

# An Ethic of Political Reconciliation

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Over the past generation an intense wave of efforts to rebuild political orders in the aftermath of civil war, genocide, and dictatorship has swept throughout the world. Following the cold war, the UN Security Council, acting in a new spirit of cooperation, greatly multiplied the number and scope of its peace operations. The creation of a UN Peacebuilding Commission in 2005, tasked with bringing coordination and focus to peace building, reflected both the importance and the difficulty of these undertakings. A multifold increase in civil war settlements during the same period and a “third wave” of democratization have left scores of societies dealing with past injustices as they strive to build the rule of law. Over thirty truth commissions have taken place in the past thirty years. In the 1990s two international tribunals resurrected the judicial precedent of the Nuremberg Tribunals and were followed by the establishment of a permanent International Criminal Court. Reparations and public apologies are now common political practices.

In this age of peace building the wide variety of activities undertaken to build stability and justice in and between states in the wake of massive war or other large-scale injustices entails a range of difficult ethical issues.<sup>1</sup> What authority do states or international organizations exercise in rebuilding transitional societies? Is it justifiable to forgo the prosecution of war criminals in order to elicit a peace settlement? Can conditional amnesties be justified? May leaders apologize or forgive on behalf of entire states or nations? On behalf of the dead? Do states owe reparations to representatives of victims of past generations? If so, how are amounts to be determined? Is forgiveness justifiable? Or does it indefensibly sacrifice just punishment?

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Which, if any, traditions of ethics propose unified answers to these questions? The dominant ethical framework favored by international organizations and Western governments has been the so-called liberal peace, which prioritizes the building of liberal institutions and the prosecution of war criminals. Another ethical concept that has guided recent global peace-building efforts is reconciliation. Though reconciliation encompasses core commitments of the liberal tradition, such as human rights, it is a far more holistic concept. Its central idea, restoration to a state of right relationship, involves not only a restoration of human rights but also a redress of the wide range of wounds that result from egregious political injustices committed by states and individuals. Such an ethic has been advocated disproportionately but not exclusively by religious activists, though it can also be articulated in secular language.<sup>2</sup>

Together, the recent entry of reconciliation into the politics of peace building and the ancient presence of reconciliation as a concept in religious traditions create potential for, but also leave undeveloped, an ethic of political reconciliation. This ethic would derive a set of concrete guidelines for recovering political orders from philosophical and theological fundamentals. An outline of such an ethic is what I propose here.

The core proposition is that reconciliation, both as a process and an end state, is itself a concept of justice. Its animating virtue is mercy and its goal is peace. These concepts are expressed most deeply in religious traditions, including Judaism, Christianity, and Islam. The idea of justice as right relationship is also found in the contemporary restorative justice movement, an approach to criminal justice that has emerged in the past generation. Such broad resonance shows that reconciliation can be the object of an overlapping consensus of diverse religious and cultural traditions.

For contemporary political orders addressing past war, genocide, and authoritarianism, the holistic justice of reconciliation involves not only the legal guarantee and actual practice of human rights and the laws of war but also a redress of the range of wounds that political injustices inflict. Reconciliation is achieved through a set of six political practices (discussed below) that seek to restore a measure of human flourishing. A secondary fruit of these practices is an increase in the legitimacy that citizens bequeath to their governing institutions or to their state's relationship with other states.

It is impossible to give here a full explication of how this concept of justice (and the related virtues of mercy and peace) is realized through the six practices, and

how it addresses the many ethical issues that the practices raise. However, a closer look at two of the practices that are often thought to be at odds in addressing past injustices—punishment and forgiveness—can be illuminating. Advocates of each approach argue that the other practice is a threat to the peace process. Many scholars, for example, recommend forgiveness only as a second-best option when punishment is unrealistic. But when viewed as practices that reflect and participate in a restorative concept of justice, punishment and forgiveness become compatible in principle—with important implications for the politics of facing past evil.

## TWO CONCEPTS OF JUSTICE

When UN troops seek to secure stability in Kosovo or monitor elections in Cambodia, when the United States strives for stability in Iraq, when the World Bank structures loans for postconflict reconstruction in such places as El Salvador and Timor-Leste, when human rights activists and international lawyers demand the punishment of human rights violators in Argentina, Bosnia, Rwanda, or South Africa, they typically speak the language of the “liberal peace”—the dominant approach to peace building in the world’s most powerful institutions.<sup>3</sup> This approach advises peace builders first to secure a cease-fire or a peace agreement and then to establish the rule of law, human rights, democracy, free markets, and a free media, as well as to hold elections, disarm and demobilize armed factions, build and reform security sectors, and otherwise construct strong and legitimate institutions.

What about the crimes of the past? Here, the liberal peace finds close kin in human rights activists and international lawyers who call for trials and disqualification from office, justified either as simple retribution or on consequentialist grounds as valuable for building the rule of law and accountability.<sup>4</sup> All of these preferences and proclivities follow in the liberal tradition of Locke, Kant, Mill, Wilson, and Roosevelt and their commitment to individual rights, democracy, and international law and institutions.<sup>5</sup> In performing all these tasks, such international organizations as the United Nations, the World Bank, the International Criminal Court, and powerful Western liberal democracies are the *dramatis personae*.

The liberal peace, however, is not enough. While its commitments to the rule of law, human rights, and democracy are crucial to justice and indeed incorporated into the ethic of political reconciliation proposed here, it leaves untended a whole range of wounds that dictatorships and civil wars inflict upon people and societies.

