

## *From England*

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# **A CHRISTIAN APPROACH TO PUNISHMENT**

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**By Alan R Duce**

In *The Tempest*, Prospero refers to Caliban as ‘this thing of darkness, which I acknowledge mine’, a phrase sometimes taken as referring to a wider social and psychological darkness engulfing everyone. Prospero could have been referring to prisons because every prison is a ‘thing of darkness’ and ‘mine’ in the sense that it is owned by society. Many believe that questions associated with the ‘darkness’ of imprisonment can be interpreted through the insights of religious faith. This chapter explores some of these possibilities, considering them in terms of the work of a prison chaplain, of the history of Christian involvement in prisons, of theological concepts relevant to criminality and victimisation, and in terms of a religious critique of classic theories of punishment.

People sometimes find it strange that I should believe it worthwhile to have worked full-time as a minister of religion in a prison — a ‘thing of darkness’. They may not immediately appreciate the extent to which insights associated with my training enable me to talk about relatively abstract topics in more vivid and human terms. Writing about these insights, concentrating on theological and ethical issues, involves a personal selection from a wide range of concepts, the development of which over the centuries, have shaped penal policy.

### **Background to chaplaincy**

A chaplain usually receives accreditation from state and church. The governing connection, however, is the church, which trains clergy in the traditions of the faith. It is in the expectation of its traditional help that prisoners turn to the church. The chaplain’s work derives from the continuing commitment by Christian denominations to compassionate work among prisoners, from the contribution of the churches to the underpinning of a common morality in Western countries, notably the United Kingdom and the United States, and from the churches’ emphasis on upholding the intrinsic worth of men and

women. These commitments demonstrate that Christians do not just subscribe to being law-abiding as a criterion for moral conduct, nor do they simply believe that better laws or more vigorous enforcement will by themselves create a more moral society. Christians claim to have something to say about punishment in prison because of 'truth' conveyed in their faith.

The chaplain works at the punitive end of the criminal justice system. He or she is expected to listen to prisoners, sometimes able to absorb only the pathos of a damaged person's situation or mediating meaning and hopefulness in the light of spiritual truths. All human characteristics are displayed in exaggerated form in prisons, places where superficialities are swept aside. Prisons are crucibles testing the strength and significance of Christian theology.

### **Misunderstandings about prison chaplaincy**

The chaplaincy occasionally becomes controversial. In prisons attitudes and social stances can be divisive. Misunderstandings that might be faced by a chaplain illustrate problems encountered by anyone attempting to present an objective analysis of a place in which flourish scepticism and cynicism about personal and professional motives. Equally, a subjective opinion must be tempered by honesty and fairness, constantly puncturing one's own pieties and preconceptions as well as stripping away the cant of others.

### **Compromise**

In a prison's strained atmosphere, questions of identity and allegiance are omnipresent. Chaplains appear to be conspicuously linked to the state: by receiving a salary from the prison authorities, carrying keys, appearing to collude with methods of control, signing forms of allegiance to the state and, possibly, appearing to benefit from the status associated with their profession. Misunderstandings raised by the possibility of compromise cannot be ignored by Christians wishing to work with integrity.

It is difficult to imagine how a minister can sustain access to prisoners without acceding to compromise and its attached weight of criticism. The principle of the Incarnation and the general 'down to earthness' of the activity of God revealed in the Bible suggest that Christians are not always called to seek 'pure' ways of serving God, free from ambiguity or compromise. The purposes of God are often furthered by risky and open involvement in realities and institutions. The church becomes a fraud only if it forgets that an essential strand in its existence should be 'godly independence'.

Two sets of theological models mirror these tensions. The one, a model of the transcendent God who ‘stands out’ but to whom one can relate, is counterbalanced by the other, a model of the immanent God who ‘fits in’ and with whom one can also commune. The first is demonstrated in the prophetic model with its ‘confrontational’ pattern, mirroring the moral critic or denouncer; the second is demonstrated in the incarnational model with an ‘involvement-and-suffering- with’ pattern, like the feet-washing servant. Most of the time chaplains follow the ‘incarnational’ and the ‘involvement-and-suffering- with’ pattern. This way their duties open innumerable opportunities for Christian presence and witness, despite the possibility of inappropriate compromise.

### **Making judgements**

The possibility that chaplains might be perceived as people who pass judgement on others is brought home to me whenever I visit the early nineteenth-century prison chapel in the grounds of the medieval Lincoln Castle. It is the only place in England where one can still see original Victorian segregated, upright, coffin-like pews out of which only the heads of prisoners appeared during sermons preached by my predecessors from a pulpit near the ceiling. The place is now a macabre tourist attraction where a recorded sermon, delivered every five minutes, caricatures a judgemental prison chaplain denouncing a poacher, a timeless figure amid rural poverty in Lincolnshire. The building closed to prisoners in 1874 when the prison where I work was opened. Expectations of the public about what the chaplain should preach did not close with the old prison.

There are many reasons for the expectation that chaplains will make judgements. Prisons are places of judgement, holding people labelled guilty and culpable. Some prisoners are unwilling to admit guilt; others find the church moralistic or alien. George Bernard Shaw once described the prison chaplain as ‘a moral snob with no time for anything but the distribution of unreadable books’. Prison staff may give the impression that they expect the chaplain to collude with their attitudes. Karl Barth, the Swiss theologian, recognised the likelihood of judgement on prisoners. He served in the German trenches in the First World War and later witnessed destructive individualism and secularism after the Second World War. At the end of his life he showed interest in the work of a prison chaplain. Preaching his last 28 sermons in Basel Prison, he demonstrated belief that prison was one of the most moving places left in today’s world to proclaim the Gospel. Almost all the sermons

were based upon unusual texts reflecting the mercy of God. One sermon was preached on Isaiah 54: 10 which has a poignant relevance to prisoners:

*For the mountains shall depart and the hills be removed, but my kindness shall not depart from you, neither shall the covenant of my peace be removed, says the Lord who has mercy on you.*

Karl Barth felt that the purpose of ministry in a prison was to convince prisoners that God loved them, believing that everything else important would follow.

### **One-sidedness**

Some think that prison chaplains can be affected by the adversarial nature of the criminal justice process, which has a tendency to implant and foster entirely divergent thinking in the minds of those who participate.

Victims have no say in framing criminal charges, nor are their needs taken into account in the disposition of the case. A crime that might have dramatically affected them becomes the property of the state. If victims are alive, they are heard as witnesses, but not officially told what happens to the offender. This absence of any semblance of personal power can exacerbate their sense of injury.

The accused rather than victims are the major focus of attention. Yet many offenders feel they have been treated vindictively. This makes them focus on their own plight and see their future as a vendetta in which to retaliate, acting out the character that society has given them. Offenders often construct elaborate rationalisations for their offences. Imprisonment gives them time to do this, and the judicial process feeds them with defensive arguments. The majority of prisoners insulate themselves from thinking about their victims.

The chaplain represents the church's interest in the offender. There is no comparable figure in the church representing care for the victim. There may not be much a chaplain can do to heal the wounds of victims because it is not usual practice for victims to visit prisons. The position of a chaplain highlights the difficulties of maintaining a fair balance in the consideration of all questions of punishment and searching for a just resolution.

### **Theology and punishment**

It might seem logical to look for roots of prison chaplaincy and Christian attitudes towards crime in Jesus' command to visit prisoners (Matthew 25: 31-46) or in the exhortation in the Epistle to the Hebrews (10:34) that

Christians should sympathise with and minister to those in prison. This would be misleading because in the New Testament imprisonment was not regarded as a necessary element in a penal system. A prisoner was essentially no different from a prisoner-of-war. The word used in Greek for military political and judicial prisoners was *desmios*, which described a person in chains or captivity. It did not have associations implicit in our word 'convict'.

