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# In the Shadow of Christ ?

## On the Use of the Word “Victim” for Those Affected by Crime

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JAN VAN DIJK

I am not a victim simply because other people say I am. Other people cannot make you a victim, only you can do that . . . I want to be taken seriously and for the events of my case not to be swept under the doormat.

— Natasha Kampusch<sup>1</sup>

### Introductory Remarks

When pressed, English speakers are inclined to suppose that the word “victim” is derived from the Latin verb *vincere*, which means to conquer. In this mistaken interpretation “victim” refers to the opposite of the victor: he who lost the battle (the loser). In reality, “victim” is not a derivative of the verb *vincere* but of the unrelated Latin word for sacrificial object, *victima*. “Victim” is, for example, used in Latin versions of the Bible to denote a sacrificial animal. The victim is someone or something slaughtered and offered as a sacrifice to the gods.

In June 2007 I heard George Fletcher speaking about the etymology of “victim” at a seminar on victimology and human rights held at the Hebrew University in Jerusalem. He discussed the original meaning of the word and the universality of the victim label as a name for those affected by crime in the languages of Christianity, Judaism, and Islam. In modern Hebrew, the word used for victim is *korban*, originally meaning both the sacrifice and the sacrificial animal. In Arabic, the word for victims of crime or terrorism, *udhiya*, also refers to both the sacrifice and the sacrificial animal. The same root concept is used in the name of the important Islamic Holiday of the Sacrifice.<sup>2</sup> Fletcher also presented a tentative explanation about how the

*victima* concept was adopted into the Abrahamic languages. This explanation is discussed in more detail in his recent study, *The Grammar of Criminal Law*, in his chapter on language.<sup>3</sup> In the following essay I will comment on Fletcher’s explanation for the use of the word “victim” and compare it with my own hypothesis elaborated in a public lecture at the University of Tilburg, the Netherlands, around the same time.<sup>4</sup> In a final section, I will briefly discuss the implications of these etymological analyses for a better understanding of the role of the victim in criminal procedure, another topic raised in Fletcher’s book.

As Fletcher rightly points out, *victima* is used to denote those harmed by crime not only in English but in all Romance languages, such as French and Italian (*victime* and *vittima*, respectively). The sacrificial connotations of “victim” may be hidden for most native speakers of English, French, or Italian, but this is not the case in Germanic languages. In German, for instance, the victim is called *Das Opfer*, meaning the sacrifice; and in Swedish, *Brottsoffer*, the sacrifice of the crime. In Icelandic the word used for victim is *Foernarlamb*, meaning the sacrificial lamb. In Dutch the word is *slachtoffer*. The Dutch term means, literally, the butchered, sacrificial object. The identification of crime victims with sacrificial objects is not limited to English, Romance, or Germanic languages. In Russian (*zherta*), Hungarian (*aldozot*), and modern Greek (*tema*), to name just a few, crime victims are also referred to as sacrificial objects. A brief etymological excursion therefore confirms that the word used for

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those affected by crime refers in all European languages to animals killed in a religious ritual as part of the worship of god. "Victim" is replete with deep religious meaning in all these languages.

The similar adoption of the victim label across all these different languages is the more puzzling since it seems to be a characteristic of modern versions of these languages. In classical Greek, Latin, and Hebrew, the wider use of the victim label for those affected by crime is non-existent. In the ancient world, nobody called a crime victim a sacrificial object. Neither is the label common among other language groups. In Chinese, the word for sacrificial animal (*jipi*) is definitely not used for those persons affected by crime. The latter are described by the characters for "person," "harm," and "in a passive sense"; in other words, they are neutrally described as the person-receiving-harm (*bei hai ren*). Likewise in Japanese, a person against whom a crime has been perpetrated

is called a receiving-harm-person. In this factual terminology, all connotation of sacrifice is absent.

Why then do modern languages of the Western and Arabic world unanimously call those affected by crime sacrificial persons rather than opt for a more neutral, legal term such as "wronged persons"? Why was a term with such cruel as well as holy connotations chosen to refer to ordinary persons harmed, injured, or wronged by ordinary crimes? I agree with Fletcher that the use of the term is puzzling—mysterious even—and that this linguistic phenomenon has attracted surprisingly little attention from scholars. Also, my interest in the topic goes beyond etymological curiosity. A better understanding of the reasons for the adoption of this word might offer new insights into the prevailing attitudes toward crime victims in Western culture, including prevalent arguments in the philosophies of criminal justice.