Its proposed measures often do little, for instance, to acknowledge, empower, or reintegrate victims who have suffered the loss of loved ones, permanent injury, sustained trauma, or devastating economic loss. They do little to reintegrate former perpetrators into a political community, focusing more often on preventing them from banding together for revenge. They scarcely deal with emotions of anger, hatred, resentment, and fear, which can result in acts of revenge, further injustice, and weakened political institutions.<sup>6</sup>

Addressing these harms is not only a matter of intrinsic justice but is also crucial for creating the very legitimacy that human rights, democracy, and the rule of law require. The track record of the liberal peace itself makes the case for new thinking. A range of scholars judge UN peace operations—liberal in their inspiration—to have achieved mixed to very little success in reconstructing societies after war.<sup>7</sup> Up to 43 percent of the parties to negotiated settlements revert to armed conflict within five years.<sup>8</sup> Over time, through pragmatism and flexibility, the UN has come to adopt a broader range of practices, as in Guatemala and El Salvador, as well as in Timor-Leste, where it advocated a combination of trials and truth commissions. Indeed, integration of operations is one of the axial ideas that inspired the formation of the UN Peacebuilding Commission. Nevertheless, few have sought to conceptualize a holistic range of practices into a peace-building ethic.<sup>9</sup>

It is at this point that one turns to an ethic of political reconciliation. In recent debates, reconciliation has meant many things to many people: an ambitious program of healing, restorative practices that complement justice, or a version of justice that is little different from the human rights, rule of law, and democracy of the liberal peace. Here, reconciliation is conceived as being itself a concept of justice, one whose core meaning is a comprehensive restoration of right relationship within a community. A holistic concept, reconciliation involves a *process* of restoration as well as a *state* of restoration, addresses the wide range of harms that crimes cause, and enlists the wide range of persons affected by these crimes.

Political reconciliation—the sort that is being proposed here—is entailed in this comprehensive reconciliation but is also a subset of it, involving only those relationships that are proper to the political order, that is, the rights and duties that are shared reciprocally among citizens, between citizens and states, and between states in the international system. As standards for these relationships, the ethic at hand adopts those that international legal covenants prescribe for every state: human rights, the laws of war, and other norms of international conduct. These

define both the political injustices that political reconciliation addresses as well as the political order to which it aspires. It is in this definition of right relationship that the ethic of political reconciliation converges most with the liberal peace.

But just as war crimes and human rights violations do not merely rob victims of their rights but inflict diverse forms of suffering—physical, economic, familial, and psychological—so, too, political reconciliation seeks not only to restore rights and the laws and institutions that guarantee them but also to redress this wide range of injuries. That this broad redress is itself a matter of justice is an essential claim of the ethic. The redress occurs through a range of practices that involve victims, perpetrators, state officials, and the wider community. The state's interest in redressing these injuries is legitimate for two reasons. First, because the injuries were suffered at the hands of the political order or of those acting in its name, political authorities have a warrant to redress them. Second, these harms and the emotions to which they give rise shape the willingness of victims, and sometimes perpetrators, to confer legitimacy on a new, potentially just political order. Political reconciliation, therefore, not only goes beyond but may well encourage the establishment of rights, laws, and institutions.

## CORE CONCEPTS OF AN ETHIC OF POLITICAL RECONCILIATION

Is reconciliation really justice? To modern Western ears it may seem strange to call it so. But the texts of Abrahamic religious faiths (Judaism, Christianity, and Islam), the contemporary restorative justice movement, and the rituals of reconciliation found in several tribal traditions around the world conceive of justice as something very much like comprehensive right relationship. A closer look at the Abrahamic faiths and restorative justice shows how particular traditions can ground and articulate this notion of justice in an ethic of political reconciliation. The rationales that the Abrahamic faiths provide for the ethic of reconciliation also give it a global reach—wider than what the liberal peace can obtain—since Christians and Muslims alone make up roughly half the world's population. Further, Abrahamic rationales offer an ethical underpinning for the efforts of religious leaders and activists to deal with the past, as they have in Guatemala, Brazil, Chile, South Africa, Sierra Leone, Morocco, Afghanistan, Iraq, Timor-Leste, Peru, El Salvador, Northern Ireland, East Germany, and elsewhere.<sup>10</sup>

In order to achieve the legitimacy that it needs to operate, the ethic's core concepts must garner an overlapping consensus among the inhabitants of any

postconflict setting,<sup>11</sup> and its ability to do so will depend on their religious, philosophical, or cultural traditions. It is impossible for any ethic, of course, to achieve unanimity. But if the ethic can be grounded among three major religious traditions, then its potential to find a consensus is demonstrated and promoted. Further, secular philosophical arguments can articulate and ground the core concepts of the ethic, as do some prominent theories of restorative justice.<sup>12</sup> Other religious or tribal traditions might indeed join in the same consensus, depending on their views of justice.

An asset for facilitating consensus that can be deployed in all settings, secular language is conceived here as a complementary mode of articulating religious and philosophical rationales. Although religious rationales give the ethic a wide reach and legitimacy among the religious, secular language helps to bridge differences between traditions, to justify the ethic to secular-minded audiences, to make the ethic compatible with international law and with the constitutional law of most countries, and to further the practice of the ethic in international and nongovernmental organizations that typically operate in secular language.