Some elements of early Christian thought on crime, however, set important standards. There was concern to foster a spirit of peaceful resignation toward offences and offenders, as opposed to one of zealous righteousness. Attention was given to the spiritual implications of offences against the community rather than social cost. There was also emphasis on the offender's reconciliation with the community and with God. Tertullian, for instance, explained that certain acts performed by magistrates were inadmissible. He wrote:

*As to the duties of civil power the Christian must not decide on anyone's life or honour — about money it is permissible: but he must bind no one, nor imprison or torture any.*

Constantine legalised Christian worship and he initiated a policy of penal reform. He forbade the infliction of capital punishment, except when the accused confessed his crime or when the testimony of witnesses was unanimous. He laid down that criminals were no longer to be branded on the face, that debtors were not to be scourged, and that prisoners must not be kept in dark dungeons or unnecessarily loaded with chains.

The church has moved a long way from early Christian communities struggling to survive in a hostile world. In the later Roman Empire a church-state alliance developed. The result was not to consecrate human institutions to the service of God, but to identify God with the maintenance of human institutions. The alliance became an important feature and blunted the Christian's critical attitude towards the state. Although Christianity became allied with an often repressive social order, in its best moments it identified with the powerless and oppressed, serving as a protector and a sign of a new order to come. We retain something of the medieval heritage of Christian thought on law, crime and punishment. Fundamental issues, especially concerning the concept of blame, have remained as medieval Christianity defined them. Theological understanding of God, the world and human life has advanced; basic Christian reflection on crime and punishment has not changed.

Modern imprisonment traces certain of its characteristics back to feudal punishment and Canon Law. The feudal state was, essentially, theocratic. There was deep penetration of ecclesiastical power into medieval political life. Sanctions, like sequestration and cellular confinement, were first imposed on clergy for confession and penance. The supposed therapeutic nature of these practices later combined with an enforced period of time away. These followed a transition from private dealing with matters of conscience to the appearance of sequestration in institutional seclusion. Penance, in particular had a corrective character because it upheld values. This was transformed into confinement in a monastery. Separation gave a chance for examination and expiation of guilt through meditation. Thus monastic organisation had a special influence on the prison ethos. Projection of the original sacramental rite of penance on to secular institutions developed in part from the Eastern monastic tradition of contemplation and asceticism; thus prisons have some monastic characteristics, such as 'cells'.

About 200 years ago the medieval roots of imprisonment were adapted to the ideas of the Enlightenment. There was reaction to the caprice and savagery of existing punishments, and some revulsion to the widespread use of capital punishment. Difficulties arose with the penal transportation of felons overseas and there was growing belief that humanitarian understanding about the causes of human misbehaviour could lead to the induced alteration of behaviour. Prisons built at the end of the eighteenth century reflected the belief that architectural design, secular organisation and Christian principles could produce beneficial outcomes.

Christian theology and the church have been a source of inspiration and support for many traditions of penology and the criminal law in the Western world. This has contributed to the development of imprisonment in its prominent and extremely controversial position, especially in the United States and, to some extent, certain countries in Western Europe.

Well-intentioned beliefs and practices of an age of more widespread religious faith have become distorted and their ethos has been incorporated into institutions. The Christian roots of the legal and penal system are still accepted as a form of validation. Although the church is no longer involved in the administration of criminal justice, the status of criminal law as an extension of God's law has survived. Criminal law continues to be a weapon in the fight between Good and Evil. Some church leaders are perceived as

unquestioningly upholding the status quo, and the church has appeared to encourage popular belief in the right of the state to punish, and accept the ultimate justness of punishment, as well as endorse imprisonment.

### **Contemporary theology and punishment**

Theology offers a perspective within which to interpret controversial contemporary social problems. At the end of the twentieth century thinking about punishment, and particularly imprisonment, was confused. This is symptomatic of wider social confusion. Some confusion in public policy and debate may not be a bad thing.

Certainty and apparent clarity could demonstrate incompetence, oversimplification or even naivety.

Society seems trapped in a set of false expectations about progress based on popular acceptance of liberal humanism, scientific advances and the value of continual political reorganisation. The popular ethos has led to seemingly endless debates and confusion. An exploration of theological responses to this uncertainty is timely.

Contention is unavoidable when one lists the consequences of imprisonment. The penalty is meant to be only the deprivation of freedom, but many associated practices seem to be based on repression and restraint. Imprisonment is isolating. It removes from the majority a sense of personal power and self-worth and gives prisoners a 'mass identity'. It is associated with work that is often repetitive and unconstructive. It is degrading and sometimes a place of bullying as well as suicide. It is disproportionate. It is affected by social and racial prejudice, does not produce a reduction in crime, is enormously expensive and leads many to substance abuse and addiction. Imprisonment compounds problems that the offender had before sentence and is nearly always detrimental to family life. For many women, imprisonment leads to a separation from children at a crucial time of maternal nurturing. For men, deprivation of choice, as of liberty can be felt as an attack upon manhood, an attack made all the more severe by anxieties about masculinity which arise in an all male society.

These observations are associated with several contemporary tensions. Popular fury and disquiet demand authoritative action but at the same time generate suspicions of authority. There is ambivalence towards those in authority who are either seen as 'hard' retributivists fanning the fear of crime, or they seem to offer 'soft', easy-going alternatives to imprisonment. In general, less

deference to authority in the present generation has led to widespread questioning about the work of public residential institutions, which has strengthened the trend away from confining people towards supervising them in the community. The low-tax, high-efficiency politics of the last two decades have emphasised the need to run institutions with as little trouble and cost as possible. It is not fashionable, where the media in particular can easily blame one person for failure, to enable responsibility to be readily owned by the community. Amid these political sensitivities, 'truth' is an elusive concept.

Confusion is increased by the ability of the media and political forces to stereotype offenders, distorting the significance of actions deemed morally inferior, and raising the level of fear and contempt. Stereotyping sells newspapers, sustains political parties and exploits our innate tendencies to find scapegoats. It sometimes distorts stories in a worrying way. Take the response to a 14-year-old delinquent who took to hiding in ventilation shafts when police were looking for him. He was dubbed 'Ratboy' by the British press. Only his mother, it seemed, could hang on to who he really was: 'He's not a rat. He's my son.'

The rejection of social concerns often arises from a failure to face up to understanding the requirements and the opportunities of a healthy community. This poses difficulties for theology and is a constant theme in Scripture. Jesus levelled this accusation against the Pharisees:

*You pay tithes of mint and rue and every garden herb, but have no care for justice and the love of God. It is these you should have practised, without neglecting the others'. (Luke 11: 42)*

Most people today would say that accountability means punitive consequences. This is a limited and abstract understanding of accountability. True accountability exists only when there is an intrinsic link between the act and its consequences. As long as consequences are decided only for offenders, accountability will not involve responsibility. Genuine accountability would include an opportunity to understand the consequences of one's acts, to face up to the 'truth' of what one has done and to whom one has done it. Several theological themes address this problem; all the themes are relevant to pastoral work among people undergoing punishment.

A Christian understanding may be better able to connect those protected by the law, those who frame the law and those punished by the law. The state represents not only the injured party: it acts for the whole community

including the offender. This is a fundamental principle of far-reaching importance which can become obscured by the fact that those who frame laws are, for the most part, reputable citizens not expected to fall under the operation of laws they enact. It can appear to offenders that one group of citizens enacts laws for the control of another, or, in the extreme, that the respectable are inflicting vengeance on vagabonds.

It may not be without significance that one of the most enlightened British Home Secretaries this century was Winston Churchill, the only holder of that office known to have served time as a prisoner. His experience as a prisoner-of-war in South Africa deeply affected his feeling for, and articulation of, the situation of a prisoner. At the end of a speech in the House of Commons on 20 July 1910, he said that ‘We must not forget that when every material improvement has been effected in prisons, ... the convict stands deprived of everything a free man calls life.’