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## A Talmudic Interpretation

I agree with Fletcher that the victim label is not applied in many languages to those affected by crime simply because such persons can somehow be regarded as sacrificial persons in a literal sense. Clearly, they are not animals and they have not been offered to the gods. They have been killed or hurt for selfish reasons of the perpetrators. But how then to explain the extensive linguistic adoption of the *victima* label in a figurative sense? Fletcher, who asserts that many of our legal sensibilities have their roots in biblical wisdom, starts his inquiry with a reflection on the double meaning of guilt in the Torah. The book of Leviticus provides detailed instructions for the proper execution of sacrifices in the Temple to atone for both sins and crimes of guilt. Through the sacrifice of a *korban*, believers can achieve atonement. The instructions include those for the Day of Atonement, when a goat is to be ritually killed by the high priest and another goat is to be driven into the desert laden with the community's sins. This ritual is the etymological source of the socio-psychological phenomenon of scapegoating (redirecting social aggression against an outsider).

After a brief elaboration on the meaning of guilt and sin in old Hebrew, Fletcher returns to the linguistic phenomenon at issue, namely, that "the word for 'victim' in a criminal trial is the same as for the 'victim' in the first five chapters of Leviticus" [127]. It is important to note that Fletcher looks at the adoption of the victim label in the context of a criminal trial. This means that he looks

for the possible rhetorical functions of the label within a legal argument. He tries to understand how the label makes sense in the discourse of criminal justice. It is far from obvious, however, that the label was adopted into the criminal justice context and thereafter entered into colloquial usage. The sequence of its adoption might have been the other way round (a colloquial term that subsequently entered legal terminology). I will return to this subject shortly, but first I will present Fletcher's own—and by his own admission, speculative—thoughts on these matters.

According to Fletcher, the text of the Torah offers two possible explanations for the adoption of the term "victim," or the *korban* label, in a criminal trial. In the first explanation, the label refers to the story of Abraham's aborted sacrifice of his only son, Isaac. In Genesis, God instructs Abraham to bind and subsequently kill his beloved only son. In Fletcher's view, the story expresses symbolically the belief that human sacrifices are a matter for divine sovereignty, strictly forbidden to human calculation. Only God is allowed to designate persons as sacrificial objects. Therefore, someone who takes the life of another person usurps a function reserved for divine sovereignty. Such a perpetrator commits blasphemy, the ultimate crime. Fletcher theorizes that those affected by crime are metaphorically called victims in criminal trials in order to underline the horrible guilt of their offenders.

Fletcher is himself not fully convinced by this first explanation. He therefore develops a second explanation, more or less along the same lines, but this time based on Leviticus. According to the instructions in Leviticus, the sacrificial goat must be absolutely pure in order to be an appropriate carrier of the sins of the Israelite community. The scapegoat, in other words, needs to be without blemish. Christian theology reproduces this Jewish imagery. The figure of Christ is presented as the fundamentally innocent “Lamb of God” who absolves humankind of its sins. According to Fletcher’s second interpretation, the person affected

by crime is called an intrinsically innocent victim in order to underline the guilt of the offender. The use of the victim label is a rhetorical gesture to portray one party as intrinsically innocent and the other as intrinsically bad. Fletcher follows up this point with a brief discussion about the dichotomous logic of criminal justice: the blame for a crime is typically, and entirely, laid upon one of the two parties, regardless of any precipitative behavior practiced by the person believed to be trespassed against. The victim label suits this type of legal reasoning very well.

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### Supporting Evidence

Support for Fletcher’s first interpretation can be found in conventional theological wisdom that the prohibition of human sacrifice is at the core of the Old Testament,<sup>5</sup> the New Testament,<sup>6</sup> and the Qur’an.<sup>7</sup> The God of the Abrahamic religions rejects human sacrifice and in this light a person who kills a fellow human being contravenes the shared core values of the three religions.

