

From Canada

JUST DESERTS OR SHALOM

by **Henk Smidstra**

Introduction

I immigrated as a five year old to Canada with my family, and grew up in various Dutch immigrant communities. As we moved around, the immigrant church was a constant, a centre of social and theological life. I learned much about socio-economic aspects of life as immigrants trying to make it in the new country were still trying to live by the social theological rules of the old one. When we did have money to buy a refrigerator I would never think of just taking something from it as my Canadian friends did with out asking my mother. I also learned that under the rules of the old country, you didn't marry beyond your social status, let alone outside the church. Oscar Hanlin, in his book, 'The Uproote'd, described the emigration/immigration experience as placing one in suspended animation: not growing with ones' culture of origin, while not fitting in with ones' host culture either. As the youngest of the family, I had the luxury of people-watching from somewhat of an objective corner, not remembering as much of the old country as the others; but, yet I did not feel truly part of Canadian society either. Of course I was not aware of this at the time; life was just unfolding as life does.

The church community was quite diverse in background, challenging some social ecclesiastical codes carried from the Netherlands. On one aspect of church life, all seemed to agree: the church must have an organ. I can still hear the deep bass tones of the pump organs and pipe organs; I can remember the intonations of preachers' heavy Dutch brogues, preaching with what we called preachers tone, a kind of monotone with the end of the sentences going up and down like a lazy yo-yo. I recognize now that the ones with the heavy Dutch brogue preached and lived from a wider and more inclusive world life view than most of the American speaking ones from the states. I learned in catechism about world life view, and that all of life was lived religion and Christ's cosmic Lordship was preached, of a universe about

which there is nothing that Christ would not say, 'this is mine.' God's sovereignty was not to mitigate human responsibility however, but the sovereignty of God was primary, much like the pipe organs' long and lingering deep bass notes played at top volume; it ran through all of life. Oh, I did see the inconsistencies: on Sunday one was supposed to absolutely have a Sabbath of rest, no bike riding, swimming, or unnecessary work; but, on Monday you worked as if your life depended on it. Religious debate, especially around issues of the antithesis, was intense, not much love reflected in the voices when speaking about the reprobate and unregenerate. Perhaps the most foundational effect, though, on my spiritual formation was my mother's daily bed time reading from our Dutch children's bible. The stories in the historical present tense, with realistic sketches, created for me a world view through which I sensed the influences and Lordship of God and Christ as a real presence in my everyday existence. The enduring impact of all of this spiritual formation, is that I believe that the life and work of Christ is not just simply for personal salvation, for the future, or for pious private living, but it has real-life historical, structural, reconciling, implications in all areas of life, even in the development and implementation of criminology in the justice system where I work today.

John the Baptizer in prison, had doubts about this activist Jesus, and Jesus allayed his fears by having John be reminded of the messianic trademarks of His focus on the liberation and healing of the sick, the blind, poor, and oppressed (Matthew 11:1-4; Luke 7:18-23). Christ was continuing Yahweh's ancient priority for shalom as clearly described in the jubilee laws. Jesus of Nazareth prophetically lived out of this priestly mandate not only preaching the immanence of, but also inaugurating a new era in of the health and peace making rule of God in history. Living out of this messianic identity, Jesus manifested and taught an alternative to the violent and oppressive world views of his day, not without some opposition and threat to his life (Luke 4: 18-30). It was obvious that his perspective conflicted with those who managed the wealth and the power structures of Palestinian society. Jesus, faithful to the heart of God, prioritized the situation of the oppressed, the dispossessed, and the marginalized, of that society, doing so in a peace honouring and peacemaking fashion. Shalom for Israel was measured not by the prosperity of the rich, but the well

being of the least and lost in the land. He never promoted radical revolution, but in a creative expression of force he turned the tables on those who profited from exploitation and force. Christ gave the Old Covenant a new a contextualized expression in which the importance of Justice and law would not be diminished, but deepened and enlarged by astounding grace and sensational inclusivity; an inclusivity that offended the 'righteous', the rich and powerful of his day. Those of us, called to follow Jesus, to baptize and teach all that he commanded, may not allow our standards, values, and practices fall below the standard demonstrated by Jesus of Nazareth. We must dare to follow in Jesus' way of establishing justice for the vulnerable, the poor and needy of our day. Also in our calls for justice upon lawbreakers of our day, can we follow in the footsteps of Jesus? In our calls to bring criminals to justice, passionate calls for tougher justice, calls for long hard time as punishment in jail, or worse, are we using the values and language of Christ's rule for shalom? I would like to reflect on this in what follows, where does our modern notion of justice really come from.