Justice, in the scriptures of each of the Abrahamic traditions, commonly means “righteousness,” understood comprehensively as right relationship between all the members of a community in all of their affairs.<sup>13</sup> The Hebrew words *sedeq* (or, in its feminine form, *sedeqah*) and *mishpat*, found frequently in the Tanakh, as well as several Greek words in the New Testament beginning with the *dik*- stem, translate into both “justice” and “righteousness.”<sup>14</sup> A case can be made that the Arabic *‘adl* can be understood similarly.<sup>15</sup> Such justice is not only a *state of right relationship* but also a *process of restoring right relationship*, a meaning most vivid perhaps in the Jewish scriptures, especially Second Isaiah, where justice involves rectifying a wide variety of forms of oppression.<sup>16</sup> Both the process of restoring right relationship and the resulting condition or state of restoration are also resounded in Abrahamic terms for reconciliation, including the New Testament Greek words *katallage* and *katallosso*, the Arabic *musalaha* found in the Quran, the Hebrew *teshuva*, a close cognate found in the Tanakh, and *tikkun olam*, found in Jewish tradition. In the language and logic of these scriptures, then, reconciliation converges in meaning with justice understood as righteousness.

Abrahamic concepts of justice also converge closely with Abrahamic concepts of peace, bolstering political reconciliation’s status as an ethic of peace building as well as of justice. *Shalom*, the Hebrew word for peace, and the New Testament Greek *eirene* each describe something quite like a condition of comprehensive

righteousness in a community.<sup>17</sup> *Salam*, the Arabic word for peace in the Quran, is also similar to *shalom*, not only in the obvious linguistic sense but also in its meaning as a general state of harmony in a society, not just a cessation of hostility.<sup>18</sup> Peace corresponds to the sense in which reconciliation is a state of justice.

There is one other concept in the Abrahamic scriptures that resonates closely with reconciliation: mercy, which can be thought of as reconciliation's animating virtue. Such a role for mercy might seem strange to some, especially those influenced by the Enlightenment to think of mercy as a narrow and exceptional departure from just retribution. But the Jewish *hesed* and *rahamin*, the New Testament's *eleos*, and the Quran's *rahma* all mean something far more sweeping and constructive, a virtue that, as Pope John Paul II proposed in his 1980 encyclical, *Dives in Misericordia*, is "manifested in its true and proper aspect when it restores to value, promotes and draws good from all the forms of evil existing in the world and in man."<sup>19</sup> Mercy, on this understanding, corresponds to the sense in which reconciliation is a process of justice.

Finally, it is not only in their linguistic concepts that the Abrahamic scriptures support the core concepts of an ethic of political reconciliation but also in their broad narrative account of God's response to evil. In all three scriptures, this response is one of *action*, contrasting with the philosophical solutions to the "problem of evil" that Enlightenment philosophers have proffered.<sup>20</sup> In the Jewish scriptures, God acts to restore his covenant with the Jewish people by punishing, forgiving, meting out recompense, and restoring justice for the poor. In the New Testament, it is the atoning work of Christ, at least in some strands of interpretation, that accomplishes the same sort of justice. In the Quran, God does not perform an atoning sacrifice, but still he forgives the repentant and punishes the unrepentant, both acts of judgment that some commentators have thought to embody a restorative purpose.<sup>21</sup>

In all of these ways, the Abrahamic scriptures support core concepts of an ethic of political reconciliation, including justice as right relationship, peace, mercy, and reconciliation. Can these sources also support the ethic's commitment to human rights and the laws of war? Theologians in each tradition are divided over the issue. As for human rights, some believe that the claims of their scriptures are not only supportive but necessary for human rights; some prefer to root human rights in natural law; some are skeptical of either or both sorts of argument.<sup>22</sup> Most major branches of contemporary Judaism and Christianity (especially Catholicism and

Protestantism) today endorse human rights as enumerated in international legal covenants. Islam is more divided. Support for human rights is substantial, including in such umbrella organizations as the Organization of the Islamic Conference, but even here the status of particular human rights, such as religious freedom and the rights of women, is disputed. The consensus among the Abrahamic faiths on the human rights plank of the ethic, then, is significant but not universal. The result is a weakening of the ethic's cross-cultural reach on this score.

Again, other traditions and sources also conceive of justice, and in some cases, of peace and mercy, similar to the way that the ethic of political reconciliation does. The contemporary movement of restorative justice, which has arisen in criminal justice circles in English-speaking countries over the past generation, advocates a concept of justice that also involves restoration of right relationship among the several parties involved in a crime. Chile's Commission on Truth and Reconciliation and Archbishop Desmond Tutu in South Africa have led the way in adapting restorative justice as an ethic for nations, followed by a handful of scholars who have sought to theorize it on this scale.<sup>23</sup>

## APPLYING THE ETHIC TO POLITICAL ORDERS

How are the core concepts of an ethic of political reconciliation enacted in political orders—that is, within states and in relations between states? Justice that involves a holistic restoration of right relationship, animated by mercy, seeks to address the wide range of diminishment to human flourishing inflicted by political injustices (violations of human rights and the laws of war) through a variety of practices whose goal is to restore right relationship in political orders (respected citizenship based on human rights and just relations between states)—in sum, a just peace.

There are at least six dimensions along which political injustices inflict injury on persons and right relationships.

1. The first dimension, the violation of the victim's basic human rights, corresponds to the very definition of political injustice. It is because being a citizen whose rights are respected and upheld is an intrinsic dimension of human flourishing that this violation also amounts to a type of wound.
2. A second dimension is the range of harms that political injustices inflict. These include all those ways in which the victim's flourishing is diminished, including death, permanent injury, trauma, lasting psychological and emotional damage, economic loss, the death of loved ones, grief,



humiliation, loss of wealth and livelihood, sexual violation, or the defilement of one's race, ethnicity, religion, nationality, or gender.

