

6. The key demand remains that of justice. Killing the killers without judging them has become an imperative that no longer even merits debate in my country. Although it may be true that these heroes of the jihad want to die with their weapons in their hands, the political discourse is not obliged to settle for reflecting this. It must rise above it and reject any contagion, mediatise violence and civilise confrontation. It should develop its response to the crime, meaning that it should seek to neutralise the aggressors. In other words, it should not legitimise their destruction, even if it should prove to be inevitable. No one has a thought for the much-needed catharsis provided by a trial for those close to the victims and those who evade judgement. Is judging those whose only desire is to be judged in the court of their beliefs not the first step towards their de-radicalisation? Stripped of their pseudo-heroism, they will be reduced to their common and ordinary humanity. Learning how to punish those who, far from being quite different from us, are in fact our fellow beings, has been a challenge for justice for at least two centuries.

We must not undermine the meaning of the punishment by applying a criminal law for enemies that would ruin the democracy it claims to defend. Historically, our European identity is founded, lest we forget, on the refusal of violence, and the European Convention on Human Rights is its rampart. It would be too short-sighted to give preference to immediate security over our founding principles. The emphasis must be placed on the continuity of the state and the place of law in the fight against terrorism.

We all read the headline of the issue of *Charlie Hebdo* that followed the attacks: 'All is forgiven'. We must understand the meaning of this very singular forgiveness. It neither gives absolution for the crimes committed nor gives up the will to resist. The aim of the drawing is to avoid a tit-for-tat approach and the risk of contagion. It ignores those boasting that they have 'avenged the prophet'. It makes us stronger than those who have given us reason to hate them, delivers us from infernal repetitions and allows new promises. Its grandeur lies in its use of the resources of art, derision and humour. Its strength lies in its message that the response to the hatred of the executioners will not be hatred on the part of the victims. If only we are capable of hearing that message.

RESPONSE

Respect as freedom's guarantor

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1. Restoring terror's harm

For the restorative justice theorist, few views are as misguided as the perspective that restorative justice is an appropriate response to minor crimes, while major ones such as terrorism require a purely punitive response, or even a declaration of war to defend freedom against its enemies. Lode Walgrave's (2015) analysis in 'Domestic terrorism: a challenge for restorative justice' draws little dissent from this commentator; Walgrave (2008) applies his convincing account of why 'respect, solidarity and active responsibility' are worthy pillars of a restorative society. In this contribution he gives form to these pillars as a response to a troubling threat to freedom.

Walgrave makes the point that it has happened surprisingly often that leaders responsible for terror tactics have met with victim families to powerfully communicate their remorse. I might add that this has happened from the Middle East to Northern Ireland to South Africa to Sri Lanka. Likewise we have seen German leaders apologise many times for the genocidal conduct of their state decades earlier. The logic of Walgrave's point is that there is no crime so terrible as to preclude restorative justice; it is just that unusually terrible crimes tend to take longer before a restorative encounter is possible. Even so, the greater the evil of the crime, the more profound the opportunity to unleash the transformative power of a justice that heals. Where restorative justice is hardest to do, it is most important to do. In cases like South Africa and the reconciliation between Gerry Adams and Reverend Ian Paisley in Northern Ireland, healing made no small contribution to reducing the likelihood of future civil war. Indeed the restorative justice movement in Northern Ireland, one of the most vibrant in Europe, has made a wide-ranging contribution to consolidating a peace that was faltering at first; this

contribution had its roots in restorative healing that began in Northern Ireland's prisons between those called terrorists from both sides.

This of course is not to say that restorative justice is the most important way of preventing terrorism. Improving intelligence, detection, detention of suspects before they have an opportunity to execute their plans, community education by communities from which suicide bombers are recruited, providing excellent educational opportunities to poor children as an alternative to grooming for terror in the free education provided by certain madrassas, and much more are needed. Most importantly, there is a need to address root causes of grievance in communities susceptible to terrorist recruitment. An interesting aspect of Walgrave's analysis is that restorative justice is not without relevance here because disrespect of Islamic civilization is an important root cause of contemporary terror.

2. Reconciliation writ small and large

Figure 1 is the footer at the bottom of emails from Amanda Lutz, leader of our Restorative Justice Unit in Canberra which operates under the Australian Capital Territory's Justice and Community Safety Directorate.