Imagine that you are in the hospital for a medical procedure; of course the goal is for you to become rehabilitated to physical and emotional health. Everything has gone well, you and the doctors and therapists agree that you are ready to leave the hospital and go home; to keep you longer would not serve your overall health, besides being expensive. To your astonishment, the hospital administrator tells you unequivocally that your release papers may not be signed, because you have not spent the legally required number of days in the hospital as required by hospital code and policy, a policy which establishes, by law, specific hospitalization timelines proportional to the seriousness of each malady. Can you imagine that your rehabilitation was not essentially about your health, nor about your family's needs, but about an abstract legal calculation demanding time? As prison Chaplain, I have so often observed that precise paradox over the years: a prisoner has done all the rehabilitation possible inside the prison walls, he or she is ready with renewed insights skills and attitudes, and has excellent community support, yet she must stay in prison because she has not 'done' her time. How did it come to this, as expressed in the popular proverb, 'you do the crime, you do the time'?

Research and studies in pedagogy and criminology, provide overwhelming evidence that punishment and deterrence are not effective in facilitating long term positive change in attitude or behaviour. Educators know that in the classroom or nursery, rewards must outnumber punishers four to one. Research also reveals that coercive and punishing programs such as boot camps, and learning under force and duress, do not effect positive or lasting behavioural change.¹ How then did we come to absolutize forensic punishment as the basic strategy for achieving healing, rehabilitation, and public safety? The media confuses us with pointed statements and strategies to address crime, especially when election time is near; usually proclamations promising harsher sentences. It is important to explore this issue, and to ask briefly whether a Christian might have specific alternative perspectives on criminology or attitudes in their response to crime, perspectives based on a deep and thorough understanding of values and principles that serve to create a deep sense of social peace and security known as shalom.

Cesare Beccaria's (1738-1794) book, *An Essay on Crimes and Punishments*, published in 1764, 'captivated the attention of Europe' states Canadian criminologist Rick Linden.² Beccaria summarized what many serious thinkers of his day were saying as they expressed dissatisfaction with the practices of the justice dispensed in the 16th to 18th centuries. J. Huizinga, historian of the late middle ages, noted that executions in the 15th century were frequent, and, raised a '...cruel and coarse compassion, forming...an important item in the spiritual food of the common people. They were spectacular plays with a moral.'³ He adds that the church did try to add a sense of gentleness and clemency, but it also merged the concept of sin into the need for retribution. It was not doubted for a moment that severe punishment was deserved. (Huizinga, 14, 15, 213). By the late 18th century there were 350 offences in English law which required the death penalty, and this 'Bloody Code' was a historically formative influence in the evolution of our Canadian justice system. The ultimate punishment, death, likewise the lesser punishments, were to address crime by public demonstrations of severity to expiate wrong, and possibly to deter others for fear of public shame and status degradation, with an in your face kind of demonstration of power and authority demanding absolute compliance, fear of the law.⁴ This

process of judicial cruelty was nurtured by pre-scientific world views about crime, human nature and of state and society. Underlying was a belief that such severe punishments were needed to assuage offended deities and cleanse society of an evil influence.

