing?(2006)* by Robert Furbey, Adam Dinham, Richard Farnell, Doreen Finneron, Guy Wilkinson with Catherine Howarth, Dilwar Hussain, Sharon Palmer. © Sheffield Hallam University 2006. Published for the Joseph Rowntree Foundation by The Policy Press

<sup>449</sup> Furbey, R et al (2006) p50

consciousness to see where the RED, SID or MUD discourses are at work, and the effect they have on life in the community. Patterned on the journey of forgiveness, local Christian communities are called to take risks: to stand alongside those who are vulnerable or excluded, and to confront the structures and systems that perpetuate exclusion and demonization.

**c. Step 3: Faith engaging with Social Theory**

The story of liberation theology can serve as a reminder here of how faith needs to engage with social theory. Conflict theory, which undergirds liberation theology, is a form of critical discourse. The struggle of the Latin American churches with structural and systemic injustice during the 1960s and 1970s was based upon their critical analysis of the root causes of injustice.<sup>450</sup> In the face of corrupt powers and systems, ordinary people were effectively non-persons – a disposable underclass. In the eyes of God, however, Matthew’s Gospel says the poor are blessed; the marginalised are the lucky ones.<sup>451</sup> This was the faith conviction that appeared in the writings of leading liberation theologian Gustavo Gutierrez<sup>452</sup> who, along with other theologians and bishops, was accused of “selling out” to Marxism. The stated purpose of Vatican document *Libertatis Nuntius* was: “to draw the attention of pastors theologians and all the faithful ... (to) certain forms of liberation theology which use, in an insufficiently critical manner, concepts borrowed from various currents of Marxist thought”.<sup>453</sup> The response of liberation theologians was robust, carefully

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<sup>450</sup> Gutierrez (2012) p177

<sup>451</sup> Matthew ch 5

<sup>452</sup> Gutierrez, G. (2012) p174 Eds Cavanagh, W.T. and Bailey, J.W. and Hovey, C. in *An Eerdmans reader in Contemporary Political Theology*. Wm B Eerdmans Publishing Co. Cambridge .UK

<sup>453</sup> *Libertatis Nuntius* Instruction on certain aspects of the Theology of Liberation (Vatican city 1984) [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19840806\\_theology-l](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19840806_theology-l)

distinguishing between Marxism as a world view and Marxism as a tool for analysing class conflict.<sup>454</sup>

The Christus Victor model in contemporary atonement theology has many resonances with liberation theology. Narrative Christus Victor – discussed in Chapter II – refuses like liberation theology to allow atonement to be removed from the human scene or to be individualised; it is concerned rather with the salvation of the human community in the context of history. Sin and wrongdoing, rather than being personal and private, are social and political. This social understanding of the cross inspired in liberation theology an engagement between faith and social theory that was innovative and radical. Faith, combined with social theory and rooted in the local context, gave to the churches and ecclesial communities both the courage and the strategies to confront the root causes of structural oppression within society.

#### **d. Step 4: Theory into Action**

If today, faith were to engage with issues of exclusion in the way that liberation theology engaged with oppression what would happen? The following story brings together social capital theory and restorative justice theory showing the relevance of both for local Christian communities in the UK. After the unrest in 2004:

Community cohesion in Burnley was threatened by a sense of territorialism between different groups in the town. This was reinforced by diverse groups failing to converse with each other - which fostered a culture of isolationism. Burnley Council embraced the experiences of Mediation Northern Ireland. They staged a series of in-depth workshops which brought together civic leaders, community workers and community representatives. The workshops offered both structured discussions and informal chats uncovering the roots of distrust. Based on the outcomes, Mediation Northern Ireland trained 25

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<sup>454</sup> Kee.A Marx in *The Failure of Liberation Theology* has argued that Marxism as an analytical tool and Marxism as a critique of religion cannot be separated. London SCM 1990 pp41-68

mediators in conflict resolution to deal with individual cases of conflict on a community-wide scale. By opening dialogue, trust has been built within and between diverse groups in Burnley. People have broken down false preconceptions about the groups they live alongside. As one resident commented; “Being able to talk prevents our concerns going underground, which improves understanding”. For Burnley, smouldering tensions have been lessened, reducing the likelihood of violent disturbances between ethnic and cultural groups being repeated.<sup>455</sup>