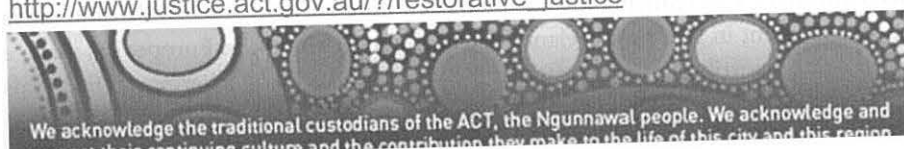
First, the directorate tacitly acknowledges the Ngunnawal people as victims of a great injustice when their land was stolen from them by we Europeans. Second, the four values chosen to represent restorative justice start with 'Safety'. These two features fit Walgrave's analysis of terrorism and restorative justice in that he contends safety is the priority value, to the point where if the only way to protect the community is to kill the terrorist, this can be acceptable in terms of restorative values. He perhaps should have added that the restorative justice obligation is to search actively for nonviolent forms of social control and to be minimally sufficient in the degree of violence we deploy to control terror.

Figure 1: Email footer for Amanda Lutz, leader of the Restorative Justice Unit, Canberra. (Justice and Community Safety Directorate email acknowledgment by permission of JACSD, ACT, includes artwork by Rachelle Kelly. Email footer by permission Amanda Lutz.)

Safety Accountability Empowerment Healing

Restorative Justice Unit, ACT Department of Justice & Community

http://www.justice.act.gov.au/?/restorative_justice



We acknowledge the traditional custodians of the ACT, the Ngunnawal people. We acknowledge and

Walgrave (2008) sees the fundamental normative value of restorative justice as reducing the amount of domination in the world. This is why restorative justice thinkers like Walgrave endorse Lutz's three other values—Accountability, Empowerment and Healing. But Accountability, Empowerment and Healing should never take priority over saving a large number of people from being killed and maimed in a terrorist attack. Lode Walgrave and I would agree that these are all republican values that should be balanced against the more foundational republican yardstick of deciding what response is most likely to reduce the amount of domination in the world (Pettit, 1997).

Third, there is a much more indirect connection in the Lutz footer to Walgrave's observations about the 'Je suis Charlie' marches as mass vindication rituals for direct and vicarious victims of terror. The Lutz footer itself is hardly a profound ritual, but it does connect to a recurrent reconciliation ritual that has been deeply institutionalised in both New Zealand and Australia. This footer on a communication from a government official is a reminder to all that the policy of Australian governments of all political persuasions is to open significant public gatherings with an acknowledgement of the traditional custodianship of the land on which the meeting is held. Not as dramatic a vindication ritual as the 'Je suis Charlie' marches, but a more sustained one because it occurs day in and day out across the decades and is enlivened by the tradition of inviting a local elder in especially high-profile events to put their particular cultural and political touch on a 'welcome to country' in response to this vindication of traditional custodianship of the country by we the colonisers.

Fourth, a common element is that both vindication rituals can be too smug and comfortable to be beyond reproach. For a restorative justice advocate, if 'Je suis Charlie' means conceiving of disrespect for the religious symbols of the other as a noble defence of freedom of speech, the restorative response must be that disrespectful speech is tyranny. Whether it is degrading religious speech, calling a black man a 'nigger' or a woman a 'slut', disrespect cannot be restorative speech. Speaking such degradation freely illustrates why 'it is not always wise to use all rights completely', as Walgrave puts it. Likewise, to say 'we acknowledge and respect the Ngunnawal' as traditional custodians of the land and as contributors to the multicultural society which is the work in progress called Canberra is laudable, but involves some disturbing silences. It does not say that the laws and guns we Europeans brought to the Ngunnawal lands in the nineteenth century were genocidal laws and guns. Good it is that acknowledgement rituals announce an intent in the Australian Capital Territory to be a restorative community, to assert a restorative rule of law over a genocidal rule of law that enshrined the lie that Canberra was 'terra nullius', empty land. Yet this falls way short of explicit acknowledgement and apology for the crime of genocide during the nineteenth century against the traditional owners of that land, stealing children from their families and worse.