Beccaria reflected the influence of world view changes in ideological thought in scientific and social applications brought about by the Enlightenment. He and other criminologists reacted to the excesses of applied public punishment, pain that was supposed to 'serve' justice in a society now sensitive to new humanistic and rationalistic perspectives. This 18th century thinking and work in criminology took place in times of great change: change from a feudal society, to one strongly influenced by burghers and merchants and the laws they created. The ideological and theological ferment of these times played out in the revolutions in France and America. Revolutionary thinking of this Enlightenment thought created many relational and legal changes, changes from the relational and concrete, to the abstract and contractual. The person-in-community became a rational autonomous individual. The cause of crime as a social reality, an impurity, was changed from being transcendently influenced, becoming instead, located in the private inner pathology of an individual offender. Neither the socio-economic conditions or power relations, nor status and inter-relations of the human community were seen as relevant. To explain life in the world, trust and faith in God as author and sustainer of life was transferred to a narrowly positivistic and rationalistic human faith in reason, science, and the developing technology. From this shift in faith perspective, 18th and 19th century *penologists* came to examine and explain crime and justice. Beccaria, along with Descartes, Bentham, Hobbs, and Kant, were all shapers to a great extent of this philosophy, and of the 'metaphysical,' a historical structure of our modern criminal Justice system in North America; forensic and symbolic in essence. The result of their theoretical work is called the Classical School of Criminology. Today its derivative, the neo-classical school is popular. The saying, 'you do the crime, you do the time', a classical epithet, has become enshrined in popular thought. Just deserts, rational choice and deterrence are all concepts of the classical school, and of the neo-classical school.

A short synopsis of neo-classical philosophy of justice will describe it as a theoretical construct which posits that those who violate the law deserve to be punished; the severity of the punishment should be commensurate or proportional to the severity of the crime. Punishment is justified because it is deserved: hence, *just deserts*. Criminals are rational individuals and use information available to them to decide whether crime is worth while, and their choice is determined by fear of punishment; they will reason that ‘crime does not pay’.⁵

Our western criminal justice system has also been heavily influenced by the darker side of ancient Roman legal and military practices about which much has been written.⁶ I wish to focus on how Enlightenment thought has influenced our modern justice system and the implicit models of justice that seem so normal to us in our every day thinking. Ted Grimsrud and Howard Zehr, suggest that, ‘...the Enlightenment provided new objectivity in the practice of punishment.’⁷ These theologians have written much on peacemaking and restorative justice and suggest that the Enlightenment criminologists never questioned the efficacy of punishment, but punishment was made more legal and abstract, not addressing the actual harms experienced by the actual victims. Instead the state, the king or Queen, became the victim; currently, law enforcement still does not directly address the victims’ harm suffered, nor pay attention to the social economic factors contributing to the offenders’ actions. Those primarily affected, are not empowered to seek collective solutions. Dutch criminologist Louk Hulsman views today’s Western criminal justice as a displaced form of moral theology, a metaphysical process, displacing the real needs of the harmed community for reconciliation, depriving them of the tools to accomplish the settlement of differences at the community level.⁸

Today the popular neo-classical position of criminology emphasizes, as did the classical school, a belief in rational choice and deterrence, based on the assumption that the human being is basically a rational animal. Just deserts, or *retributivism*, has remained an implicit, lately a very explicit, theory of addressing criminal behaviour.⁹ This ‘theory’ is essentially more primitive than the practices of reformation and rehabilitation, terms we also use when speaking of

the purpose for incarceration. Punishment has become an abstract calculated application of proportionate pain in order to deter and achieve control of crime, ostensibly to serve justice and to ‘send a message to the public.’ It is assumed that if you break the law that you will deserve what you get, and thus get what you deserve. In my opinion, that is cyclical metaphysical thinking. It is hypothesized that future offenders will also be deterred as they see offenders punished by legal retribution. (secondary deterrence). It seems to me unethical to punish someone for a crime not yet committed by someone else. Upon carefully followed rules of court room and legal procedures, due process, the judge will calculate guilt or innocence, and sanction punishment that is proportion to the crime. The policies and processes of *Due Process*, were to address the judicial inconsistency and cruelty that was so prevalent at the time of the emergence of this classical school. One problem, though, is that pain distribution, proportionality, is in a real sense impossible to measure, and most crimes, except by a minority of career criminals, are committed when the offender is least rational, being either high on substances or rationality clouded with passion and confusion of violence, depression and abuse. The real flesh and blood issues, the roots of crime, are designated circumstantial, irrelevant in the classical metaphysical (purely theoretical or symbolic)¹⁰ scheme of crime control.