Soon after his election, Pope John XXIII went to see prisoners in the chapel in the large Regina Coeli Prison. He said he had come ‘as Joseph, your brother’. He told them that two of his cousins had been inside and not come to any lasting harm. More significantly, he departed from his text with the words: ‘I want my heart to be close to yours. I want to see the world through your eyes’.

The experience of these people is reflected in the witness of the prophet Ezekiel, who worked among Jewish exiles imprisoned in Babylon:

*Then I came to them of the captivity at Tel-abib, that dwelt by the river of Chebar, and I sat where they sat and remained there astonished among them seven days. (Ezekiel 3: 15)*

Polarised perceptions of offenders and victims can obscure the reality that laws are enacted by all members of a community acting through their representatives. The essence of punishment is that it is the reaction of a community against a member, not one member or one group of members acting against another. The community has three interests to hold together: maintenance of its own life and order; the interest of individual members generally; and the interest of the offending member. Of these William Temple, Archbishop of Canterbury once said:

*I believe that this is the true, indeed the necessary order of priority. But wrong is done if any of the three is neglected. In particular it is to be noticed that though the interest of the offender comes last,*

*yet if this is neglected, the action taken loses its quality of punishment and deteriorates into vengeance; for the offender is then no longer treated as within the society that takes penal action. but over against it and therefore outside it.*

### **Biblical doctrines and punishment themes**

Everyone has to be realistic about the state of mankind. They must avoid being facile or fatalistic. That biblical writers take crime seriously is illustrated by some of the harsh punishments prescribed by Old Testament society.

A theology of punishment might usefully be elucidated by considering it in terms of biblical themes combining an optimistic and a pessimistic interpretation about the state of humanity. It is important to place an initial emphasis on the role of optimism because all Christian endeavour must start from the possibility that there is a way forward in difficulties. Pessimism, on the other hand, points to regrettable characteristics in mankind. These are relevant matters connected with punishment. The insights are timeless and truthful.

### **Fostering optimism — the pilgrimage perspective**

A 'pilgrimage perspective' is a theologically based communal concept linking theology and the moral basis of social processes such as punishment. Crime, observed Emile Durkheim, was not just a crisis but also an opportunity; it could be a focus and stimulus for the creation of new rules and thus for the socialisation and reintegration of society. The character in Chinese for a 'crisis' contains a sign for a 'danger' and a sign for a 'chance'. A pilgrimage perspective can inspire similar opportunities for change which emerge from the Judaeo-Christian tradition.

This theological response is suggested by the stories and symbols of passing through the wilderness, being on a journey maintaining a pilgrimage, going out like Abraham, 'not knowing whither he went', having 'no permanent city ... but looking for the city that was to come' (Hebrews 11: 8-10). Such a 'pilgrimage' can be seen as a shared way forward for God and man, a collaborative exploration in the midst of uncertainty and a journey towards the solution of problems. This perspective is also implicit in the reference to God as 'a Spirit that will lead you into all truth' (John 16:13). A pilgrimage perspective also fits in with Christian ideas of eschatology.

The metaphor also implies pressure to move on in a difficult situation, preventing uncritical acceptance of the existing order of things. It encourages

hard questions about state actions and emphasises communal interest rather than self-interest. The perspective combines a commitment to the demands of the present with a readiness for detachment in the interest of moving to where there might be less inhumanity. This could apply to offenders and prison inmates as much as to those who have to administer the criminal justice system or to those who suffer as victims.

Theological insight is a device for disturbing the water rather than providing blueprints for change. It provides material for creative responses and critical judgements when directed towards contemporary problems. This can lead to redrawing boundaries giving a sense of exploration, progress and optimism. Many people feel that optimism is dying in our society — not least because of the growth of crime and the current essentially static punitive response.

### **Facing pessimism — legal and moral order**

By nature, people seem to be obsessively in conflict and competition; there is constant possibility of disintegration. Crime, a manifestation of this disintegration, often desecrates the self-confidence, beliefs and precious personal domain of individuals. It provokes a ‘crisis’. The word ‘crime’ comes from the Greek *krinein*, to decide in a crisis or dispute. Crime can upset the fundamental assumption on which all life is based — that the world is an orderly and meaningful place. Current concerns about crime undermine the fragile relationship between classes, and especially in the United States between races, and attack the whole sense of social order. So much that is ‘good’ in life, like civility, beauty and truth, can flourish only within a context of order, in the context of the right balance between authority and autonomy. Theology accepts punishment because it recognises the fundamental need for order.

Biblical theology gives a prominent place to the concept of order in the universe and the legal authority of the state. The link between these concepts reveals closeness of thought between Bible writers and those wrestling with contemporary problems. The Book of Genesis portrays God’s original intention to bring ‘order’ out of chaos in the way the Spirit of God moves over the primordial waters, which symbolised chaos, to begin the ordered stages of creation. God is depicted as despairing of his original creation because the world had become perverted and ‘full of violence of man’s making’ (Genesis 6: 11). God sent the flood to wipe out all that had been built, preserving the carefully ordered remnant of the ark and its inhabitants which became the foundation of the ‘new covenant’.

Similarly, 'order' is portrayed as the first law of society. The New Testament emphasises the need for respect for those exercising legal authority in the state. Stability and balance are vital to the functioning of all political endeavour. Coercion is necessary because some human beings lack ability to control their independence, and failure to punish criminal offenders would mean that those complying with the law voluntarily would be penalised. Attention has been paid to the famous saying 'Render unto Caesar that which is Caesar's' (Matthew 22: 21) or to Paul's admonition to obey the powers that be (Romans 13: 1-5). A major problem for theology is to press for fairness in the administration of criminal justice.

It is said that punishment should be witness to, or expressive of, the order that follows from moral obligations. This assumes that such a moral judgement is accepted by the community for which the law is prescribed. Traditional thinking argues that the law should have a fundamental connection with morality reinforcing moral judgements and providing training in the rudiments of moral behaviour. Because of the complicated nature of society it is necessary that the majority of people feel that they should be under obligation to obey the law. Others say that the diverse moral and cultural society at the end of the twentieth century has moved the basis of formulating law more towards a relativistic and utilitarian justification.

Were law and morality to be separated it would be necessary to have some other sort of public behaviour to confirm adherence to an ordered moral consensus or to display moral disapproval, such as the boycott, the march, the sit-down protest and the pressure group. Neither law nor morality can sustain themselves, from generation to generation, without the threat of punishment. If the law gets out of step with morality, people lose respect for it. Since morality and theology are historically closely connected it is important to appreciate theological approaches, especially in situations involving punishment, where theological and moral thinking can harmonise.

More punishment is not the answer to the problem of crime. The law should be an educating institution, sharpening its effect through its pedagogical or moral influence. Habit keeps people law-abiding. When this is the case, the abiding majority is likely to exert social pressure toward conformity on those who may not themselves accept a moral code. Behaviour that emanates from respect for the law is different from behaviour that reflects a fear of punishment; to ignore the distinction is to confuse authority with coercion. Coercion may reinforce respect for the law, but in the last analysis, respect

for authority depends on people's willingness to obey the law because it is the law. Thus the moral-pedagogical role of the law, in which theological insights have an important place, is central to the functioning of society.

### **Biblical doctrines and individual life**

Biblical doctrines connected with punishment might usefully be considered in relation to individual and to corporate life; theologically both interconnect. Disadvantages associated with the contemporary emphasis on individualism have dominated philosophy and jurisprudence since the eighteenth century. Pervasive individualism, and at the same time the disappearance of the individual in the impersonal mass, cause many to feel cut off from their fellows. The result, especially for those associated with crime, has been individual self-fulfilment rather than contribution to a genuine community. Individualism has thus resulted in a 'fortress mentality' where those excluded from material advantages are controlled by surveillance cameras, electronic tagging and prison walls.