This story offers a clear example of restorative justice being used to help tackle the effects of social disorganisation. Burnley’s community was faced with discord and conflict, arising from the kind of structural and systemic problems highlighted by social disorganisation theory. The story underscores how local communities need to acquire a critical understanding of the dynamics of power and structural disadvantage, if they are to tackle the structural and systemic roots of crime and wrongdoing.

### **iii. Reflection 3: Changing behaviour and developing an holistic approach**

*The third challenge is to think through ways of changing behaviour and to develop holistic, innovative programmes in which positive change occurs.*

#### **a. Step 1: The Issue Stated**

Whilst the case study results were disappointing in terms of understanding structural and systemic root causes, nevertheless, the response of local Christian communities to crime and wrong-doing was more significant than the communities themselves realised. Their work in the areas of participatory arts, leisure and sports activities

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<sup>455</sup> Burnley Good Relations Programme (<http://www.homesandcommunities.co.uk/good-relations-programme-burnley>)

positively relates to innovative experimental programmes and research being undertaken in the social sector on the relationship between the arts and sports and crime reduction. The Community Arts Project in case study A – initiated and run by the church – provided participatory arts activities to help at risk people, the young, the elderly and those with mental health problems to access a better quality of life and relationships. Likewise, in case study B, sports and leisure activities represent a major crime prevention intervention in the lives of hundreds of young people in a disadvantaged community. These approaches are popular amongst politicians and policy makers who hold to the view that art, recreation and sports activities all offer an important contribution to reducing and preventing crime.

The obvious appeal and enthusiasm of these programmes does not however remove the need for proper critical evaluation. More evidence based research is needed to clarify if and how the link made between art, leisure sport and crime reduction actually works. The question that criminology seeks to answer – and studies on these arts and sports programmes may help to answer- is, what makes people change? What kinds of programmes are needed? How can the actions of the probation and social services together with other actors in the community help make this happen?

**b. Step 2: Critically engaging with Criminal Theory**

Central to understanding the thinking behind rehabilitative arts programmes is learning theory or behavioural psychology. Whilst acknowledging that the literature in this field is still embryonic authors of the report *Doing Justice to the Arts* are optimistic that: “...participatory arts programmes can positively impact individuals, on affective, cognitive, behavioural, and neurological levels...*changing individuals*’

*personal, internal* responses to drivers or triggers that lead to offending; changing the social circumstances of individuals' lives by equipping them with personal and social skills that can help them build different relationships and access opportunities in work and education; changing and enriching institutional culture and working practices; changing wider communities' views of offenders and the criminal justice system."<sup>456</sup>

Similar to participatory arts programmes there is growing interest amongst academics, policy makers and practitioners in the social benefits of sports and particularly in the role sports can play in reducing crime. The significance of sport in the UK social agenda has been highlighted in recent years through high profile programmes such as Positive Futures.<sup>457</sup> This £6million national programme established in 2002 is a partnership between the Home Office Drugs Strategy Directorate, Sport England, the Youth Justice Board and the Football Foundation. The distinct characteristic of Positive futures, and other programmes like it, is the recognition that, sport alone, is not sufficient to bring about social change. A "sports plus" or "cross cutting" approach", needs to be developed to include cognitive reasoning and social skills. The change theories which undergird art and sports programmes are increasingly becoming the subject of attention. Many factors can influence a persons' behaviour. The question is does change theory shed light on what the processes are within a programme which influence change? Recent research into community penalties tries in a similar way to ask how change theory can shed light on what it is in community penalty programmes that positively influences behaviour. Rex suggests that a judicious mix of three factors in community penalties – carefully balanced – can positively influence behaviour.<sup>458</sup> This mixed mode approach to

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<sup>456</sup> Department of Culture, Media and Sport (2003)

<sup>457</sup> Cf. Coalter, F. (2007) p.116

<sup>458</sup> Rex, S. (2001) p.67ff.

behaviour change draws upon behaviour theory; environmental theory and desistance theory.