Many studies over the last decades reveal that there are many socio-economic-biological influences and circumstances that serve as *pathways* to criminal behaviour.¹¹ Prenatal and early developmental and social influences compounded by the influences of poverty and inequity, by the cultural values that commodify life, serve to contribute to a higher incidence of criminal behaviour later in the teen years or early adult hood. Personal choice is a factor in offending behaviour, but a complex of human sin, of oppressive and toxic situational factors make deviant and criminal choices more likely. Most of us don’t make the best choices under pressure of burnout; most individuals simply do not just choose to become addicts or criminals in the classical sense. Canadian criminologist James C. Hackler provides a sociological perspective and suggests that the way we design our cities and societies contributes to the conditions that influence the crime rate. Services such as our transportation systems,

basic social supports such as libraries, parks, educational and athletic outlets for youth, as well as services for struggling single parents, all influence the incidence of crime. Recent claw backs to, and under funding of, social services and welfare, he suggests are *criminogenic*.¹²

Classical influence took punishment off the streets and moved it to be inside the walls of a prison. Prisons were not for punishment, but to serve as punishment according to classical thought; prisons were to do time in, time as sentenced by the courts. The use of prisons for reformation, rehabilitation or correcting came later on in history, but the notion of the efficacy of prisons for punishment lives on. Today, prisons are still disproportionately overcrowded with vulnerable marginalized individuals, refugees, impoverished, and mentally ill; many are drug addicted and confused young males and females. A large number of inmates have cognitive deficits related to FAS, FASD, and brain injuries. These individuals don't learn normally from experience or from punishment, and need supportive structure and care. Calls for tougher punishment today, is a call for 'hard time', and is turning prisons into places that Enlightenment thinkers wanted to avoid, namely prisons for the deliberate infliction of pain and punishment. Classical criminology championed due process, insuring objectivity and equality before the law. However, now as then, not all are equal in the circumstances of life as the gap between the rich and poor grows. Prisons will continue to incarcerate a high percentage for survival and street crimes. Hackler warns, that if an advanced society such as Canada needs to rely heavily on law and order tactics, on punitive courts, and on the excessive use of prisons to keep its 'underclass' in line, then it is a badly functioning society, one that needs changing.¹³ On the other hand, a small percentage, career criminals, understands punishment as the cost of doing business in this consumer world driven by the profit motive. Extensive research has taken place in recent years with a large body of research revealing that neither the death penalty nor general deterrence is effective in reducing or eliminating crime (see for example Siegel and McCormick, 135-137). Canadian Royal commissions have not endorsed just deserts, and have suggested that it is not effective attempting to teach criminals positive social attitudes, skills and responsibilities by removing them from society to be confined behind

walls where most social responsibilities have been taken over by the security staff.¹⁴

Where has Christian scholarship or the theological focus of the church been in all of this important foundational work of establishing the philosophical foundations of the modern justice system? One is hard pressed to find theological voices involved in these discussions with a distinct alternative based on serious redemptive historical exegesis or on solid philosophical critique. It appears that today many Christians accept as virtually God breathed the essence of the classical school's position. I believe, as does former Commissioner Pierre Allard, that our Justice system avoided the reformers' theological perspectives as the foundational century of the Reformation passed.¹⁵ Perhaps we can say that the principles of a time bound and culturally conditioned approach have become reified and fixed in dogmatic stone along with its grammar: 'you do the crime, you do the time, and you deserve the punishment'. Punishment is a must, to pay back a debt to society (legally, forensically) and establish metaphysical balance (Kant) by doing 'hard prison time'; it is all supposed to be about those mythical 'scales of justice.' George Grant has significantly critiqued the trend in North American justice of becoming abstract, impersonal and contractual. Justice, he suggests, has become a hypothetical calculation for fairness, a product of the mind no longer linked to the classical notion of good as the measure for Justice which we are all 'fitted for.'¹⁶ I encourage Christian scholars and the church to be busy devising a contextually relevant Christian perspective on Criminology for the 21st century.