Another disadvantage of the contemporary emphasis on the person is a widespread belief that everything is relative. Something can be accepted as true by one person but not another. It is also fashionable to say that tolerance of the beliefs of others is the only real virtue and that concentration on looking after 'number one' is of foremost importance. This problem is compounded by a disillusionment with organised religion and a relative decline in one common morality. A life of faith can so enhance human living, coping, forgiving and trying again that humanity can be encouraged to replace excesses of individualism with an enhanced sense of corporate life.

### **Image of God**

This metaphor implies that human life must be placed in a wider context than that dictated by immediate problems. Taken seriously in relation to punishment, this symbolic phrase suggests that people are moral agents. That is they have free will and are not wholly determined beings. It also implies that everyone is endowed with some reflection of divine characteristics, which counters cynicism about the apparent hopelessness of some offenders.

The original reference to the 'image of God' comes from the creation story. To describe men and women as 'in the image of God' emphasises the transcendent status of life; although everyone is finite, everyone is portrayed

as dependent on a reality beyond human existence. The doctrine also suggests that human beings are social rather than individual entities; it was the human couple, male and female, that were made in the image and the likeness of God (Genesis 1:27). This phrase describes the human condition as it is commonly understood by Christianity, Islam and Judaism.

Discouraging compartmentalised understandings about the place of the human person, the doctrine suggests limits to coerciveness in changing an individual's outlook. It implies that institutions in which people live should not set out to break down anyone's sense of active responsibility and encourages the idea that everyone is meant to take the work of creation further in making a difference to their lives and surroundings. The doctrine should not be understood as concentrating on individual and static characteristics — so neglecting other important aspects of human createdness — such as the social and the material.

A former director general of the English Prison Service, Joe Pilling, said, 'There is more than one way to close a prison door', referring to the fact that prison doors have deep symbolic significance as pointers to the recognition of human dignity. Prisoners who have been locked up describe themselves as 'banged up'. Cell doors are open or shut, reflecting status as guilty or not guilty. They are stigmatising frontier posts between freedom and captivity, but also entry points into the only place inmates can call home. They present opportunities for personal greeting as well as a means of security, secret surveillance, separation or, when slammed, rejection.

Recognition of the 'image of God' is in part conveyed by the modern use of the word 'respect'. Although the word is not frequently used in the Bible, it is a biblical concept. A judge should ensure that a guilty person is not given more than 40 lashes (Deuteronomy 25: 1-3) because if they are flogged more than that they will be degraded. Similarly, James (2: 1-4) taught that, contrary to the custom of his day, it is not good to treat differently a man who comes to a meeting wearing shabby clothes and put him in a place inferior to one wearing a gold ring and fine clothes. Unfortunately, for many prisoners the respect they ought to pay to others is often lacking, and the respect that they desire for themselves is often based on an appetite for power and popularity rather than on kindness and love. In theological terms, the word 'respect' means that they are being treated with the respect that God has for all people because they are in his image.

The 'image of God' doctrine points to potential 'non-disposable' characteristics in men and women, indicating that they have an active rather than passive role. Where there is structural pressure to be passive, the image of God can be clouded over. This is generally true when people have no way of changing the conditions in which they live; this is one of the raw 'truths' about prison life. The idea of the 'image of God' suggests that inherent qualities in all human beings enable them to reach to infinite levels in their relationship with God. People should never accept themselves or be viewed as 'finished' or complete.

Archbishop William Temple concluded his Clarke Hall Fellowship Lecture in 1934:

*No character is fully formed till death, and there is always place for remedial and reformatory treatment. But the more established the character is, the more completely may the man who has committed a crime be treated merely as a criminal. Where, through immaturity of age or through lack of opportunity to develop some side of nature, the character is unstable, it is good to think more of what the man may become than of what he is. For in such a case the potentialities are actually greater than the actualities; and to treat the character as what it may be is to treat it as what it actually is: for it is chiefly potentiality. Sympathy and justice are here coincident.*

## **Sin**

Any organisation responsible for making decisions about offenders faces questions connected with the negative potential in humanity. Sin is the exclusively theological concept describing the state of 'fallen human nature', as portrayed in the creation story. It refers to unproductive patterns of life in which humans have become trapped by ignoring the environment and its limits, and the restrictions that other realities, including the needs of other human beings, impose on human wants. The doctrine of sin has, at one extreme, been equated with moral death and damnation, but at the other can be understood as attempting to locate what is wrong and face it constructively. The wisest response to sin has always been associated with searching the conscience for 'truth', as is inferred in the sentiments expressed in Psalm 51:6: 'Behold, thou requirest truth in the inward parts.'

Individually sin is pictured as falling short of the expectations of God by making selfish choices. Humans can, in the words of the Lord's Prayer, be lead 'into temptation' by the 'unruly wills and affections of sinful men' (1662 Prayer Book). Theologically, a sinner is understood as having responsibility before God for developing the potential to find release from his or her situation. Sin is part of an understanding about humanity which combines a readiness to face the worst, but assists in moving on towards the best. Collectively, sin can be viewed as embodied in the structures of society. The Old Testament has frequent references to God's wrath being directed against society and its corporate wickedness because of the ways the poor are left to their fate.

The notion of sin also raises the question of wickedness. People have a choice when they deliberately promote evil. The doctrine of sin has been used to magnify the problems of evil. This exploitation serves as a warning against underestimating what one is up against in coming to terms with innate reactions against human and social wrongs.

The Christian understanding of sin suggests that there is no absolute distinction between problem-solvers and those who are problems. There is a sense in which all are sinful — all have fallen short of the glory of God (Romans 3: 23). There is, therefore, a solidarity in sinfulness for everyone. All human beings are linked with offenders; all are part of one society and are all part of the problem. Distinctions have to be made and maintained in practice, but in the search for more creative responses the status of everyone needs to be acknowledged. Inmates may not be familiar with George Bernard Shaw, but they have absorbed his thesis in 'The Crime of Imprisonment' that 'the thief who is in prison is not necessarily more dishonest than his fellows at large'. A phrase from the Alternative Service Book of the Church of England makes the same point in a more gentle way, echoing Luke 15: 20, 'while we were still far off, you met us in your Son ...'

### **Forgiveness, guilt and repentance**

In Christian terms forgiveness has traditionally been viewed as a virtue. Christians are called to forgive their enemies because God has forgiven them. They believe that people cannot be free while dominated by enmity. From a practical and experiential point of view this is possible only in relatively unusual circumstances. Forgiveness applies to parties who often cannot meet like victim and victimiser. It is the mutual recognition that the

repentance of either or both parties is genuine and that right relationships have been restored or achieved. Forgiveness cannot be willed or forced; it must come in its own time. It is helpful if victims are able to forgive because a sense of having been forgiven is one way in which an offender may achieve a sense of self-worth.

The concept of forgiveness is often misunderstood. On the victim's side, forgiveness is not forgetting, writing off the crime, letting the victimiser off the hook. It is not bland benevolence, especially as it is impossible to forget. Nor does it mean devaluing the offence by rationalising it away. Forgiveness means releasing the power of the offence and hence the power of the offender over the victim. It allows the offence to become part of a person's life story in an important but non-controlling way. An expression of responsibility, regret and repentance by the offender can help release the powerful hold a criminal act has on the life of the victim.

Many people feel that forgiveness is not possible for some offenders. They might have in mind child molesters or serial murderers. The thought of forgiving such people does not come easily because Christian teaching can appear to offer an easy way out of evil, a way which in itself appears evil. The Christian approach to forgiveness can be represented as enabling offenders not to take seriously consequences or responsibility for what has been done in crime. Those who believe in the traditional Christian virtue of forgiveness can only defend the possibility of wholeness and growth in anyone who feels forgiven by pointing to the dimension of a hurting God at the centre of things, manifested in a person on a cross.