The first, cognitive behaviour theory reflects a new turn towards cognitive behaviour treatment in prison and probation policy, according to Rex this is on account of a number of meta-analysis studies on “what works”, funded by the Home Office. The Home Office report (2000) notes the “...efficacy of methods drawn from cognitive behavioural sources” and recommends in consequence of this a new emphasis on cognitive behaviour and learning skills in the core curriculum for offenders under the Crime reduction programme. The second component concerns environmental factors or risk protection theory. This seeks to eliminate obstacles to successful re-integration of offenders. Research shows that whilst many offenders do eventually abandon crime this process is not easy, and the reason given for this is environmental: “...following release ‘persisters’ are less likely than ‘desisters’ to have employment, satisfactory accommodation and stable relationships”.<sup>459</sup>

The third component is based on desistance theory which hypothesises on what beyond cognitive and environmental factors makes offenders persisters or desisters. Two strains in this research are significant to this discussion. First the findings show that “...normative processes play a part in people’s movement away from crime”.<sup>460</sup> So in addition to cognitive skills and environmental factors, the literature indicates that “Pro-social modelling”<sup>461</sup> by for example probation and social service staff plays a crucial role in the rehabilitative process. This theory was pilot

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<sup>459</sup> Rex, S. (2001) p.71

<sup>460</sup> Rex, S. (2001) p.73

<sup>461</sup> McIvor, G. (1998) p.67

tested by the Cambridge Institute for Criminology and as part of their findings, they produced principles of good practice for probation supervisors..<sup>462</sup>

Second, also within the desistance literature, are studies looking at offender life stories, and these suggest there is a dimension to the discussion about turning behaviour around which is not easily categorised but is plainly observable: that is to say “...offenders do not simply stop offending because they acquire partners, children, employment and economic independence but because they make a fresh start, find some direction or meaning in life, or learn that ultimately crime does not pay”.<sup>463</sup> The third emphasis within this mixed mode approach is related to virtues and values. Through pro-social modelling, and through orientation or perspective change – behaviour changes and develops. In *Sport and spirituality* Judith Reid explores the connection between sport and character formation. She analyses the virtues of character commended by Aristotle: piety (self knowledge), empathy (self control), courage and justice noting that these virtues are not simply a useful by-product of playing sport, but sport is based on these virtues.<sup>464</sup>

### **c. Step 3: Faith engaging with Criminal Theory**

The mixed mode approach described above offers some new grounds for hope that if the right combination of components can be found, then lives may be turned around. But caution is needed, recognising that sure solutions or formulas are not to hand and recognising through desistance studies that there is a dimension to the discussion about turning behaviour around from criminal to pro social, that does not easily fit any theory. It is still open and ambiguous concerning what exactly it is that makes the

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<sup>462</sup> Rex, S. (2001) p.77

<sup>463</sup> Rex, S. (2001) p.73

<sup>464</sup> Robinson, S. (2011) p.174

difference between the decision to persist or desist: "...the fact that offenders...stop offending not because they acquire partners, children, employment and economic independence but because they make a fresh start, find some direction or meaning in life..."<sup>465</sup> By using offenders own words the research seeks to faithfully describe what is hard to quantify and explain.

A conversation here between theology and criminal theory might be informative both ways. There is some resonance here with Christian ideas around the Greek word 'metanoia'. Translated as repentance or apology, it means to turn around and go in the opposite direction. It is the term used in Christian theology to describe the impact of love and forgiveness at work in a person's life. Moved by love or compelled by the generosity of others the change in a person is experienced as more than an act of Individual will.