Surely we must revisit the notion that criminology is an isolated sphere, autonomous in nature, open only to the authorized shapers of policy of a secular state. There are not two kingdoms of justice in total isolation, one public, one private; one of Christ's rule in each individual Christian's heart, a private kingdom;¹⁷ and the other of the autonomous rule of the public 'secular' state, under the sole authority and direction of the ideology of the Government in power. It is impossible for any state to be completely neutral; it will have a value bias. Likewise it is impossible for a citizen of a democratic country to live as though their core spiritual beliefs do not affect their attitudes and actions in every area of life. Admittedly our values and

world view are conditioned by dominant cultural beliefs and assumptions about the world society we were 'born' into. However, by being citizens in a democratic society, some of us have significant circles of influence and status; and by virtue of being people of faith, spiritual values will be reflected in our political and social choices, and even in the choices we make in our response to crime. The various spheres of authority and power affecting us are also in dynamic interrelation with us; we are all also biased by the culture we have grown up in. Thus the Christian community has a calling to be reflective and discerning and in intelligent dialogue with the policy makers of the different facets of criminal justice system. The state is not our enemy, it is a creational, neutral sphere, but one which can be used for good or for ill. Christ as cosmic Lord is, in his Spirit, already at work in restraining and transforming the principalities and powers; His rule affects all aspects of life and creation. We as stewards of the Good News for the good of all creation and society are called to join in the work for reform and transformation, addressing 21st century criminology with the perspectives of a holistic Christian world view.

I have suggested that the modern justice system¹⁸ has been vitally shaped by Enlightenment thought; its focus has become abstract and a-historical, not specifically responsive to the direct needs of the human community harmed by crime. This is not to say that the tools and insights of the Enlightenment must be totally discarded. We indeed have benefited from the tools that science and technology have brought us. I use and value the results of scientifically researched data on crime; science has given us many valuable gifts and technologies that can serve in edifying human life; science is a gift, but it can also be used to destroy. Due process was a necessary application to address the excesses of cruelty of biased courts and street executions of the centuries preceding the 18th century. Due process can continue to serve us in achieving just procedures for fairness in justice. Tools such as fingerprinting and DNA testing are a direct result of positivism. But balance is needed; positivism, scientism, and its developments, ought not to be seen as the ultimate touchstones of value and truth. Modern technology must guard against being invasive, or worse, worshiped as the supreme Good; the needs, the shalom, of the human community must be a priority, especially to the least of its citizens. Many criminologists have come

to realize that the needs of those primarily harmed by crime are not being directly addressed, if at all; and, the public is seeking to see justice done in the only way it knows how, and that is to have authorities get tough on crime by declaring war on it; seeking to apply laws that sanction harsh punishments that return pain with pain in order also to deter future crime. Harsher or longer sentences are not a panacea; what is needed is more effective sentences responsive to the human needs of the community. The perspectives and practices of *restorative justice* have been long established, offering alternative strategies for addressing and achieving community well being.

The concept of restorative justice has developed over the past 35 years through the work of both Christian thinkers,¹⁹ and those of other faith traditions. In contrast to the classical school, the focus of this concept is on the felt needs of justice in the community. Restorative justice makes justice historical and concrete, going back to the pre-Roman and biblical ideas of *shalom* and *frith*. Justice is restoring and healing the harm done to the primary parties in conflict, as well as to the whole community. This work of restorative action also honours God. In the resolution process there is an exchange of stories and needs, statements of affect and questions about ‘why’; as well a solution for healing and living beyond the pain and brokenness of the offence is negotiated. Punishment becomes the hard work of facing ones victim and the effects of the crime, as well as the hard work of making things right.²⁰ Traditional dominant legal justice seeks to uphold the law, and the harm done to victims and community is mainly marginalized. Harm experienced in this scheme is done primarily the abstract Crown, the Queen; benefits for the real victims may trickle down to them. Today victims may if necessary be called only as witnesses. Even when requested, victims are not invited to speak directly to their offenders in court. Communication in court is the job of the professionals: the Queen’s representative, the crown counsel, as well as the defence lawyer, and the judge. Their objective is to win the case, and to secure a conviction and establish a sentence. However, one hears too often of wrongful convictions, and from victims feel existentially left out and unsatisfied with the process and the sentences. Tragically the media amplifies their cries for longer and harsher sentences misunderstanding their raw lament. We need to listen to these cries for justice with the wisdom of the concepts of

Restorative Justice, which is a perspective that values victims' stories and seeks to restore victims and offenders as primary 'stakeholders.' The community is empowered by the state to work together in creating resolutions to empower and bring recovery for the victims, to address the harm experienced and make peace, to build community, and to address the root causes of the offending behaviour. Restorative justice has as its goal the healing and renewal of all those harmed by an offence. Accountability is also a primary goal, for the offender to address as possible the harm done to the victim, to heal and grow into a responsive human being, and to be valued as a responsible member of the community. The emphasis is not merely or primarily on restoring the brokenness of the symbolic and metaphysical law. Accountability and responsibility are as direct and immediate as possible.