All offenders need some experience of forgiveness, to ease, if not always to resolve, their guilt, to move on to a new life developing a more healthy identity and a sense of self-worth. They often feel guilty and personally worthless. Some say guilt can be resolved by punishment, but it must be felt as legitimate and deserved. Because their alleged crime is depicted as against society, which for them is an abstract concept, they feel little identification with the offence. Society has rituals for condemnation in court and the enforcement of exclusion, but lacks parallel rituals, which acknowledge that the debt has been paid. In practice, society administers punishment in ways that seem damaging and then denies opportunity for forgiveness and social re-acceptance. To think in terms, not just of punishing, but also of forgiving, opens up a radical and disturbing set of issues for modern penal policy.

It is difficult to see whether an offender can ever cease to feel some guilt and self-reproach. One paradox is that the more perspective the offender achieves of himself and his offence, the less likely he is to cease from self-condemnation and reproach. Some might say that this is a sign of growing maturity. The way in which a prisoner talks about inner perceptions can reveal a measure of the realism and stability shown in other ways. This raises many open-ended questions.

Many offenders can feel guilty but avoid admitting it in order to maintain their sense of self-worth. Guilt is important in the criminal justice process, but rather than being a positive emotion helping to prevent the repetition of offences, is seen in prison as a destructive force. Howard Zehr points out in his book *Changing Lenses* that guilt which is accepted can become anger at oneself, sometimes leading to suicide, while equally destructive guilt which is denied can become anger directed at others. In many cases prisoners swing between the two emotions. Punishment as administered in our society denies opportunities for forgiveness.

I often ponder how best a prisoner might be helped to assimilate the past, to recognise what has been done, to imagine it from another standpoint, particularly the victim's, and then to face living in a stable way with the recollection. Many people, both victims and offenders, need constant permission to speak their rage, hurts and fears. It is important to help other people make the imaginary leap into looking at problems in a larger world than just that of their own needs. This is the essence of repentance. Again, it raises the theme of 'truth', echoed in a similar sense in John 8:32

*... ye shall know the truth, and the truth shall make you free.*

In the face of these needs the business of the church is not to say something good but to help people see the truth about their situations. Sometimes the only truth is that the memory hurts and that it is right to give air to the wound. A significant contribution of churches towards these difficulties is to offer constant support for ex-offenders to live with the truth.

## **Biblical doctrines and corporate life**

### **Fellowship**

Christians are urged to seek communal ways in which to be creative. The Law in the Old Testament envisages a community where this is taking place. According to the New Testament, the possibility of such a community existing depends on the shared certainty that everyone is an object of the

unrestricted love of God. This is emphasised in the injunction to 'love one's neighbour as oneself' and is the focal point of many of Jesus' parables, supremely the parable of the Good Samaritan. Jesus spent much of his time with the weak and vulnerable often enabling the seemingly weak to emerge as the heroes, like the prostitute, Mary Magdalen. God's love is also spelt out in the life, death and resurrection of Jesus Christ, through which people are set free to establish an all-embracing community in which no one's welfare is to be pursued at the expense of someone else.

The doctrine of the Trinity, developed in the early church, has proved to be a time honoured way for Christians to think about the nature of God, His manifestation in the world in the person of Jesus and His omnipresence through the power of the Holy Spirit. Explored afresh in recent years, an understanding of this doctrine can bring a new emphasis to contemporary questions like the meaning of personhood, society and justice. Any attempt to express the reality of a triune God, Father, Son and Holy Spirit, puts 'persons' before concepts. Within this understanding of God one can observe the experience of love in freedom. Trinitarian doctrines emphasise the openness of God to the world and humankind as well as the openness of the world to the future that God holds for it, and reveal God as a communion consisting of unbroken personal relationships: 'God is love' (1 John 2:8). In Trinitarian theology the concept of the person is social or communitarian. Karl Barth developed a Trinitarian anthropology in which relations of reciprocity in the being of God were used to throw light on the human condition. Human beings are those who look each other in the eye, mutually speak to and hear each other, render mutual assistance to each other and do all these things 'with gladness'. No one is excluded from personhood.

This point can be practically illustrated in the design of new prisons. Prisoners eat alone in their cells, which is cheaper than having a communal dining hall. There is little concern in this conceptual framework for consideration of the long-term mental health, communication skills or impact on a prisoner's ability to relate to others. Michael Schluter of the Jubilee Centre in Cambridge said: 'There is a real danger that prisons could become, in effect, downmarket, fenced-in hotels or perhaps, in the future, zoos.'

The point can also be illustrated in the way that crime, justice and punishment are divorced from the local community and handed over to the state. Offenders are often tried in courts with no community support and if sent to prison may be held hundreds of miles from home. This reinforces the idea that the community is not responsible for its members.

Punishment must make it possible for individuals to feel valued and affirmed. It should ensure that the community works for the good of its members. People mature when they learn how to act and hope in relation to each other and not as self-sufficient entities. If crime is a failure in the mutuality and the interdependence of a healthy community it is worth asking about the wider causes of such a failure, and the messages society sends out about its values.

The consequences of this failure are illustrated in the way the Bible portrays crime. Consider David's murder of Bathsheba's husband. Bathsheba was widowed, Uriah lost his life, the Israelite army lost a good general and David and Bathsheba lost a child as punishment from God. (2 Samuel: 11-42). In more recent times Professor Leopold Kohr, burgled dozens of times over the past ten years, commented:

*There is no community here. We need translucent communities where everyone knows each other, where everyone knows the police, where thieves can be confronted. These crimes were committed in the darkness of mass society.*

Mending the web of human relationships damaged by crime should be seen as a primary concern of the criminal justice system.

## **Justice**

Christians have inherited from the Old Testament a concern for justice. Jesus offered a radical extension of this in his criticism of the working and the interpretation of the law in his own time. The biblical message is that legislators and judiciary cannot be relied upon to maintain conditions in which justice will always prevail. An objective standard alongside which to measure procedures is needed. Christians relate their standards of human justice to their understanding of the justice of God. These standards are mainly shared with the majority of their fellow citizens. The distinctive standard of the church is to challenge, in the name of God and His justice, all human institutions and procedures falling short of these standards. Consider Jesus' rather uncomplimentary descriptions of the Pharisees as 'whitewashed tombs' (Matthew 23: 27) or his comments about the rich and their problems in entering the kingdom of heaven (Matthew 19:24). Christians can never cease asking serious questions of a society whose prisons contain a disproportionate number of black people or members of the less-endowed social classes.

A sense of justice also requires that attention is paid to the other side of the coin. Consideration should be given to what is currently called ‘tough love’, which requires justice be applied to the long-term welfare of a person, even when this may conflict with short-term happiness. In Scripture this notion is described primarily in terms of discipline and is illustrated by the love that good parents have for children. Biblical teaching frequently emphasises that it is only when there is discipline that people know that they are God’s children. Despite extensive criticism of imprisonment, some prisoners would say that, although they found the experience ‘tough’, they were treated with a fairness equating with justice. It is interesting that the concept of ‘discipline’ has a constructive connection with the word ‘disciple’ and yet in prison has more negative connotations.

Commenting on justice is impossible without referring to victims. Tragedies encountered by victims can too easily be abstracted in a courtroom drama. Instead of a tragic confrontation between two individuals, the legal process and the media transform it into a crime involving a criminal and, as a secondary consideration, a victim, a drama between two abstractions. The event becomes a story, a news bite, a myth, in which victims can feel frightened, vulnerable and blameworthy. It is not uncommon for them to struggle to regain trust in others. Many experience intense anger. In describing their experiences, victims of burglary often sound much like victims of rape.

### **Classic theories of punishment**

The chaplain’s theological and ethical reasoning can equally be applied to an assessment of classic theories of punishment which are used as day-by-day yardsticks in the application of justice. Not all the secular theories of punishment are theologically important, but several matters of interest do arise. A consideration of some issues raised by these theories in the light of the Christian heritage illustrates the versatility of theology in moving from the abstract to the practical. Theology has an important function when people realise that criminal justice theories deal with ethical considerations as a matter of abstract and intellectual interest. When they are viewed in this way, theology can raise important issues of moral and practical concern. Punishment always needs careful controlling because it is a peculiarly human phenomenon closely connected with the instinctive nature of mankind; concern about this instinctive characteristic is the mainspring for the articulation of theological ideas.