3. Ignorance of the source and circumstances of political injustices compounds the harm itself. Relatives of the disappeared and the dead are the ones who most commonly suffer from this wound, as truth commission reports from around the world relate: "If they can just show us the bones of my child, where did they leave the bones of my child?" the mother of a missing South African political activist demanded.<sup>24</sup>
4. The failure of members of the surrounding political community (or another political community in the case of war between states) to acknowledge the suffering of victims, either through ignorance or indifference, deepens the harm and is a fourth dimension of woundedness. André du Toit, a South African political philosopher, has written that "for the victims, this actually is a redoubling of the basic violation: the literal violation consists of the actual pain, suffering and trauma visited on them; the political violation consists in the refusal (publicly) to acknowledge it."<sup>25</sup>
5. The fifth dimension of harm is the "standing victory" of the political injustice that the perpetrator committed.<sup>26</sup> This is the message of disregard for the victim's dignity that the perpetrator's act communicates and that political injustices leave behind. A harm to the victim and to the shared values of the community, it amplifies the assault on dignity that the violation itself entailed.
6. The sixth dimension is one that is understood easily in the Abrahamic faiths but is also articulated in such sources as Plato's *Gorgias*: the wound that a crime inflicts on the perpetrator himself. By disintegrating the acting self from the true moral self, evil injures the wrongdoer's soul, and often redounds in psychological damage as well as further injustices.

Cataloguing the harms that political injustices inflict directly, these six wounds may be called "primary wounds." But these same wounds also manifest harm in a more indirect sense: by prompting those who were involved in them to form judgments that lead them to commit further political injustices, either perpetuating an existing conflict or igniting a new conflict, or simply to withhold legitimacy from nascent constitutional orders. These derivative injustices may be called "secondary wounds." The judgments that cause them spring from the emotions of fear, hatred, resentment, and revenge that accompany memories of the original injustices.<sup>27</sup> As an

example, one need only recall conflicts where one set of events created the emotions that begat a future set of events: Rwanda, Northern Ireland, Bosnia, Kosovo, the Basque Country, Iraq, Israel and Palestine, Kashmir, post–World War I Germany, and so many others.

Recognizing this array of harms, an ethic of political reconciliation proposes a set of matching practices that seek to restore right relationship in or between political orders. Reflecting the sense in which the Abrahamic traditions envision God’s response to evil as one of action, each practice involves a unique kind of communicative action among victims, perpetrators, members of communities at large, and the state. There are six of these practices, though they do not correspond one-to-one with the six forms of woundedness. They are:

1. *Building socially just government institutions* based on human rights and respect for international law. These restore people with respect to the wound entailed in the violation of their human rights.
2. *Acknowledgment* of the suffering of victims by the community through authoritative political processes. This is the work of truth commissions as well as of memorials, museums, and rituals of remembrance. It seeks to redress the lack of recognition of victims’ suffering and their ignorance of the source and circumstance of their injuries.
3. *Reparations* in the form of material compensation to victims. Their purpose is partially to alleviate the economic loss associated with political injustices, but also to serve as a form of public recognition of victims’ suffering.
4. *Punishment*, which takes place through trials in national or international courts, vetting (or “lustration”) procedures that disqualify the guilty from holding office, and other forms of accountability. Its purpose is to defeat the standing victory of the perpetrator’s injustice, to confer recognition on victims for their suffering, and to invite the restoration of the perpetrator.
5. *Apology*, which is conferred by perpetrators for their own misdeeds and by political officials for acts done in the name of the political order. It also helps to defeat the standing victory of political injustices and to restore the perpetrator.
6. *Forgiveness*, which is performed by individual victims and, in theory but rarely in practice, by a political official on behalf of a group. As described below, it aims to strengthen the agency of victims, to defeat the perpetrator’s injustice, and to invite the perpetrator’s restoration.

These practices encourage human flourishing, which, as an intrinsic value, provides for their initial justification. Insofar as they address the wounds that political injustices inflict directly, they may be thought of as “primary restorations.” Parallel to the manner in which primary wounds beget secondary wounds, primary restorations may then redound to bring about “secondary restorations” that involve a refashioning of citizens’ judgments about the political order. Insofar as citizens experience their primary wounds being redressed positively through practices of the political community, they might come to view that community’s institutions as more legitimate and to increase their trust in their fellow citizens, their commitment to a common national identity, and their willingness to engage in democratic deliberation.

The six practices, the primary and secondary restorations that they seek to bring about, and the core moral concepts together add up to an ethic that is both an ideal of justice as well as a process of promoting justice. It is a process that is likely to be only partially achieved, dependent upon the relative power of the parties in the transition, the presence and policies of international institutions, the size and character of the injustices being addressed, and sundry other political factors. But it is also the case that all of the practices have occurred. Each of the six practices has been enacted in actual countries many times over the past generation. It is precisely this combination of practice and partiality that calls for the ethic. If the practices never occurred, the ethic would be futile; if they were not compromised and fraught with dilemmas, the ethic would be pointless.

## PUNISHMENT AND FORGIVENESS: THE ETHIC IN PRACTICE

What has been articulated so far is an ethical framework, but one that cannot at this stage treat the many ethical issues that arise in political efforts to deal with the past. Here, an examination of two of the ethic’s practices—punishment and forgiveness—illustrates in a limited domain how the ethic can deliver guidance for action. It shows how the logic of the ethic helps to resolve an important debate that has pervaded the politics of past injustice all over the world: that of punishment versus forgiveness, or of reconciliation versus retribution. According to a holistic, restorative logic of justice and peace, these two practices can be viewed as compatible in principle; the conceptual barrier to their antagonism can be overcome. Political barriers, of course, may remain. The need to involve war criminals in a peace settlement, for instance, may well prevent their prosecution,

at least in the short run. But even when the ideal is not possible, the ethic can still provide guidance. In this case it holds that forgoing prosecution is itself a sacrifice of justice, though one that can be justifiable as a second-best outcome, that amnesty should not be confused with forgiveness, and that forgiveness itself might provide a measure of justice independently in such a predicament.