Much public response to crime today is fear based, not evidence based, nor well thought through from a Christian point of view. Fear, blame and anger keep people apart, especially with adversarial posturing along with the persistent ideas of the classical school of thought. Perhaps many of us who have been hurt want to seek a better way of achieving justice, but are confused by conflicting ideas of how justice should be dispensed. Sometimes the ideas we have are more a barrier than the ideas we don't have. Most of us have accepted and respect the method of justice as authorized by the judiciary and the courts as having ultimate authority in 'serving justice.' Respect for the state and for authority is mandatory; that is not in question. It is not the need for justice that is under question, but rather how justice can bring healing and well being, and can be best be achieved and experienced by all who require it. Perhaps we believe that justice as dispensed in our modern court rooms, is 'pure' and beyond critique or dialogue by ordinary people. Old notions that see punishment and deterrence as tried and true solutions overlook what we have learned in the fields of education and behaviour change in recent years. A criminal justice system dedicated to dealing out punishment in processes and structures that don't require or develop much lasting responsibility doesn't teach prisoners what to do, mostly, what not to do. Compliance to a sentence to do the time as punishment doesn't effectively motivate inner control or inspire mature spiritual development. We also know that punishment is totally inappropriate

and ineffective with the many in prison with mental health issues. Of course we don't want to reward harmful behaviour; but, we need to motivate and guide people to develop their skills and behaviours, remind them of their human value and responsibilities so that they can be responsive and law abiding, living in community with us. An epistemological hermeneutic of restorative justice leads us to see that justice and mercy can embrace in creatively empowering and building relationships and community.

Christ's Lordship and the church's mandate are not often seen to apply to public justice in the area of criminal justice. It is as if Justice and public safety is a totally autonomous department under God via the state. There also seems to be a basic belief in the absolute efficacy of punishment which is left entirely up to the State. However, the modern Christian must ask: is a neo-classical application of proportional retribution really based on Christ's Lordship and redemptive, transformative love for the world? Justice and mercy must embrace in congruence with the health affirming, renewing rule of Christ. Lewis Smedes, in his book, 'Mere Morality'²¹ states emphatically that the retributive side of justice was settled in Jesus' death. Why do we need more applied pain? Smedes also stresses that in Christ, metaphysical balance has been realized, and in faith we live in a *new situation*,²² 'in Christ'. This is a new historical and real life arena, holistic, not dualistic; a new situation for lived faith and action, in humility and love. Love is not in subjection to truth or purity, but a love replaces fear as the guiding central value in responding to crime. The 'art' of war is now no longer appropriate in Christ, as well as not effective, for peacemaking and reconciliation. The militant mind of the Church, says professor Stob, may not absolutize the concept of warfare, legitimizing adversarial counter-violence. Positive action rooted in love is advocated; the antithesis is 'radical' yes, but not absolute. The Christian in Christ addresses the antithesis with common grace, and with creative new tools that invite healing, reconciliation and renewal.²³

Response to crime is clearly an important and prominent issue today in the media and in the court of public and political opinion; clearly it is a public issue that the Church and its theologians and philosophers, as well as the whole church, must be in serious moral

discourse about to create a perspective that has not been captivated by the Roman/Norman perspectives on power and control, nor by the absolutizing influences of Enlightenment's Positivism, Utilitarianism, and Rationalism. As Cosmic Lord, Christ has an historical realm, not just a transcendental a-historical or metaphysical one. Every generation again must seek direction from, and give shape to, Christ's transforming work in the structures of their state and society, in the sensitive area of crime control as well. The goal of Christ's transforming Lordship mandated to the church's' active stewardship in the ministry of reconciliation, is to bring shalom and the Good News of renewal, hope, and wisdom, to all people, especially in the historical realities and structures of our fallen and fearful world. Shalom is to be experienced, not just remembered or imagined.