## Retribution

Retributive punishment has been championed by major philosophers of modern times, especially Kant and Bradley. It argues for the infliction of punishment as a physical evil deserved as a result of moral evil. This understanding of punishment rests on a formal, rulebound foundation and is the oldest and most frequently used justification for punishment. Religions that acknowledge Abraham as a prophet, namely Judaism, Islam and Christianity attach a special kind of guilt to sins that can be expiated only by sacrifice or suffering. Consequently, religious practices are related to the retributive tradition.

Retribution is based upon the premise that the offender is a moral agent, possessed of free will. It insists that he or she is not a person to be used as an example to deter others by the infliction of punishment. Revival of interest in the retributive justification for punishment is due to a reaction against the utilitarian approach, which has become unpopular partly because of excessive prison terms in the United States and partly because of discouraging evidence about the efficacy of sentences designed to reform or deter.

Francis Bacon said: 'Revenge is a wild kind of justice.' Retributive philosophy refines this 'wild' element and distinguishes punishment from revenge based upon an instinctual and emotional response. When a higher degree of social organisation developed, responses to crime became less focused on individuals and more on the concern of recognised group authority. This is still the case with Islam. The

Babylonian Code of Hamurabi and the Hebrew Mosaic Law were the products of such developments. Both sought to limit personal vengeance in favour of prescribed, institutionalised punishment administered in proportion to the seriousness of the crime. Retributivists stress that the function of their view of punishment, the so called *lex talionis*, is to soften harshness and base the sanction on proportionality rather than allowing purely vengeful reaction. It is regrettable that the use of the *lex talionis*, has sometimes been interpreted as an apparent divine endorsement of disproportionate retaliation against criminals.

Retributionists hold that an offender must have been responsible for the crime; this means that there is moral choice. Pure retributionists believe that severity of the penalty should match the offender's culpability: this can be an elusive

calculation. They are also concerned with motive, and hold that it would be unjust to punish an individual who is not freely responsible for his actions. On such grounds the mentally ill and juvenile offenders have been excluded from being treated as criminals. Under the substantial influence of Christian theology classical penology and criminal justice systems have reflected the belief that offenders act as free moral agents. Retribution can be regarded as fair by criminals only if they view it as being deserved.

Retributive punishment has also been perceived as a sacred or ritualistic obligation dependent on a divinely ordained code of right and wrong. The 1662 Prayer Book of the Church of England conveys the influence of this idea in 'The Prayer for the Church Militant' with the words 'that those who are put in authority ... may truly and impartially minister justice, to the punishment of wickedness and vice, and to the maintenance of true religion and virtue'. The bald expression of such sentiments has not been repeated in modern versions of the service.

The idea that pain should be inflicted on a person because he or she has committed an earlier wrong seems indefensible when the person inflicting the pain is human, not divine. The notion that the moral order can be restored by human action may not be appropriate and raises troubling questions about the role of the state. Vast differences exist in moral guilt, but crimes are culturally determined and not all acts worthy of moral blame attract criminal punishment.

Christianity has incorporated much of the Old Testament thinking out of which it sprang. Christian minds have been coloured by the language of the Psalms and references to righteous rejoicing when they see vengeance being heaped on evildoers, and where the conception of God as a Judge is common. This language supports a fundamentalist outlook. No allowance is made for the fact that it was originally used in a context where the law held together a cult as well as a nation. Some have argued that biblical writers are speaking anthropomorphically about divine punishment. They claim God no more punishes than he walks in the Garden of Eden in the cool of the day. To suggest that God punishes, attributes to God reactions and ways of behaviour more appropriate to human beings than their Maker. It is not God who punishes, they say, but man who punishes himself. As a moral being, man cannot do evil without becoming evil. As a free creature, he cannot reject the offer of a relationship with God without losing that relationship. If his rejection is final, then so is his loss.

The view that an offender chose to violate the law and was aware of the consequences came under attack in the nineteenth century when environmental factors were accepted as contributory causes; it was argued that 'determinism' provided a more accurate account of human actions. Retributionists responded to this argument by insisting that their position respects human personality and moral capacity. Respecting responsibility means respecting the right of offenders to be punished for their offences. According to G.W.F Hegel retributive punishment honours criminals as rational beings, gives them the right to be treated with dignity as people, and acknowledges their moral potential common to all humankind. The Christian theologian, C.S. Lewis, also argued that retribution acknowledges human capacity and dignity and was thus a form of empowerment.

The recent revival of retributive thinking about punishment is connected with the revival of market economics, characterised by a surfeit of choice over obligation. Contemporary attractiveness of 'cut and thrust' choice in the marketplace has led to competitive and production-measured expectations sustaining the retributivist urge. Such a view seems particularly influential in the United States. It is assumed that individuals progress in society by ensuring that no competitor is given an unfair advantage. The American understanding of retribution is linked to the Protestant work ethic, which, like much medieval Catholic piety, is inspired by the 'contract God' who rewards merit. Individuals, it is believed, should be rewarded for industrious work and punished for illicit advantage. In such a society, where the pursuit of private gain has become the organising principle, there is fertile ground for the growth of crime and for a retributive response.

The greatest failure of retributive theory is its lack of attention to the social dimension. It deals with offence against the law rather than injury to the community and with the individual acting alone rather than in society. The retributive view might offer some vindictive satisfaction to victims and help avoid feuding and public turmoil; but equally, and ultimately to its detriment, retribution removes almost all opportunity from victims and their relations to make public gestures towards healing social wounds.

In place of vengeance, Jesus substituted an ethic of love. 'You have heard it said, 'Love your friends and hate your enemies.' But now I tell you: love your enemies, and pray for those who persecute you' (Matthew 5:43-44). As part of that ethic, he said: 'Do not judge others, and God will not judge you; forgive others, and God will forgive you' (Luke 6: 37). Jesus

emphasised that finding fault with others was a convenient means of avoiding criticism. 'Why do you look at the speck in your brother's eye, but pay no attention to the log in your own?' (Luke 6:41). He encouraged compassion towards offenders and doing good to them even if it meant going the 'extra mile' (Matthew 5: 4). The importance of mercy is also evident in Jesus' ministry. Following the totality of this ethic from Jesus is never straightforward. Paul's famous account of love in 1 Corinthians 13 sets out similar guidelines. Christian love is supposed to be kind and patient, and continued whether or not it is returned.

When the church mistakenly came to understand itself as the kingdom of heaven on earth, the notion of human punishment with divine sanction flourished. Now that Christianity has outgrown a tendency to view itself as the earthly representative of the divine order, Christian retributive theology needs to develop a presentation more in line with its original precepts.

### **Utilitarianism**

The utilitarian approach to punishment arose partly as a reaction to the capriciousness and savagery of seventeenth-century punishments. Beccaria was the foremost writer against brutal punishments, who in 1764 in his essay 'An Essay on Crimes and Punishments', stressed the need for certainty rather than severity in punishment. His assertion was that: 'it is better to prevent crimes than to punish them. This is the ultimate end of all good legislation ...'

Because the justification for penalising offences is that it reduces their frequency, utilitarianism is sometimes characterised as 'reductive'. This is the assumption underpinning the approaches of later utilitarians, such as Bentham, Mill and Hart. Utilitarianism refers to theories which suggest that consequences determine the morality of actions. This approach is to be found in theories of general (educative) and individual (potential) deterrence, and also in denunciation, incapacitation and reformation.