Support for Fletcher’s second interpretation can be found in a classic of critical criminology, Nils Christie’s article on the “ideal victim.”<sup>8</sup> In this essay, the Norwegian criminologist argues that conventional criminal justice maintains an idealized and totally unrealistic vision of the victim as a frail, innocent old lady in order to portray the offender as a totally evil person. In his eyes, victimologists who argue for more victims’ rights contribute to a tendency within criminal law toward offender bashing. Other writers have repeated this critique—for example, Dutch criminal law professor Ybo Buruma, who argues that the growing role of the victim in criminal procedure “demonizes” the offender.<sup>9</sup> On these grounds, Christie and others have argued to replace criminal trials with supposedly more humane restorative justice ap-

proaches outside criminal justice.<sup>10</sup> Fletcher’s interpretation of the use of the victim label adds fuel to this fundamental criticism of victim-friendly reforms of criminal justice. In Fletcher’s view, victim-friendly reforms may result in more repressive criminal policies as unintended side effects. Furthermore, the very use of the word “victim” in the context of criminal law is actually meant to produce such effects. In other words, Fletcher’s analysis confirms the worst fears of the critics of victimology.

Finally, some indirect support for Fletcher’s theories can be found in the main etymological dictionary of the Dutch language, *Het Woordenboek der Nederlandsche Taal*.<sup>11</sup> This dictionary includes one of the oldest known sentences in which *slachtoffer* is used to denote someone affected by a crime: “Murderer! See there: your victim.” (“Moordenaar! Daar ligt uw slachtoffer.”) In this citation from the nineteenth century, the term “victim” is clearly used to shame and accuse the offender. It presents a useful illustration of the reasoning that, according to Fletcher, has persuaded so many languages to adopt “victim” in its current, figurative sense.

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### Conflicting Evidence

In my criticism of Fletcher’s hypothetical explanations, I want first to point out some logical problems. According to Fletcher, a murdered person is supposedly called a victim in order to make the statement that the offender has usurped the role of God and/or is, in contrast to the innocent victim, full of guilt. My main objection is that the word “victim” in a bibli-

cal context suggests quite different associations from those imagined by Fletcher.<sup>12</sup> In the Old Testament, the word “victim” is used first and foremost in connection with the sacrifices in the Temple and not the story of Abraham. In fact, as Fletcher himself observes, Isaac is not called a *korban* or *victima* in either the Hebrew or Latin versions of the Old Testament. I can add to this

that in the Qur'an the saved son of Abraham is not called an *udhiya* either.<sup>13</sup> Furthermore, for Jewish and Christian readers of the Old Testament, those who kill the sacrificial animals are priests. This association puts offenders in a strangely favorable light. In the biblical context, calling the killed person or animal a victim does not incriminate the killer as a bad person. The use of this label for the affected party, on the contrary, portrays the actor as someone who acted in the interest of the community and out of respect for god. To make someone or something a victim is a deeply religious and morally outstanding act. A sacrificer is the antagonist of a criminal. In my opinion, Fletcher's interpretations, clever as they are, ignore the immediate and dominant associations of the term "victim" in biblical language and presuppose an implausible theological and legal sophistication on the part of ordinary users of the word.

These objections are in my view confirmed by the linguistic fact that, to my knowledge, there is no place in any version of the Torah, Old Testament, or Qur'an where the word "victim" is used to identify a person affected by a crime. If the victim label has such obvious, indirect associations with blasphemy or the guilt of the offender in a biblical context as Fletcher's hypothesis assumes, one would expect at least some translators to have used this word for those affected by homicide or other crimes. In contrast, such persons are uniformly described in neutral terms in these religious texts—commonly as "the beaten ones." Fletcher observes this complication himself: "The linkage does not appear in the Bible, which never mentions the victim *korban* as a victim of crime" [131]. This fact seriously undermines the validity of his argument that the biblical context suggests such associations to the extent that they have entered colloquial language. I argue instead that these founding religious documents promote an altogether different set of associations that almost preclude the use of the victim label in the broader sense.

Another fact-based argument against Fletcher's hypothesis can be directed against his underlying assumption that the adoption of the victim label for those affected by crime occurred primarily in the context of criminal justice. In my view, it is one of the striking characteristics of the broader, figurative meaning of the word "victim" that it does not, according to the dictionaries consulted, derive from legal language. It is clearly a word that first appeared in colloquial language. To my knowledge, the word "victim" does not feature as a technical legal term in the common law, the Napoleonic, or the Germanic systems of law. In fact, it is only because of the victims movement in the past three decades that "victim" has incrementally entered legal discourse. In the common law countries, the use of phrases such as "victim impact statement" or "victim restitution or compensation" are recent innovations. In other European legislation, "victim" is rarely if ever used. The other party of a crime is usually described in procedural law as the person who claims civil damages.