### *Punishment*

Today the most common arguments for the punishment of war criminals and human rights violators come from the community of human rights activists and international lawyers, and usually take a consequentialist form: punishment is essential for establishing the rule of law in new regimes and for deterring war crimes. For them, the blanket amnesties in Latin America of the 1980s merit the cry “never again!” while the International Criminal Court is a model of success. Some opponents of this position also reason in consequentialist fashion: prosecutionist zeal fuels instability, prolongs war, and hinders the creation of the rule of law.<sup>28</sup> Ironically, one of the strongest traditional arguments for punishment, retribution, is heard only rarely in these debates.

Reconciliation need not reject punishment; the ethic at hand incorporates it. But it justifies punishment restoratively, as one of a set of practices that address multiple wounds in pursuit of a morally regenerated political order. The Christian theologian Christopher Marshall has dubbed this approach “restorative punishment.”<sup>29</sup> He and certain other Christian, Jewish, and Islamic theologians argue that restorative punishment is the rationale that best makes sense of God’s purposes in punishment.<sup>30</sup> Though not all passages in the Tanakh, the New Testament, and the Quran, and certainly not all practices of communities of these faiths down through the centuries, can be reconciled with this theory, most instances of punishment, even harsh punishment, in these scriptures arguably carry a restorative purpose for the community of believers. A more secular articulation of restorative punishment can be found in the writings of such philosophers as Jean Hampton, Herbert Morris, and Antony Duff.<sup>31</sup>

Restorative punishment incorporates core claims of retributivism, including the idea that punishment is deserved by human rights violators, that it involves deprivation, and that it is subject to proportionality and the due process of law. But it rejects at least some justifications for retributivism, especially what can be termed “balance retributivism”—the view that punishment is required to restore a balance, even apart from any restoration of people or relationships. Restorative punishment

agrees with consequentialist arguments that part of punishment's purpose is to promote the rule of law, but argues that this alone is not a sufficient justification.

Consistent with the larger ethic of political reconciliation, restorative punishment begins by identifying the kind of harm that a wrong does. What makes any political injustice distinct, I argue, is its communication of disregard for the dignity of the victim on behalf of a political program or ideal. As long as the wrongdoer adheres to the injustice and nothing or no one nullifies or defeats it, this message continues to enjoy a "standing victory"—in the wrongdoer's eyes, in the victim's eyes, and in the eyes of the community, whose shared values have been attacked.

Punishment, then, is justified as a communication of censure to the wrongdoer by the state, acting on behalf of the community, with the purpose of defeating decisively the perpetrator's message. An important audience is the community, whose values are reaffirmed. In this way, punishment indeed contributes to the rule of law in transitional societies, as human rights advocates desire. Restorative punishment also invites the perpetrator's restoration, encouraging him to recognize the injustice of his deed, to repent, and to apologize. To be sure, punishment still involves the hard treatment of imprisonment or other form of suffering, which communicates the gravity of the offense. It also seeks to create shame in the perpetrator, sometimes a step toward remorse. The perpetrator's repentance and apology, if they are forthcoming, defeat his own unjust message; but the force of this communication depends on his words being accompanied by—and in fact expressed through—the experience of punishment. Punishment may be thought of as a penance. However, even if the perpetrator expresses no remorse or apology, the punishment would still be justified as a communication that defeats the standing victory of his wrong. Justified in this way, punishment instantiates both justice and mercy of the sort that exercise a will toward the restoration of right relationship.

What is the upshot of restorative punishment for societies dealing with past injustices? Restorative punishment recommends those forms of punishment that not only censure perpetrators but are also likely to bring about their acknowledgment of wrongs, to honor victims, and to restore the values of human rights and the rule of law to political communities. Because punishment does not require a precise balancing of wrongs with deprivation, it can be exercised with sufficient flexibility to accommodate this range of desiderata. It may well involve imprisonment or disqualification from office. Indeed, for the most culpable

masterminds of evil, only long-term imprisonment can communicate adequate censure. But for lesser crimes, and even for arch-criminals in combination with their imprisonment, other forms of punishment can elicit more holistic restoration. In those truth commissions that held public hearings in which victims and perpetrators met directly—as in South Africa, Sierra Leone, and Peru—perpetrators experienced strong public shame while victims received public acknowledgment. In Timor-Leste, community panels pursued the same goals while also requiring convicted perpetrators to perform reintegrative community service. Timor-Leste, Sierra Leone, Peru, and post-cold war Germany also adopted hybrids of trials and truth commissions that combined forms of accountability.

As a matter of first principle, restorative punishment cannot sanction amnesty—always a compromise of justice. In some cases, though, the compromise may be warranted if there is a strict, unavoidable choice between amnesty and peace or the transition to a new regime. Building just institutions, after all, is also one of the practices in the ethic of political reconciliation. But this trade-off is always a regrettable second-best; the burden of argument should always remain on the proponent of forgoing punishment. If possible, the amnesty ought to be conditional, so as to elicit other restorative goods, such as the truth about the past and the acknowledgment of victims: South Africa's Truth and Reconciliation Commission is a classic example. Sometimes, too, amnesties can be reversed. Though the Chilean Supreme Court upheld an amnesty for General Augusto Pinochet and his fellow officers at the time of his departure from power, human rights lawyers won a substantial number of convictions over the ensuing decade and a half.