People would be impressed if utilitarianism worked but there is no conclusive evidence that threat of consequences has great effect unless the threat becomes dreadful, and even then it does not invariably prevent crime, as is evident in penal policy in China. Utilitarianism uses the criminal as a means to satisfy social purposes and not primarily as a person who has an intrinsic worth in himself or herself. The person to be punished does not necessarily have to be guilty so long as he or she can be used as an example.

Could this philosophy suggest that it maybe expedient to punish the innocent? Might it disregard justice in its elementary forms and become a tyranny needing so many qualifying principles that it forfeited the cooperation of the public? Even if the population agreed that some utilitarian laws were good social institutions, because they told people how they should behave, would it be morally right to use penalties to enforce them? This idea of vicarious punishment was put forward by John Ruskin, who suggested that in the case of a murder an inhabitant of the area should be chosen by lot and hanged so as to encourage the whole community to keep the peace.

Bentham was concerned about these questions and stressed that expediency must be balanced by economy and frugality. Bentham's principle of successful deterrence relied upon a psychology in which human behaviour was regulated by a simple wish to avoid pain and enhance happiness; but human nature can be affected by unconscious and irrational forces as well as by love, sacrifice and longing. In *Panopticon*, Bentham developed an elaborate scheme for inducement-led reformation, but was not entirely happy about his chances ultimately to manipulate human affairs. To Christians the pleasure/pain principle is a travesty of humanity.

The deterrence of potential offenders is a traditional objective of utilitarian philosophers. In the popular mind this is often associated with severe penalties, and in particular capital punishment or long prison sentences. The association with severity has made deterrence controversial.

Deterrence, impersonal and rational, can never be more than a broad social protective. It can lose sight of the principle that punishment needs to be restricted to the offender, and appropriate to the offender's level of responsibility. The inadequacy of rational deterrence is nowhere more painfully obvious than in relation to crime driven by economic necessity, when legal deterrence can be an empty threat in the face of economic hopelessness or murderously violent peer pressure. Deterrence also seems irrelevant to the range of offences that are compulsive or self-destructive and that may even be sought by an offender through a desire to seek punishment. Fear of being detected may deter, but there are many for whom a reputation for violence has become a matter of pride; such people are also not deterred by a severe penalty.

In the infliction of a deterrent sentence the state treats the offender as a means to the good of others rather than as an end in himself. If this is all that the state has in view, it will be acting immorally because it will be going in a contrary direction to a fundamental principle of morality expressed by Kant in the maxim:

*Treat humanity, whether in your own person or in others, always as an end withal and never only as a means.*

Likelihood of detection would appear to be a more effective deterrent. Most potential criminals are optimists; they assume that they are going to be among the lucky ones and ignore the severity of any sentence. The preponderance of crime is a male activity committed on the spur of the moment where the impulse to act criminally is opportunistic, often accelerated by alcohol or drugs as well as by peer encouragement.

The effect of deterrence on the punishment of young people in the United Kingdom raises further worrying questions. The number of first-time offenders continues to climb in a system where over 50 percent of prisoners re-offend within two years. There is little evidence that for young people prison is an effective deterrent. In the United Kingdom the police are encouraged to caution rather than prosecute the young — certainly in marginal cases. This avoids a criminal record. But if the courts do not punish young offenders when they appear before them, the police and other law-enforcement agencies may take less trouble over detection and prosecution. To justify penalties as an incentive for law-enforcers rather than a disincentive for offenders may seem cynical. Cynicism is not insincerity, if the justifying aim is the prevention of as much crime as possible, the utilitarian might be led to support this within the limits of justice.

Rehabilitative ideas have often rested on muddled and questionable premises. Proponents of rehabilitation have rightly grasped that offenders do not stop being members of society and that the offender's interests are part of society's interests. They maintain that there is something to be restored after a crime. But punishment does not exist only for therapeutic reasons. Hart observed that the reason for having punishment for murder was to prevent other people from being murdered, not because people want to see murderers cured.

There is a well-worn difficulty discussed in a famous essay by C.S. Lewis, that the rehabilitative approach seems to presuppose that no sane person would want to break the law, that it is possible to define sanity in a satisfactory

way, that sanity and normality can be engineered by treatment, and, most worryingly, that treatment can be extended indefinitely until conformity is secured. Lewis exaggerated some of these menaces, but his point that a purely 'reform'-oriented theory of punishment can be a dangerous attack on the idea of human responsibility is worth pondering.

Rehabilitative ideals in a prison must always be considered in the light of general characteristics of a penal institution. One-third of people sent to prison for the first time do not re-offend. This may be due to factors unrelated to any rehabilitative policy. Of the two-thirds further sentenced, a proportion might not have re-offended if they had not been imprisoned in the first place. Some cope well with repeated visits to prison. The quality of life in a prison is not a threat to poor and marginalised people. It is merely exchanging one kind of confinement for another. In a prison population where almost 20 per cent have a reading age of ten years, and where drug and alcohol addiction are major problems, rehabilitation must be based on the acquisition of basic literary skills, and attendance at self-help groups, such as Alcoholics Anonymous.

The Christian faith continues to proclaim the infinite worth of every individual in the sight of God, and the infinity of God's forgiving love. It is, therefore, not possible for Christians to acquiesce in the abandonment of the rehabilitative ideal. Prison staff would probably find it impossible to continue their work in a humane way if they abandoned all expectation of positive response in people committed to prison. This leads to the conclusion that prisoners and those who look after them need to live in harmony with the truth.

### **Punishment and truth**

Throughout this chapter there have been references to the connection between truth and punishment. Truth is associated with punishment because it deals with assessing openness and motivation.

Truth has an extensive historical background in language and philosophy as well as in diverse interpretations within human experience. To some people it may appear an abstract and impersonal word; others have found it useful because truth does not only consist in knowing how to reproduce facts correctly; it incorporates perceiving and expressing a straightforward association between awareness and fact. Most people would agree that truth is a corrective for deception and connects with conscience as well as with man's deepest self-awareness, influencing the integrity of all relationships

and encounters. Truth sheds constructive light on human existence and is therefore relevant to the most painful of human relationships, punishment. Truth can bring light to what was described at the outset of this chapter as 'this thing of darkness' in 'you and me'.

Truth has a strong legal impress. Western philosophy has given more attention to truth as a property of statements than to the biblical sense of truth as a personal attribute. The Enlightenment brought quasiscientific expectations for precision and proof to all questions of knowledge and truth, which led to an emphasis on objective enquiry and detached assent more than personal trust. In this Western emphasis, truth is usually defined as a correspondence of idea to object, a positive correlation between a proposition and the state of affairs to which it refers. This has caused a relative vulgarisation of 'truth' in contemporary society, where its meaning is largely confined to the legal sense. Legal truth has become the focal point in a criminal trial and has direct bearing on punishment.

Truth, nevertheless, has a deep religious meaning. In this sense it refers to a transforming experience leading to a sense of well-being, known traditionally as conversion from sin to salvation, illusion to insight, bondage to freedom, chaos to order and pessimism to optimism. If people lack a sense of ultimate truth they are too easily satisfied with short-term pleasures or short-term security. The concept of religious truth expresses various biblically based aspects of human experience which can be yardsticks in the application of punishment. These include a sense of divine reality that is permanent and effective, a personal character that is sincere and good as well as knowledge that is certain, pure, long-lasting and convincing. A person's attitude can be detected in the way he or she lives and bears witness to truth especially to their sense of truth about God, which they believe has been revealed to them and taken them in its grip. Human life is characterised by a need to distinguish between real and unreal, powerful and powerless, dear and confused, as well as relative degrees at one extreme or the other. These are the qualities supremely needed in decisions about punishment.

At Jesus' trial Pilate asked, 'What is Truth?' (John 16:13). One can see in this the necessary neutrality of the state when faced with the question of the reality of God. The question is unanswered by Jesus, but not by the evangelist. His answer is given in the drama of the Cross, which follows immediately. This evaluation offers mankind deeper and more thought provoking insights than

the Enlightenment expectations of precision and personal detachment. Pilate spoke for law-makers of all time when he asked about truth. His situation links the pursuit of truth in law with its pursuit in religion.