There are some striking resonances here with the moral influence theory in atonement theology. In the Christian tradition Jesus life death and resurrection was an event which turned things around in terms of human orientation and perspective? It's a story which provokes questions of purpose meaning and direction that influences people's behaviour. Within the narrative of creation and redemption an especially in life and teaching of Jesus a way of living was modelled. To call this pro-social modelling sounds odd but the analogy is worth pressing . The church understands itself to be the body of Christ and its members seek to orient life in the direction he took. It's a story that has closely associated with ideas about changing behaviour, or making a fresh start or finding new meaning and purpose? It resonates with the discussion provoked by the research findings on how basic questions about identity purpose and meaning may serve well the aims of the rehabilitative process.

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<sup>465</sup> Rex, S. (2001) p.73

There is another sense in which the analogy may be useful. The Christian understanding of repentance and apology is often caricatured in more evangelical circles as a once in a life time moment. In this moment the repentant sinner puts all that is bad behind them and moves on into a bright new future. The problem with this scenario is that the future is not so bright and the need for constant re-orientation quickly becomes evident. Human sin – be it failing to realise potential or falling short of ideals – like crime, is a persistent problem. Developing the skills and the habits that will build the character to desist negative patterns of behaviour is to be acknowledged as vital to the process of rehabilitation. There is a healthy realism in criminology which says the choice between persisting and desisting is not a fixed and unchanging one, it is dependent on many factors which need to be a constant focus of attention.

**d. Step 4: Theory into Action**

Local Christian communities will want to ask where and how their programmes in sport and art, and indeed all their programmes meet these exacting tests in behaviour change and positive character development. The case studies suggest that with imagination and the courage to risk new ventures, many innovative sports and arts programmes can be developed as creative responses to crime and wrongdoing. However, as the research shows, work in this area needs not to be anecdotal and aspirational but critically reflective and rigorous in terms of programme evaluation. Looking to the future the focus on change theory in sports and art programmes and the emphasis – also evident in restorative justice programmes – on balancing process and outcomes are important for programme development and evaluation. There is a need not just to focus on the final score but also on the way in which the game is played and it is important to recognise that behaviour change is never quick or

permanent but needs to be constantly nurtured through good practices. The restorative principle of reintegration is the ultimate test of a programme. It asks: what has changed? What has changed in terms of the individuals, and their relationships, and what has changed in the context and the social conditions in which they seek to live their lives. These are questions which criminal theory, educational psychology and theology all count as important, and they are questions they can help each other to answer.

The challenge for the churches, highlighted in this reflection, is to undertake innovative and risky ventures patterned on the journey of forgiveness whereby reorientation or the desire for new meaning and a fresh start in life is created. This is a challenge which calls for moral imagination.<sup>466</sup> John Paul Lederach, reflecting on the nature of how constructive social change works and what contributes to it, offers this perspective:

“I believe (this ) social change has much to do with the nature of imagination ... imagination must emerge from and speak to the hard realities of human affairs. This is the paradoxical nature of both imagination and transcendence: each must have a foot in what is and a foot beyond what exists. This is a necessarily messy process...that is the nature of innovation. It is the nature of pursuing change. And I as shall argue it requires naivete and serendipity. Surprises may sound ridiculous ...(but) the great scientific discoveries in history happened more often by accident than intent.”<sup>467</sup>

#### **iv. Reflection 4: Speaking into the Public Sphere**

*The fourth challenge is for local Christian communities to speak truthfully in the public arena on matters relating to crime and wrongdoing.*

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<sup>466</sup> Lederach, J.P. (2011) pp24-25

<sup>467</sup> Ibid pp.x-xi

**a. Step 1: The Issue Stated**

The feeling of helplessness felt by people from the estate congregations and volunteers in the prison ministry was directly related to a sense that their voice was too small to make a difference in the public arena. They did not feel they had a mandate to speak up. The idea in case study A, that the estate congregation or its minister could act as the mediator or honest broker between regeneration representatives and local neighbourhood groups, was quickly dismissed as fanciful. “I’m not perceived as their champion” was the minister’s self-assessment. Equally, in case study E, the idea that the prison fellowship might be in a position to lobby for reforms was quickly resisted, apparently for fear that stepping out of line might lose them their hard-won mandate to work in the prisons. The lack of voice, and perhaps lack of nerve, evident in these situations is a problem for the churches their response to crime and wrong doing is to include speaking truth into the public arena. Perhaps the charge of irrelevance has silenced the churches, but this is not the only barrier to public witness. Negotiating a space in postmodernity’s marketplace of multiple ideas and values is a daunting prospect for them.