References

- 1 Paula Smith, Paul Gendreau and Claire Goggin, 'Correctional Treatment: Accomplishments and Realities', pp. 285-294, in VanVoorhis, Patricia et al, *Correctional Counselling and Rehabilitation*. Cincinnati: Anderson Publishing Co. 2005. Any basic text in Criminology will include resources that point to research and evidence based on meta-analysis showing the ineffectiveness of narrow punitive approaches.
- 2 Linden, Rick. *Criminology A Canadian Perspective*. Toronto Montreal: Harcourt Brace and Company Canada, 1992, p.166.
- 3 Huizinga, J. *The Waning of the Middle Ages*. New York: St. Martin's Press, 1924.p.3.
- 4 Ekstedt, John W. and Curt T. Griffiths, *Corrections in Canada*. Toronto and Vancouver: Butterworths, 1988.pp, 16-21.
- 5 Siegel, Larry J. and Chris McCormick, eds. *Criminology in Canada*. Scarborough Ontario: Nelson, 1999., p.137; Further on Just deserts see also Nils Christie, 'Crime Pain and Death', *Justice Reflections*, 2006:13, JR94. On the concept of **deterrence**, P.K. Manning urges that its relevance be revisited. He considers it unethical and unsuited for today's society. In Sam S. Souryal, *Ethics in Criminal Justice; in Search of the Truth*. 3rd.ed. Ohio: Anderson Publishing Co. 2003. VII, IX, see also pp. 366-367.
- 6 Books such as: Lee Griffith's, *The Fall of the Prison: Biblical perspectives on Prison Abolition*. Grand Rapids Michigan: Wm. B. Eerdmans Publishing Co., 1993, as well as criminology texts and history texts, some mentioned above.
- 7 Grimsrud, Ted, and Howard Zehr, 'Rethinking God, Justice, and the Treatment of Offenders' in *Religion, the Community, and The Rehabilitation of Criminal Offenders*, pp. 259-285, eds. Thomas P. O'Connor and Nathaniel J. Pallone, 2002, .New York, London, Oxford: The Haworth Press Inc, 265-266.
- 8 Louk Hulsman, quoted in *Ideas Series: Prison and Its Alternatives*, ed. David Cayley, Canadian Broadcasting Corporation, 1996, p. 42.
- 9 Cederblom, Blizek, *Justice and Punishment*. Cambridge Mass.: Ballinger. 1977, p.1. On p. 5 he quotes Kant to say that a person chooses to be punished when crime is chosen and he must be punished to assuage the violation; the punishment must fit the crime, which restores metaphysical balance.
- 10 I use the term *metaphysical* in its dictionary sense as a branch of philosophy studying the principles of reality transcending science, highly speculative and obtusive. See also on the Dooyeweerdian School of thought; J.M. Spier, *An Introduction to Christian Philosophy*. New Jersey: The Craig Press. 1979. Spier on p. 154 states that Kant spoke in a theoretical epistemological sense, he was anti-metaphysical.