Truth is a dimension universally recognised as of value on the broad political level. It has had a prominent place in resolving political crises, as, for instance, in the 'truth force' (Satyagraha) of Mahatma Gandhi for easing tensions in India, as well as in the ideals of the Truth and Reconciliation Commission in bringing greater social harmony in post-apartheid South Africa. On the wider society level, truth is important in the presentation of crime and punishment in the media. Journalists need to avoid publishing what is irrelevant or false; their reports should not be inexpensive forms of mass entertainment which may leave the public feeling that truth is an irrelevant concept. Acceptance of truth is also influenced by broad standards of public life. Public corruption makes a contribution to disrespect for truth by providing an excuse for rationalising the existence of criminality. Thus truth becomes supremely relevant for administrators of criminal justice systems.

On a narrower level, truth has a vital place in counselling victims and offenders. Sharing truth can have a therapeutic effect in mediation processes, particularly if painful facts can be expressed sensitively, or even humourously. Truth is an ideal that is relevant to risk; in dealing with offenders it can lead to trust and hence growth in opportunity and maturity. Helping prisoners face the truth about themselves and what they have done is one of the most positive ways of disarming their denial, their hatred and their violence, enabling them to live at peace with themselves and reconciled with their neighbours.

The theologian R.C. Moberly wrote:

*There are truths of material fact, truths of abstract statement; truths of historical occurrence; truths of moral experience; truths of spiritual experience and truth that is deepest and truest, which includes and unites them all.*

Truth includes all these contexts, suggesting that there is something in common to all its forms, although not everyone would accept Moberly's last claim. Practitioners of many disciplines have recognised a 'family resemblance' (Wittgenstein) among these claims and called for the recognition of the plurality of all forms of truth. In a penal environment 'truth' is a concept that has not been afforded sufficient formal recognition on the broad political level and on the narrower level of personal interaction.

Emphasising the need for truth may seem self-evident, but as George Orwell wrote 50 years ago: ‘We have now sunk to a depth at which the restatement of the obvious is the first duty of intelligent men.’

Truth, particularly when interpreted in the light of theological insights, is a counterbalance to the current fashion of making decisions on the basis of prejudice, convenience or personal insecurities. It is easy to be dismissive and cynical about the obvious, but to be so denigrates the heritage of theological ideas which can be applied to punishment and underrates the human capacity for truthfully facing change.

### **Bibliographical review**

Little has been written on prison chaplaincy. An introductory book, *Summons To Serve — The Christian Call to Prison Ministry*, by Richard Atherton (London: Geoffrey Chapman, 1978), outlines the basis of the work. An unpublished paper by R.J. Van Niekrek, ‘The Prison Chaplaincy: A Ministry in Conflict’, is in library resources at Chicago, Illinois. Many articles on chaplaincy can be found in past issues of *New Life — the Prison Service Chaplaincy Review*, published annually for the last 30 years in the UK. Other connected articles have been published as occasional papers by the Centre for Theology and Public Issues, Edinburgh. Karl Barth’s last sermons to prisoners have been published in *Deliverance to the Captives*, 1961, and *Call for God*, 1967 (London: Student Christian Movement).

Topics relating to the history of imprisonment are developed in Norval Morris and David J. Rothman (eds) *Oxford History of the Prison* (Oxford: Oxford University Press, 1995). Every article is followed by extensive bibliographical notes. An overview of the American prison system is given in Charles E. Silberman’s *Criminal Violence, Criminal Justice* (New York: Random House, 1978). Lee Griffith has written on prisons from a biblical point of view in *The Fall of the Prison: Biblical Perspectives on Prison Abolition* (Grand Rapids, MI: Eerdmans, 1999).

A wider introduction to contemporary theological questions can be found in A.E. Bottoms and R.H. Preston (eds), *The Coming Penal Crisis — A Criminological and Theological Exploration* (Edinburgh: Scottish Academic Press, 1980). This book contains a relevant chapter by David E. Jenkins. Further perspectives can be found in the Clarke Hall Lecture by Archbishop William Temple (1934) and in the Anglican booklets on ‘Punishment’ and ‘Prisons’ (Church of England, 1963 and 1978). Further theological questions are examined in *Suffering, Innocent and Guilty* by Elizabeth Moberly (London: Society for the Propagation of Christian Knowledge, 1978) and in Colin E. Gunton, *The Promise of Trinitarian Theology* (Edinburgh: T. and T. Clark, 1991), as well as in Adrian Speller, *Breaking Out: A Christian Critique of the Criminal Justice System* (London: Hodder, 1986), in D.B. Forrester’s *Christian Justice and Public Policy* (Cambridge: Cambridge University Press, 1997) and in Timothy Gorrings’s *God’s Just Vengeance* (Cambridge: Cambridge University Press, 1996). For a listing of vocabulary and biblical references to imprisonment see G.L. Knapp, ‘Prison’ in G.W. Bromiley (ed.) *The International Standard Bible Encyclopaedia* (Grand Rapids, MI: Eerdmans, 1979, pp. 973-975).

Punishment themes that connect with theological doctrines are contained in many books. Among the noteworthy ones are: Ernst van den Haag, *Punishing Criminals — Concerning a Very Old and Painful Question* (New York: Basic Books, 1975); David Garland and Peter Young, *The Power to Punish — Contemporary Penalty and Social Analysis* (London: Heinemann Educational Press, 1983); Harold E. Pepinsky and Richard Quinney, *Criminology as Peacemaking* (Bloomington: Indiana University Press, 1984); Chris Wood, *The End of Punishment — Christian Perspectives on the Crisis in Criminal Justice* (Edinburgh: St Andrew's Press, 1991); and Nils Christie, *Limits to Pain* (Oxford: Martin Robertson 1981).

Several books explore the restorative justice perspective. Among them are Martin Wright, *Making Good — Prisons, Punishment and Beyond* (London: Burnett Books, 1982); Howard Zehr, *Changing Lenses — A New Focus for Crime and Justice* (Philadelphia: Herald Press, 1990); Jonathan Burnside and Nicola Baker (eds) *Relational Justice* (Winchester: Waterside Press, 1994); and C. Cordess and M. Cox, *Forensic Psychotherapy: Crime, Psychodynamics and the Offender Patient* (London: Jessica Kingsley, 1996).

There are also books on human rights and religious traditions. One is C.M. Marshall's *Crowned with Glory and Honour. Human Rights in the Biblical Tradition* (Telford, PA: Pandora Press 2001). Another is P.C. Cothant (ed.) *Christian Social Ethics. Perspectives and Problems* (Grand Rapids, MI Baker, 1979).

More information about the section on classic theories of punishment can be obtained from Nigel Walker, *Why Punish?* (Oxford: Oxford University Press 1990); Ted Honderich, *Punishment — The Supposed Justifications* (London: Penguin, 1971); H.L.A. Hart, *Punishment and Responsibility — Essays in the Philosophy of Law* (Oxford: Clarendon Press, 1968); and Gerald Austin McHugh, *Christian Faith and Criminal Justice — Toward a Christian Response to Crime and Punishment* (New York: Paulist Press, 1978). Ethical issues are covered in Agnes Helles, *General Ethics* (Oxford: Blackwell, 1988) and in David Cayley, *The Expanding Prison: The Crisis in Crime and Punishment and the Search for Alternatives* (Toronto: Anansi Press, 1998).

Two contrasting sources of information about the concept of truth can be found in the extensive article on 'Truth' by Bultmann, in Gerhard Kittel (ed.) *Theological Dictionary of the New Testament* (Grand Rapids, MI: Eerdmans, 1964), and in Feline Fernandez-Armesto, *Truth — A History and Guide for the Perplexed* (London: Bantam Press, 1997).

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