**b. Step 2: Critically Engaging with Political Theory**

In the debate about the place of religion in the public square, the western secular mind-set takes a position different from the vast majority of the world.<sup>468</sup> That majority questions how it is that, in modern pluralist democracies, where for so many people religion is integral to the ordering of life, the religious perspective is not

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<sup>468</sup> Habermas ,J pp1-3 ( April 2006)

welcomed or respected in the public debate? The received wisdom of governments on both sides of the Atlantic on this question has leaned heavily on John Rawls' theory of the public sphere as a space where people of all beliefs and none come together and engage in reasonable talk.<sup>469</sup> As in the Garden of Eden, people enter this space as innocents, leaving behind ideological or religious preconceptions. In this place of overlapping consensus two fundamental principles apply: first is the principle of equality; and second is the principle of difference.<sup>470</sup> The equality principle means that this space does not itself exclude people; those outside the consensus are those who will not engage in reasonable talk. They are, by that definition, extreme and have excluded themselves. The principle of difference means that the most disadvantaged will be privileged by the state, ensuring that its response to inequality must always be to the advantage of the poorest. This theory has wide appeal and has commanded considerable support. For example, Forrester writes:

“Its attraction is that it corresponds to a fundamental instinct - we all believe that fairness is a good thing. In a way the theory legitimates and gives intellectual dignity to our untutored hunch that fairness is important, and it offers the possibility of a theory which could provide a tolerant pluralist society with an adequate level of ideological agreement by commanding far wider support than any of the alternatives on offer”.<sup>471</sup>

However, Rawls' argument has its critics, one such being Jurgen Habermas. His primary concern is that conversation in the overlapping consensus is stripped of all contentious issues, including religion. Whereas Rawls assumes that everyone, whatever their religion or political affiliation, can dialogue in secular rational terms, Habermas contends that, because religious language does not conform to western

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<sup>469</sup> Rawls: Justice as Fairness (2001) sections 11.1-11.6 (pp32-38); 57.2 -58.3 (pp 190-192)

<sup>470</sup> Rawls (2001) p40

<sup>471</sup> Forrester (1997) p115

rationality, and because people who live by faith convictions cannot simply switch language to meet secular standards of “reasonable speech”, there will be no conversation and no consensus.

Habermas comes from the school of critical theory that places importance on discourse ethics. Using discourse theory, his alternative proposal to Rawls’ overlapping consensus is the “ideal speech” situation, where all come to the public space without restrictions, to share their thoughts, feelings and beliefs.<sup>472</sup>

The distinctive quality of Habermas’ theory is his focus on relationship and communication rather than abstract principles. Thomas McCarthy differentiates Habermas’ conception of democracy from that of Rawls. The first is more process- rather than content-oriented; it is open, flexible, and dynamic. However Rawls’ democracy is more tightly defined by the principles of justice, and those who cannot agree with these principles exclude themselves from the consensual space.<sup>473</sup> Forrester notes that Rawls is more attractive to politicians because he is “easier than Habermas to distil into laws and operational rules” but social work professionals and activists on the other hand tend to turn to Habermas’ discourse ethics to guide their processes and their practice.<sup>474</sup>

### **c. Step 3: Faith Engaging with Political Theory**

In spite of the differences between Rawls and Habermas, they both focus on the importance of shared values and on reaching a consensus. Whereas having

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<sup>472</sup> Habermas (2006b) . p2

<sup>473</sup> McCarthy, T. (1994) pp44-63 "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue," *Ethics* 105

<sup>474</sup> Forrester (2010) p435

permission to speak constitutes a first hurdle, knowing how to communicate can be a greater obstacle.