- 11 Health Canada, 'Social Inequality in the Health of Canadians', 307, 309. in, *Social Inequality in Canada*, James Curtis, Grabb, Edward, and, Neil Guppy, eds., Scarborough, Ontario: Prentice Hall, Allyn Bacon Canada Inc. 1999. 300-314. **Pathways** is a concept used in criminology to suggest that the path to a criminal lifestyle or career often has more than one route. There are bio-psycho-social routes, beginning with mild misconduct and escalating into more serious crimes.
- 12 Hackler, James C. *Canadian criminology*. 4th ed. Toronto: Pearson, Prentice Hall. 2007. pp. 336-337.
- 13 *Ibid.* p.338.
- 14 The Archambault Commission of 1938 critiqued the efficacy of punishment in prison. But notably the Ouimet Commission report of 1969, suggested that it is hard if not impossible to educate people for life while being separated from it in prison. Specifically on just deserts see, Law Commission of Canada. *Transforming Relationships Through Participatory Justice*. Ottawa: Minister of Public Works and Government Services, 2003. pp. 18, 30, 71.
- 15 Pierre Allard, former Director of federal Chaplaincy, Commissioner in CSC (Correctional Services Canada), quoted in *Ideas Series: Prison and Its Alternatives*, ed. David Cayley, Canadian Broadcasting Corporation, 1996, p. 91.
- 16 Grant, George. *English Speaking Justice*. Toronto: Anansi Press. 1974. pp. 15,59,72,87. Professor of Ethics, Henry Stob, also emphasised that rights are not political creations, but human rights and justice are rooted in the divine act of creation. '...personhood is the basic principle of justice', he notes in, 'The Concept of Justice', *Ethical Reflections*. Grand Rapids Michigan: Wm. B. Eerdmans Publishing Co., 1978, pp. 131-133.
- 17 Rugged individualism and autonomous rational choice are both products of Enlightenment thought that have shaped North American Evangelicalism. McCarthy, Oppewal, Peterson, Spykman. *Society, State, and Schools*, Grand Rapids Michigan: William B. Eerdmans Publishing Company, 1981. These authors suggest that religious individualism (privatization of religion) came into evangelical thought through the revival movement known as the Great Awakening leading to a dualist life view that isolated private religion from public secular life. P.83. Mystification of salvation in modern Evangelicalism is due also the a-historical popularity of neo-Gnostic epistemologies. Ron Dart stresses that neither the ancients nor Jesus separated spirituality and wisdom; or being and contemplation, from justice and good. *The Beatitudes When Mountain Meets Valley*. Abbotsford BC: Fresh Wind Press, 2005. p.52.
- 18 The Criminal Justice System is complex and can not be reduced to one agency or set of goals. There are three or four main agencies all interrelated yet differentiated: Police, probation, courts, prisons and parole. Police stress law and order (note the move from peace officers to law enforcers), the courts stress due process; prisons and parole stress rehabilitation and reintegration. The 'invisible' public sector seeks to see justice served by harsher punishment. On Social reactions see this excellent anthology on Canadian Corrections: Winterdyk, John. Ed. *Corrections in Canada: Social Reactions to Crime*. Toronto: Prentice Hall, 2001. especially pp. 49-64, 253.
- 19 Pioneer Christian theologians are, Bianchi, below, and Howard Zehr. His seminal work is: *Changing Lenses: A New Focus for Crime and Justice*. Scottsdale Pa, and Waterloo, Ont.: Herald Press, 1990. See also Christopher Marshall. *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*. Grand Rapids Michigan: William B. Eerdmans Publishing Co., 2001; West, Gordon and Ruth Morris. *The Case for Prison Abolition*. Canadian Scholar's Press. 2000. and Hadley, L. ed. *The Spiritual Roots of Restorative Justice*. New York: State University of New York Press. 2001.
- 20 Herman Bianchi, *Gerechtigheid als Vrijlats*, Baarn: Ten Have. 1985, p., 36. See p. 93 on frith.; The book by this Dutch criminologist is also available in English as *Justice as Sanctuary: Toward a New System of Crime Control*. Bloomington, IN: Indiana University Press, 1994.
- 21 Smedes, Lewis B., *Mere Morality*, Grand Rapids Michigan: William B. Eerdmans Publishing Company: 1983. p. 28.
- 22 Smedes, Lewis B. *All Things Made New*, Grand Rapids Michigan: William B. Eerdmans Publishing Company. 1970. In this comprehensive and seminal work by the well known and celebrated practical theologian and author, defines a basic concept called, situational Christology, p. 91. Indicates that the work of atonement is finished, p. 74; that cosmic balance has been achieved, p.136.

- 23 Stob, Henry. 'The Positive Mind [of the Church],' in, *Theological Reflections*. Grand Rapids, Michigan: William B. Eerdmans Publishing Company. 1981. pp., 214-217; see also p. 209, in 'The Militant Mind.'; In 'The Dialectic of Love and Justice', in *Ethical Reflections*, 1978, Stob explains that it is through the structures of society, structures such as public justice, that we must extend our love to the neighbour, who we are mandated to honour as image bearer. pp. 134-143

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