If "victim" in a broader figurative sense originates from colloquial language, one could still argue that ordinary people have chosen the label for those affected by crime in order to express their angry feelings about the guilt of the offender. However, European dictionaries reveal that the broader figurative meaning is not specifically used for those affected by crime but for those affected by any event that causes serious harm, including disasters and accidents. In some languages the use of the term "crime victims" seems to be a relatively late phenomenon. Any link between the use of "victim" in a figurative sense and the wish to stress the culpability of the actor is simply absent in colloquial language. Those victimized by so-called acts of god for which nobody is to blame are called victims as well. This linguistic fact alone puts Fletcher's hypothesis on very shaky ground.

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### A Phenomenon of Late Christianity

Fletcher acknowledges in his book that his interpretations do not by themselves clarify how exactly the broader—supposedly accusatory—use of the word "victim" for those affected by crime found its way into so many languages. He writes, "Why and how this association between the two senses of victimhood came into being remains a mystery" [131]. In his final comment on the topic, he observes: "The as-

sociation probably developed in the early Christian period when Jesus came to be called *korban* of the crucifixion, and was probably understood to be a *korban* or victim in both senses. He was at once the sacrificial lamb to redeem humankind from the fall and the victim of the crime of torture and biased prosecution" [131]. If the roots of the broader meaning of the concept lie in Christianity, Fletcher's hypothesis

must be revisited against the background of the story of the Gospel. If those affected by crime are called victims because of their resemblance to Jesus Christ, the hypothesis that this is done to indirectly accuse the perpetrators becomes far-fetched. This would imply that Christian and Jewish speakers started to refer to

those affected by crime as victims in order to put the perpetrators of crimes in the role of the Jewish accusers of Jesus! In my view the accusatory hypothesis simply loses any sense if the victim label is supposed to have Christian roots, most notably in the context of Judaism.

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## Etymological Explorations

I will now turn to etymological evidence about the origins of the victim label contained in dictionaries. In the Latin version of the Bible, the Vulgate, sacrificial animals are described as *victima*. In the oldest translations of the Bible in English, sacrificial animals are not called victims but sacrifices (from the Latin *sacer facere*, meaning to make sacred).<sup>14</sup> The word “victim” was not used for the simple reason that at the time of these early translations “victim” did not exist in the English language. According to the *Oxford English Dictionary* (1970), “victim” appeared for the first time in the English language in the so-called Rhemian Bible, written in the sixteenth century by scholars at the English College in Rheims. It was initially used only as a name for sacrificial animals. In English, the first recorded time “victim” seems to have been used for a human person was in 1736. In that year it was used as an honorary name for Jesus Christ, the Crucified, in a translation of the New Testament. Christ was called the *expiatory victim*: the person who through his victimhood redeemed mankind. The *Oxford English Dictionary* also documents the first use of this figurative speech for victims of disasters and crimes as occurring in 1781.<sup>15</sup> The broader use of the word surfaced for the first time in colloquial (that is, non religious and nonlegal) English not more than two centuries ago.

According to the preeminent dictionary of the French language, *Le Grand Robert*, the oldest documented figurative use of “victim” for a human person is also a reference to Jesus Christ. It appears in a play by Corneille, published in 1642, in which Corneille calls Jesus Christ *victime volontaire*. The word “victim” was used in other French texts to refer to scapegoats, but was not used for those affected by crime or disaster before the eighteenth century.<sup>16</sup> As in English, the figurative concept of a victim emerges first as name for Jesus Christ and acquires its broader use much later. Finally, in Dutch, one of the oldest

documented citations of *slachtoffer* in a figurative sense for a human being is from 1557.<sup>17</sup> In that year, the religious author, Gnapeus, published the following sentence: “The blood of our Lord Jesus (who had become a victim on behalf of us poor sinners) that cleanses us from our sins.” The early appearance of the word “victim” as a descriptor for Jesus Christ in the Dutch language suggests that this usage may have stemmed from Protestant theology. According to André Lascaris, a contemporary Dutch Catholic theologian, John Calvin replaced the softer Catholic imagery of God’s Lamb, who voluntarily sacrificed himself to redeem mankind, with more blatantly sacrificial imagery in his major publication *Institutio Christianae Religionis* (1536), written in classical Latin.<sup>18</sup> Here Calvin explains that God’s only Son had to die to atone for human sinfulness. He writes, “In sum, the Scripture consistently tells us that the arrival of God’s Son among humans and also the command thereto from the Lord, served no other purpose than to make Him a *victima* in order to reconcile us with the Lord.”<sup>19</sup>