### *Forgiveness*

Forgiveness is the rarest of the six practices in politics, though exactly how rare it is depends on how forgiveness is defined. If by forgiveness one means forgoing a country's national debt, issuing presidential pardons, and granting amnesties to perpetrators of massive human rights violations, then it is not particularly rare. In the definition that I wish to offer here, however, involving a will to construct right relationship, such actions fall short of forgiveness. Even on a more restrictive view, the age of peace building contains numerous stories of victims forgiving perpetrators of terrible human rights violations, though it is difficult to say how often. The stories have been most common in South Africa, El Salvador, Chile,

Timor-Leste, Germany, Rwanda, Bosnia, and Northern Ireland, though they surely have occurred elsewhere.<sup>32</sup>

Forgiveness is also the most controversial of the practices, especially in the context of mass evil. To its critics, it condones evil, it forgets evil, and it undermines punishment and retribution for perpetrators. Others argue that victims who practice forgiveness fail to respect themselves, disempower themselves, and empower perpetrators; and that those who ask or, still more, pressure victims to forgive fail to respect them. Tutu was thus criticized for his advocacy of forgiveness in the Truth and Reconciliation Commission.<sup>33</sup>

In part, forgiveness is a relinquishing of claims owed, a cancellation of debts, and a forgoing of anger and vengeance, emotions that may be impossible to avoid but whose endorsement can still be refused. But relinquishing alone is not forgiveness. A victim of robbery could decide to avoid seeking prosecution or compensation for pragmatic reasons and to let go of his anger for therapeutic reasons. Such a relinquishment may be justifiable, but it is missing an important part of what it means to forgive. So, too, an amnesty for human rights violators by itself lacks an important ingredient of forgiveness.

This ingredient is the willing of a restoration of right relationship—the essential element of an ethic of political reconciliation. The victim wills to look upon the perpetrator in a new way—as someone who is now in good standing in the victim’s eyes and who is better than his past actions. Forgiveness also invites repentance and apology, if that has not already occurred. To be sure, the character of right relationship will vary. No victim is obligated to continue to be subject to an oppressor—to live under the same roof as an abusive spouse or to lend money to a swindler. Forgiveness does not at all negate a right to self-defense. But it always involves a will to construct some manner of new relationship with the offender, even if the change is largely in outlook and judgment.

This constructive will is crucial not only to the definition of forgiveness but also to its justification. In Christianity, forgiveness is a participation in the forgiving act of God in Jesus Christ, an act that is restorative in its purpose. In Judaism and Islam, it is an imitation of a God who also forgives in order to restore his followers. Contemporary philosophers have offered restorative justifications for forgiveness in secular terms as well.<sup>34</sup> Like the other practices in the ethic, forgiveness seeks to redress a range of wounds to persons and relationships. Far from condoning evil, it contributes to its defeat by naming it and negating its message. Because victims take a proactive role in this defeat and in redefining the relationship,

their agency is strengthened. By exercising goodwill even in great difficulty, they gain self-respect. Forgiveness also contributes to their healing by stemming the psychologically debilitating effects of anger. In some instances it can even elicit the repentance of the wrongdoer.<sup>35</sup> Wherever it is practiced in a setting of past political evil, forgiveness can create the social capital of legitimacy and solidarity and help to quell the desire for revenge and other politically destructive emotions. Contrary to modern Western parlance, then, forgiveness is an act of justice, the justice that restores, and of mercy, the virtue that wills the restoration of all that is broken.

Numerous issues must be confronted in a full ethic of political forgiveness: why it ought never to be pressured or required, why members of groups who have committed oppression should never recommend it to members of groups that they have oppressed, whether it can be offered by a person who is not a direct victim, whether a political leader can offer it on behalf of a group, and other matters. But one issue attending forgiveness is especially urgent for both the logic and the practice of the present ethic: its compatibility with punishment. Most analysts see a tension between forgiveness and punishment, but they resolve it differently. Some opt for forgiveness.<sup>36</sup> Others prefer punishment or at least demand that it not be sacrificed.<sup>37</sup> Another solution aims to carve out a middle ground.<sup>38</sup> Still another advocates forgiveness as a second-best alternative to punishment.<sup>39</sup>

But the two practices can be compatible if they are both justified restoratively. On this rationale, a victim could will both forgiveness and punishment. In its own way, each practice effects restoration. When a victim forgives, she acts to defeat the message of injustice that the perpetrator has communicated through a communication of her own, one that names the evil as evil, reasserts her own dignity, and then invites the perpetrator also to name it, renounce it, and express apology. When a victim wills punishment for the perpetrator, she declares that the hard treatment of suffering is needed to defeat the perpetrator's message, both as a communication on behalf of the community and, should the wrongdoer accept it, as his own communication of penance. Here, the victim is not claiming that the perpetrator owes her something but rather desires to defeat the communication of injustice. The compatibility of punishment and forgiveness is furthered even more by the fact that the state imposes the punishment. Because it acts in the name of the community and its laws, it can best communicate the values embedded in the law to the wrongdoer. It is also the state, of course, that can ensure other crucial dimensions of ethical punishment such as a fair trial, due process, and proportionality. This logic of restorative justice, then, proposes a kind of division



of labor in which victim, perpetrator, and state each aspire to defeat the message of injustice in a different respect. Were punishment required in order to satisfy a balance, the logic would be quite different. In that case, forgiveness would be justifiable only after punishment had taken place. Otherwise, the victim would be relinquishing a debt that must be paid. Alternatively, if a victim did forgive, she could no longer justifiably demand punishment since she had relinquished all claims against the perpetrator.

A more complicated issue is whether the leader of a group—a party, an army, a state—can forgive a perpetrator or a group in whose name an injustice was committed. Nelson Mandela is one of the few heads of state to have performed such forgiveness, though even he did not speak explicitly on behalf of others. That political leaders commonly issue apologies suggests that representational group forgiveness might be conducted analogously. But as of now, few examples exist to guide us.