Pattison laments the fact that “Christian academically based theology is terminally introverted in terms of its structure, assumptions, methods, and concerns.”<sup>475</sup> Instead of muttering to itself and bemoaning its demise, he suggests theology should aim to be “useful, interesting and imaginative for a change.” Publicly interesting and credible theology has the ability “to create and analyse the myths, symbols, metaphors and narratives that constitute the action influencing world views that people inhabit”<sup>476</sup>.

Forrester likens the job of the church, when speaking into the public sphere, to that of an archaeologist who brings to the surface of public debate the artefacts or remnants of Christian teaching found beneath.

“Are there theological fragments which might be recognised as public truth and serve to give some coherence and integrity, even in “the desolation of reality that overtakes human beings in a post religious age, that has grown too wise to swallow the shallow illusions of the enlightenment?” and might these fragments perhaps be the aptest way of confessing faith, and the greatest support for living in truth, in the public realm today.”<sup>477</sup>

The way ahead, as Forrester puts it, is to share fragments of tradition that will make sense in the wider conversation. He is not just being appropriately modest here, but utterly realistic. The rules of debate have changed. Along with secularisation came democratisation to create a society which is increasingly egalitarian and consensual. This in itself is not a foreign concept to the church, whose beginnings were more

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<sup>475</sup> Pattison pp212-218

<sup>476</sup> Pattison (2007) p221 Public Theology a Polemical epilogue in *The challenge of Practical Theology, selected essays* . Jessica Kingsley Publishers. London.

<sup>477</sup> Forrester, D. (2010) p.435

consensual than hierarchical. *Koinonia* was the term chosen by the Apostle Paul to describe the life within the community of believers; it means unity in diversity.<sup>478</sup>

There is a positive to be drawn from post-modernity's claim that there is no universal meta-narrative. Precisely because contemporary western democracies hold to this view, the public space is more open than ever before. Crucially, as already noted, this is not a moment for the church to indulge in grand theories and overarching narratives. Instead it should offer fragments to be shared, insights to catch attention and invite discussion, which with time might lead to a rediscovery of the wealth of the tradition that is the Christian story.

**d. Step 4: Theory into Action**

A story demonstrating the value of this non-dominating approach is told about a group convened by the Church of Scotland to consider the place of punishment in the criminal justice system. The expectation and desire of non-Christians on the group was that there would be a Christian theory of punishment that could be presented alongside rehabilitation deterrence and retribution; however there was no such theory. Rather than attempting to construct a comprehensive theory, what emerged were a number of "theological fragments", or insights in response to situations and themes that arose from listening to the experiences of prison and prison staff. As they listened, they were seized by the way theory can conceal or define reality in ways that closes down or clouds discussion. The testimony of those who spoke about life in the prison provided a narrative which revealed a stark divide between the stated aims of the prison service and reality experienced inside the prison

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<sup>478</sup> Reumann, J. (1994) p.44

walls. Starting then from the lived experiences of the inmates and staff, the group offered insights into, rather than theories about, the meaning of guilt, forgiveness and reconciliation, and reflected upon what that might say to the theories of punishment that undergird the criminal justice system.

This story highlights ways in which public theology is changing in character, and local Christian communities might feel empowered by this to re-engage with the practice of public theology. This study contends that there is fresh room for creative dialogue between faith and ethics, and especially between theology and law, based on the conversation between restorative justice principles and Christian atonement teaching. The common ground and shared interests between theology and law arising from restorative justice principles and practices do not mean that complete consensus or unity exists – rather there is potential for critical engagement, an ideal speech situation.

The emphasis in restorative justice on moral persuasion rather than juridical coercion has opened up space for further reflection and dialogue about the relationship between justice, mercy and forgiveness. Potential for critical dialogue between atonement theology and restorative justice around the twin themes of punishment and forgiveness exists on a number of levels. First, in dialogue with the judicial system, the challenge is to rethink the place of apology and forgiveness within legal procedures, and related to that, to re-think the purpose of punishment. If, as restorative justice argues, the purpose of punishment is not retributive but restorative – not an end in itself but a means to restore and re-integrate lives and relationships – then punishment needs to be oriented towards unlocking the process of apology forgiveness and reconciliation.