But let us pause at that critique of these smug and comfortable rituals that permit some of the most anti-freedom, anti-restorative political actors to join arms with genuine defenders of citizens' dominion. Walgrave is right to allude to some discomfort at this when he considers the politics of some of the political leaders chanting 'Je suis Charlie'. Let us pause at critique of an acknowledgement of Aboriginal custodianship that is so limited that it does not offend even some of Australia's more racist political leaders. For the restorative justice person, consensus rituals that lay a limited foundation against tyranny and for vindication of victims of tyranny are occasions for inviting debate about the limits of the ritual on offer. In one moment they heal, in another they fuel dialogue about wider wounds that still gape without any semblance of the level of Safety, Accountability, Empowerment and Healing required.

3. Macro healing

Walgrave concludes that we must take our healing to a more macro level of vindication of oppressed Muslims as well as victims of terror. We must acknowledge the root causes of Islamist terror in Western disrespect of Islam that dates at least from Western attempts to dominate Islam through the Crusades, then through colonial domination, then through domination by Western oil firms and other multinationals. At the macro level, Walgrave makes a good case that respect of the other is one key to the prevention of terrorism. Restorative justice activists use freedom to constrain themselves from disrespectful speech, and thereby strengthen freedom. Conversely, people who use freedom to show disrespect to the other are freedom's enemies, not its champions.

So I do see Walgrave as making fundamentally perceptive points in his article. First, our response to terror and other forms of tyranny should 'strengthen what binds us', as did the 'Je suis Charlie' marches. Second, they must affirm cultural patterns of respect for those with beliefs divergent from our own, as did prominently embracing Muslim leaders within those marches. Together, these two requirements can strengthen freedom and weaken terrorism. Weakening freedom in order to strengthen it is a less convincing prescription than that offered by Lode Walgrave. Yes, restorative justice does not have many of the answers about how to combat terror. What it does provide is a useful framework and a moral compass in the search for such answers that is about Walgrave's 'respect, solidarity and active responsibility', but also Lutz's 'Safety, Accountability, Empowerment, Healing'.

References

- Pettit, P. (1997). *Republicanism*. Oxford: Oxford University Press.
- Walgrave, L. (2008). *Restorative justice, self-interest and responsible citizenship*. Cullompton: Willan Publishing.

BOOK REVIEW

Sue Mahan, *Restoring justice in Colombia: conciliation in equity*. New York: Palgrave Macmillan, 2012, 202 pp., ISBN 978-1-137-27082-5 (hbk).

Very few books have been written on restorative justice (RJ) in Latin America. Mahan's book *Restoring Justice in Colombia: Conciliation in Equity* is one of them. But this is not the only feature that makes this book special. While qualitative research has been scarce in the field of RJ, Sue Mahan offers a dynamic book in which ethnographic research has been the main approach to studying conciliation in equity in Colombia. She shares four years of observations, discussion groups and interviews, and highlights the importance of historical and settled fieldwork. Reflections and discussions shared in the book also reflect a good understanding of the practice and its challenges, a relevant aspect considering that qualitative data was collected in a language different from the researcher's mother tongue.

In Chapter 1—'How Was Conciliation in Equity Possible in Colombia?'—the author offers a review of the main features of Colombian society: years of conflict and violence, markedly religious traditions, high indicators of inequality and pronounced geographical diversity. Summarising such complexity in order to give a clear and genuine portrait of Colombian society is a difficult task that the author manages with relative success: in a few paragraphs the reader is able to get a general notion of the main features of Colombian society. The chapter is, however, lacking a clear answer to the question posed in the chapter's title. In other words, how the factors she describes in this section may be related to the origins or the features of conciliation in equity.

Chapter 2 addresses the theoretical and philosophical foundations of conciliation in equity. The author makes a link between the need for restoring justice, and the fragmentation suffered by Colombian society. While doing this, Mahan gives to conciliation in equity the status of an intervention that, despite its objective of dealing with concrete day-to-day conflicts, may impact on the way that Colombians interact with each other. In this context, the author's discussion on the labels of 'victim' and 'offender' makes sense. She replaces such labels, as conciliation in equity does, with 'complainants' and 'respondents'. 'It should not be automatically assumed by their labels that participants were victimized, not that they have been offensive' (14). Then both parties are understood to be two equal components in the equation of restoration.

Mahan then moves to analyse the practice of conciliation in equity, comparing its