## CONCLUSION

The discussion of punishment and forgiveness illustrates important features of all six practices of the ethic of political reconciliation. Each of the six practices is interdependent and complementary; each redresses a different set of wounds of political injustice in a unique way; each restores a dimension of human flourishing and of just political orders. All of the practices find application in various institutional contexts, including within states in the wake of civil war and authoritarian rule, between states that have fought a war, or in the wake of armed intervention, though how the practices find application in each context differs and requires further exploration. The fundamental contention of the ethic of political reconciliation is that addressing these wounds, both because they need to be addressed and because failure to do so may lead to further injustices, is a matter of the justice of right relationship—a justice that is animated by mercy and that aspires to peace.

## NOTES

<sup>1</sup> Peace building is similar to the concept of “postconflict reconstruction,” except that it occurs not solely in the wake of wars but also of dictatorships. Postconflict reconstruction is the central concept of the conference for which this paper was originally written, several of whose papers appear in *Ethics & International Affairs* 23, no. 2 (2009). The term is also consistent with my usage elsewhere, including in a book manuscript from which this article is drawn, *Just and Unjust Peace: An Ethic of Political Reconciliation*.

<sup>2</sup> For religious accounts of reconciliation, see John W. De Gruchy, *Reconciliation: Restoring Justice* (Minneapolis, Minn.: Fortress Press, 2003); Miroslav Volf, *Exclusion and Embrace: A Theological*

- Exploration of Identity, Otherness, and Reconciliation* (Nashville, Tenn.: Abingdon Press, 1996). For secular accounts, see Andrew Rigby, *Justice and Reconciliation: After the Violence* (Boulder, Colo.: Lynne Rienner Publishers, 2001); Andrew Schaap, *Political Reconciliation* (London: Routledge, 2005); Erin Daly and Jeremy Sarkin, *Reconciliation in Divided Societies: Finding Common Ground* (Philadelphia: University of Pennsylvania Press, 2007).
- <sup>3</sup> For a classic statement of the liberal peace, see Boutros Boutros-Ghali, *An Agenda for Peace*, 2nd ed. (New York: United Nations Publications, 1995). For scholarly analyses, see Roland Paris, *At War's End: Building Peace after Civil Conflict* (Cambridge: Cambridge University Press, 2004); and Oliver P. Richmond, "The Problem of Peace: Understanding the 'Liberal Peace,'" *Conflict, Security & Development* 6, no. 3 (2006), pp. 291–314.
- <sup>4</sup> Calls for legal accountability and decerrals of impunity are commonly voiced by such groups as Amnesty International and Human Rights Watch. For a scholarly perspective, see Diane F. Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime," *Yale Law Journal* 100, no. 8 (1991), pp. 2537–2615.
- <sup>5</sup> On liberal thought in international relations, see Michael Doyle, *Ways of War and Peace* (New York: W. W. Norton, 1997).
- <sup>6</sup> On the role of emotions in conflict, see Roger D. Peterson, *Understanding Ethnic Violence: Fear, Hatred, and Resentment in Twentieth-Century Eastern Europe* (Cambridge: Cambridge University Press, 2002).
- <sup>7</sup> For a summary of these analyses, see Charles T. Call and Elizabeth M. Cousens, "Ending Wars and Building Peace: International Responses to War-Torn Societies," *International Studies Quarterly* 9 (2008), pp. 1–21.
- <sup>8</sup> *Ibid.*, p. 2.
- <sup>9</sup> A like-minded approach, but articulated more as a praxis than as a philosophical or theological ethic, is the influential work of John Paul Lederach. See, e.g., John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: United States Institute of Peace, 1997).
- <sup>10</sup> See Daniel Philpott, "When Faith Meets History: The Influence of Religion on Transitional Justice," in Thomas Brudholm and Thomas Cushman, eds., *The Religious in Response to Mass Atrocity: Interdisciplinary Perspectives* (Cambridge: Cambridge University Press, 2009), pp. 174–212.
- <sup>11</sup> The concept of an overlapping consensus is John Rawls's. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 15. Whereas I adopt this concept, though, I do not share his commitment to "public reason" and its attendant obligation of secular argument. I am more sympathetic to the more religion-friendly concept of overlapping consensus articulated in Charles Taylor, "Modes of Secularism," in Rajeev Bhargava, ed., *Secularism and Its Critics* (New York: Oxford University Press, 1998), pp. 31–53.
- <sup>12</sup> See, e.g., Jennifer J. Llewellyn, "Restorative Justice in Transitions and Beyond," in *Telling the Truths: Truth Telling and Peace Building in Post-Conflict Societies*, Tristan Anne Borer, ed. (Notre Dame, Ind.: University of Notre Dame Press, 2006), pp. 83–113.
- <sup>13</sup> Elizabeth Achtemeier, "Righteousness in the OT," in G. A. Buttrick, ed., *The Interpreter's Dictionary of the Bible* (Nashville, Tenn.: Abingdon, 1962), pp. 80–82.
- <sup>14</sup> See Christopher D. Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime and Punishment* (Grand Rapids, Mich.: Eerdmans, 2001), p. 51; and Moshe Weinfeld, *Social Justice in Ancient Israel* (Minneapolis, Minn.: Augsburg Fortress Publishers, 1995), pp. 25–33, 57–65.
- <sup>15</sup> Majid Khadduri, *The Islamic Conception of Justice* (Baltimore: Johns Hopkins University Press, 1984), pp. 6–7, 192; and A. Rashied Omar, "Between Compassion and Justice: Locating an Islamic Definition of Peace," *Peace Colloquy* (Spring 2005), p. 9.
- <sup>16</sup> Weinfeld, *Social Justice in Ancient Israel*.
- <sup>17</sup> Perry Yoder, *Shalom: The Bible's Word for Salvation, Justice, and Peace* (Newton, Kans.: Faith and Life Press, 1987), pp. 10–23; Howard Zehr, *Changing Lenses* (Scottsdale, Pa.: Herald Press, 1990), pp. 130–32; and Ulrich Mauser, *The Gospel of Peace: A Scriptural Message for Today's World* (Louisville, Ky.: Westminster/John Knox, 1992), p. 33.
- <sup>18</sup> Mohammed Abu-Nimer, *Nonviolence and Peace Building in Islam* (Gainesville: University Press of Florida, 2003), p. 60.
- <sup>19</sup> Pope John Paul II, *Dives in Misericordia* (Encyclical Letter, 1980).
- <sup>20</sup> See Susan Neiman, *Evil in Modern Thought: An Alternative History of Philosophy* (Princeton, N.J.: Princeton University Press, 2002).
- <sup>21</sup> Carol Schersten LaHurd, "'So That the Sinner Will Repent': Forgiveness in Islam and Christianity," *Dialog* 35, no. 4 (1996), p. 289.
- <sup>22</sup> For an overview of the debate and examples of each position, see Elizabeth M. Bucar and Barbra Barnett, eds., *Does Human Rights Need God?* (Grand Rapids, Mich.: Eerdmans, 2005).
- <sup>23</sup> See *ibid.*
- <sup>24</sup> Brandon Hamber and Richard A. Wilson, "Symbolic Closure Through Memory, Reparation and Revenge in Post-Conflict Societies," *Journal of Human Rights* 1, no. 1 (2002), p. 40.