Calvin’s sacrificial account of the Crucifixion is interpreted by André Lascaris as a psychologically inspired response to the growing uncertainties of the times, spawning the collective need for a fresh scapegoating story. In the same period, Catholic theologians such as Thomas Aquinas had also started to stress the sacrificial aspects of the Crucifixion. However, Calvin may have been inclined to come up with more severe sacrificial imagery to buttress his criticism of the corrupt practices in the Catholic Church. By emphasizing the harsher aspects of the fate of Jesus, he perhaps wanted indirectly to attack the practices of easy redemption in the Catholic Church of his time. Calvin’s use of the Latin word *victima* for Christ in 1536 is at any rate one of the oldest instances of the use of the figurative victim label known in European languages.

## The Passion of Christ

Thus in English, French, Dutch, and academic Latin, the first use of “victim” was reserved for Jesus Christ and appeared in the sixteenth or seventeenth century. Its broader use as a word for those persons affected by crime appears much later in these languages—in the late seventeenth or early eighteenth century. Why did it take Christian cultures another two centuries to assign the victim label to other suffering human beings, including victims of crime? The very fact that “victim” was initially reserved as a special characterization of Jesus Christ would probably have impeded its ready adoption as a name for human beings. Its delayed adoption as a colloquial name for those affected by disaster, accident, or crime seems to have been dependent on a series of cultural transformations. The first important transformation is probably the gradual humanization of the figure of Christ. The first steps in this direction were the personal portraits of Christ (and Mary) in Italian Renaissance art. Furthermore, millions of ordinary people must have been exposed to gruelling depictions of the suffering of Christ in Passion Plays and other forms of Christian-realist art. Incrementally, the image of Christ as a suffering human being would have been impressed upon the collective Western mind. A much later, and telling, example of the identification of the public with the Passion of Christ is the painting by Pablo Picasso, *Ecce Homo*, which shows a self-portrait of the painter superimposed on the face of the Crucified Christ.

Fletcher himself alludes to the double meaning of defining Christ as victim. Christ was, according to Fletcher, “at once the sacrificial lamb to redeem humankind from the fall and the victim of the crime of torture and biased prosecution” [131]. He was, in other words, both a mythical figure and a scapegoat. However, this second image of Christ as a human victimized by torture and biased prosecution presupposes a rudimentary understanding of the phenomenon of scapegoating. According to René Girard, the psychological mechanism of scapegoating was not widely understood before the seventeenth century.<sup>20</sup> It was only thereafter that persons killed in sacrificial stories, including the story of the Crucifixion, were recognized as persecuted scapegoats and could become a symbol for other suffering people.

Although causality is difficult to prove, the adoption of the word “victim” to describe persons affected by disasters and crimes was probably the result of the gradual humanization of images of the crucified

Christ and the growing awareness of the psychological reality behind sacrificial stories. These developments have gradually dissociated “victim” from its original Christian connotations of holiness. Only then could those affected by crime or disaster be seen as victims, in the sense of those suffering innocently from bad luck or from other people’s criminal behavior. Labeling those wronged by crime as *victims* appears to be a modern development of Christian ideology.

To sum up, the use of the victim label for victims of crime is preceded by its adoption as a special name for the crucified Christ in Christian theological writings in the sixteenth and seventeenth centuries. In these texts a more overtly sacrificial interpretation of the life and death of Jesus is presented. The subsequent development of the victim label in colloquial language as a term for victims of crimes and disasters has been catalyzed by the incremental humanization of the stories of the Passion of Christ and a growing understanding of the psychological mechanisms of scapegoating. Through ordinary people’s identification with the deep suffering of Christ, the concept of victimhood has found its way into the popular cultures and languages of the West. The idea of victimhood has developed out of Christian theology and permeated everyday language. Although the appearance and use of the concept in individual languages needs further detailed analysis, the general history of the phenomenon has been established here.