Second, restorative justice theory and practice are supported and complemented within secular society by initiatives which demonstrate that the debate

about the nature and place of forgiveness is not limited to the criminal justice system but is pertinent for society as a whole. In an article entitled: *Forgiveness: a way out of the darkness* Marina Cantacuzino, the founder of the Forgiveness project, describes her vision of forgiveness and the extraordinary impact of the “F Word” exhibition leading to a popular international movement for the promotion of forgiveness.

Forgiveness is an inspiring, complex, exasperating subject, which provokes strong feeling in just about everyone. Having spent all of 2003 collecting stories of reconciliation and forgiveness for an exhibition of words and images which I created with the photographer, Brian Moody, I began to see that for many people forgiveness is no soft option, but rather the ultimate revenge. For many it is a liberating route out of victimhood; a choice, a process, the final victory over those who have done you harm. As Marianne Pearl, the wife of murdered journalist Daniel Pearl, said of her husband’s killers, “The only way to oppose them is by demonstrating the strength that they think they have taken from you.” The exhibition tells some extraordinary stories – stories of victims who have become friends with perpetrators, murderers who have turned their mind to peace building. As I talked to friends, colleagues and strangers about this exhibition, I noticed that forgiveness cuts public opinion down the middle like a guillotine. There are those who see forgiveness as an immensely noble and humbling response to atrocity – and then there are those who simply laugh it out of court. For the first group, forgiveness is a value strong enough to put an end to the tit-for-tat settling of scores that has wreaked havoc over generations. But for the second group, forgiveness is just a copout, a weak gesture, which lets the violator off the hook and encourages only further violence. This is why we called the exhibition, The F Word. For some people forgiveness is a very dirty word indeed.<sup>479</sup>

This section has sought, through four theological reflections, to raise critical awareness and prompt ethical engagement with issues relating to crime and wrongdoing. It is an invitation to churches to use restorative principles and practices as a hermeneutical tool when engaging with these issues. As already noted, especially in sections 2 and 3 of each reflection, the material included here is illustrative and not

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<sup>479</sup> The Forgiveness Project (<http://theforgivenessproject.com/>)

comprehensive. Each of these reflections is in its own right a potential subject for further research.

### **C. CONCLUSION**

The cumulative response of this thesis to the question concerning how local Christian communities respond to crime and wrongdoing is both affirmative and critical. Christian communities provide a natural habitat for restorative practices; their work is already, in a multitude of ways, restorative. Lacking, however, is a critical awareness of the theories and principles necessary to inform and shape a comprehensive restorative response. The central argument mounted by this thesis is twofold:

First, local Christian communities can, by building on the compatibility between atonement theology and restorative justice, bring distinctive insights from theology and faith into the public debate on criminal justice. Specifically, there is need within the frame of restorative principles to promote discussion in the public sphere about the nature and place of forgiveness within the justice system.

Second, when responding practically to crime and wrongdoing in the community, local Christian communities can benefit from using restorative justice principles as the criteria for nurturing and evaluating their actions.

Arriving at this point it is essential to recognise that this answer to the research question can only be a temporary stopping point. New and wider questions have been raised, in the course of the study, which lie beyond the scope of this particular thesis but which point to the need for further work.

First, the restorative model described here was developed with reference to five specific situations. However the question needs to be asked whether this model has wider potential, and whether further testing of the model might equip more churches to respond to crime and wrongdoing, establishing the case more generally that the churches' ministry of reconciliation can be enhanced by nurturing restorative practices.

Second, there is work to be done by the churches concerning the emotions: specifically understanding how shame and guilt function, both in criminal justice work and also in different ways within the life of the churches. The literature revealed a rich and complex terrain: the evidence around re-integrative shaming remains very contentious and points to the need for recent work engaging theology with criminology and psychology to be further developed.

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