- <sup>25</sup> André du Toit, “The Moral Foundations of the South African TRC: Truth as Acknowledgment and Justice as Recognition,” in Robert I. Rotberg and Dennis Thompson, eds., *Truth v. Justice: The Morality of Truth Commissions* (Princeton, N.J.: Princeton University Press, 2000), p. 133.
- <sup>26</sup> Jeffrie G. Murphy and Jean Hampton, *Forgiveness and Mercy* (Cambridge: Cambridge University Press, 1988), pp. 124–138.
- <sup>27</sup> Here again, see Peterson, *Understanding Ethnic Violence*.
- <sup>28</sup> Jack Snyder and Leslie Vinjamuri, “Trials and Errors: Principle and Pragmatism in Strategies of International Justice,” *International Security* 28, no. 3 (2003), pp. 5–44.
- <sup>29</sup> Marshall, *Beyond Retribution*, 131–39.
- <sup>30</sup> For rationales of punishment along the lines of restorative justice in several religious traditions, see Michael L. Hadley, ed., *The Spiritual Roots of Restorative Justice* (Albany: State University of New York Press, 2001).
- <sup>31</sup> Jean Hampton, “The Moral Education Theory of Punishment,” *Philosophy & Public Affairs* 13, no. 3 (1984), pp. 208–38; R. A. Duff, *Punishment, Communication, and Community* (New York: Oxford University Press, 2001); Herbert Morris, “The Paternalistic Theory of Punishment,” in *Punishment and Rehabilitation*, Jeffrie Murphy, ed. (Belmont, Calif.: Wadsworth, 1985).
- <sup>32</sup> For accounts of the actual practice of forgiveness in the politics of various countries, see Mark Amstutz, *The Healing of Nations: The Promise and Limits of Political Forgiveness* (Lanham, Md.: Rowman and Littlefield, 2005); William Bole, Drew Christiansen, and Robert T. Hennemeyer, *Forgiveness in International Politics: An Alternative Road to Peace* (Washington, D.C.: United States Conference of Catholic Bishops, 2004); Trudy Govier, *Forgiveness and Revenge* (London: Routledge, 2002).
- <sup>33</sup> For an excellent summary of criticisms of forgiveness in politics, see Thomas Brudholm, “On the Advocacy of Forgiveness after Mass Atrocities,” pp. 124–56.
- <sup>34</sup> See Joanna North, “Wrongdoing and Forgiveness,” *Philosophy* 62 (1987), pp. 499–508; Miroslav Volf, “Forgiveness, Reconciliation, and Justice: A Theological Contribution to a More Peaceful Social Environment,” *Millennium* 29, no. 3 (2000), pp. 861–77; Govier, *Forgiveness and Revenge*.
- <sup>35</sup> Though this may seem far-fetched, in South Africa and elsewhere surprising examples of it took place. Eugene de Kock, who was head of the Vlakplass security force of the apartheid regime and known as “prime evil” for his horrific deeds, renounced these deeds from prison after being forgiven at a Truth and Reconciliation Commission hearing by the widow of a man that he had killed. See the account of Pumla Gobodo-Madikizela, *A Human Being Died that Night: A South African Story of Forgiveness* (Boston: Houghton Mifflin Company, 2003).
- <sup>36</sup> Govier, *Forgiveness and Revenge*.
- <sup>37</sup> Amy Gutmann and Dennis Thompson, “The Moral Foundations of Truth Commissions,” pp. 22–44.
- <sup>38</sup> Martha Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* (Boston: Beacon Press, 1998).
- <sup>39</sup> P. E. Digeser, *Political Forgiveness* (Ithaca, N.Y.: Cornell University Press, 2001). For another excellent analysis of forgiveness, though one that does not necessarily confront its tension with judicial punishment, see Charles Griswold, *Forgiveness: A Philosophical Explanation* (Cambridge: Cambridge University Press, 2007).

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