What remains unresolved is the development of the victim concept in modern Hebrew and Arabic. Without the Christian imagery of the Crucifixion, it is hard to understand how a word for sacrificial animals can become a colloquial term for humans affected by crime in the cultural sphere of world religions that categorically reject human sacrifice. Were it to be confirmed that *korban* in its broader sense did not appear in modern Hebrew before the seventeenth or eighteenth century, it is possible that it found its way into the language due to the influence of one or more European languages. Such adoption, however, remains curious, considering the Jewish denial of the story of the Gospel. The use of the Arabic word *udhiya* for victims of crime is more puzzling still, considering that Islam, unlike Judaism, acknowledges the historicity and religious significance of Jesus Christ as a prophet but emphatically denies his Crucifixion. The image of the suffering Christ at the Cross is totally absent from Islamic theology and it is hard to imagine how such an image can have led

to the broader use of *udhiya* in Arabic. Possibly, other stories and images of sacrifice within the Islamic tradition have somehow inspired this modern use of the

term. For the moment, the etymology of the Arabic victim label remains a mystery. We will return to this puzzling issue in the concluding paragraph.

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### **Implications of the Victim Label for Those Persons so Labelled**

Here I will briefly elaborate on the possible implications of the victim label for the role of victims in criminal procedure, including its implications for the provision of special rights or services for crime victims. As explained, the current victim label originates from popularized Christian theological imagery. Its primary association with deep suffering elicits the emotional response of compassion. Various authors have characterized compassion as the core value of Christianity.<sup>21</sup> Girard goes so far as to call the Christian God the “God of Victims.”<sup>22</sup> In light of the Christian core value of compassion for the vulnerable and weak, one would expect the use of the victim label for persons hurt by crime to have led to an outpouring of compassion for those so labelled. In one of his later books, Girard heralds victim care as the quintessential operationalization of Christian morality.<sup>23</sup> Victim care, Girard asserts, is practical Christianity at its best. He reminds us that from the medieval period onward, Christian churches have spearheaded the build-up of extensive provisions of care and protection for the vulnerable and weak, including prisoners. This assertion is historically well-documented.<sup>24</sup> But this history of charity is remarkable in that it has never included the care of victims of crime. Parallel to the gradual establishment of the fledgling welfare state, the position of crime victims in criminal pro-

cedure has become more and more marginal. This incremental weakening of the position of victims within criminal procedure induced early victimologists such as Stephan Schafer to speak of the Golden Age of the Victim in medieval Europe.<sup>25</sup> Everywhere in modern Christian Europe the procedural rights of victims have been incrementally reduced, in contrast to the permanency of these rights in legal systems that apply versions of Islamic Sharia law. Even more striking, in no Western country has any church-based organization played a prominent role in the victim-friendly reforms of welfare and criminal policies in the past three decades.<sup>26</sup>

Those affected by crime are in my view called victims because their suffering resembles that of the figure of Christ. Surprisingly, however, this honorary label has not brought any favors for those so labeled. On the contrary, crime victims have for centuries been marginalized in criminal procedure and excluded from the modern welfare state and voluntary work. Such neglect of the interests of crime victims in countries with Christian cultural roots is paradoxical. It invites a question as to what theological arguments or other forces within Christian institutions have hindered Christianity from extending Christian compassion to the victims of crime?

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### **The Countervailing Command of Forgiveness**

As noted, Christian identification with the Passion of Christ elicits an emotional response of compassion. This identification could also easily elicit a strong emotional response of anger and vengefulness. In Christian theology, however, the latter response is reined in by the moral command to forgive.<sup>27</sup> At the time of his Crucifixion Jesus stated about his tormentors: “Forgive them, Lord, because they do not know what they do.”<sup>28</sup> With these famous words, Jesus practiced what he had preached all his life. In his Sermon on the Mount he preached forgiveness, symbolized by the turning of the other cheek to one’s aggressor.<sup>29</sup> In the Old Testament “vengeance is mine”

is still the warrior’s cry of the God of Israel.<sup>30</sup> In the New Testament it has come to mean the opposite, for vengeance is claimed as the exclusive prerogative of the Lord. Vengeance is mine becomes a commandment to believers to abstain from retaliatory action.<sup>31</sup> The New Testament is replete with exhortations to forgive those who sin against one—when necessary, even seventy times seventy.<sup>32</sup>

In the Torah and Old Testament, forgiveness is highly valued but it is dependent on the payment of fair compensation to the victim. In the New Testament, victims are expected to offer it unconditionally.<sup>33</sup> In the Qur’an, the retributive principle of an



eye for an eye is fully recognized, though forgiveness is recommended as an admirable option. Where forgiveness in Islam is welcomed as a form of charity that may bring victims the reward of atonement,<sup>34</sup> it is nothing less than an absolute moral duty for Christians. The refusal to forgive is, in fact, the only unforgivable sin.<sup>35</sup> Unsurprisingly, wrath, the denial of forgiveness, is one of the seven deadly sins in Catholic morality. In Dante's *Divina Commedia*, special places in hell are reserved for the envious and the wrathful. They have to suffer in the fourth circle. Even deeper down in hell, especially gruelling places are reserved for those who have actually murdered their attackers by way of retaliation. And before descending to this most horrible part of hell, Dante encounters the Furies, the Avenging Goddesses of Ancient Greece. There is no mercy for the merciless in Dante's Hell.

Calling those affected by crime "victims" after the figure of Christ implies that those so labelled ought to refrain from retaliation. For example, Lascaris appeals to victims of crime to follow the example of Jesus Christ literally and to forgive their offenders. Imitating Jesus, Christians should recognize their offenders as victims like themselves and therefore offer them unconditional forgiveness.<sup>36</sup> In this purest of evangelical views, victims and offenders should embrace each other as fellow victims of a higher order.

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*Calling those affected by crime "victims" after the figure of Christ implies that those so labelled ought to refrain from retaliation.*

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In October 2006, members of the devoutly Christian Amish community in the U.S. experienced the horrific shooting of a group of school children by a mentally disturbed man. Days after, they were seen embracing the offender's widow and offering forgiveness on national TV. When questioned about the foundations of these extraordinary acts of forgiveness, an Amish spokesperson said they were simply following the example set by Christ as described in the Gospel.<sup>37</sup>

As a cultural symbol for crime victims, Jesus Christ does not just stand for innocent suffering. His image also stands for meekness and mandatory forgiveness, or, in the German words of the Amish, for *Gelassenheit* in the face of misfortune. Christianity offers charity to victims on the condition that they sincerely forgive their offenders. This theological position, it seems, underpins the ambiguous policies of Christian in-

stitutions toward victims of crime. Because victims of crime may very well be angry and vengeful, supporting them is a morally hazardous undertaking. By reaching out to victims of crime, one may become an accomplice to unchristian thoughts and perhaps even activities. Christian churches have for centuries collected alms for prisoners but never for victims. In recent times, they have stayed away from initiatives to provide specialized services to victims. By way of an alternative, following the call of Norwegian critical criminologist Nils Christie to design alternatives for victim-centred criminal justice, they have actively supported reconciliation between victims and offenders.<sup>38</sup> As George Pavlich observes: "the now pervasive values of restoration, healing, reintegration, forgiveness and compassion within restorative governmentalities often derive from theological roots. Church-based restorative justice initiatives seemed to align particularly well with community mediation-panels and victim-offender reconciliation programs."<sup>39</sup> Striking examples of this are the many projects for restorative justice initiated and maintained by the Mennonite Churches in the U.S. and Canada, theological cousins of the Amish. In other words, if Christian churches presently reach out to crime victims, it is not usually for the sake of the victims but with a view to reconciling them with their offenders.

The "ideal victim" for those advocating victims' rights in criminal justice may be a social construct that serves an ideological agenda of punitiveness. But the alternative images of victims put forward by Christie and other advocates of restorative justice should not be taken at their face value either. The "ideal victim" of restorative justice is someone who, according to Christian belief, carries his suffering gracefully and offers his attackers unconditional forgiveness. Such forgiveness serves the interests of both community and offender but not necessarily the interests of the victims themselves. In many cases, the expectation of forgiveness is unrealistic considering the seriousness of the crimes and the negative or insincere attitudes of the offenders. In such cases the command of forgiveness puts a heavy additional burden on the victim.<sup>40</sup> For many victims, the example of Jesus Christ that Lascaris would urge them to follow is psychologically out of reach in the early stages of coping—sometimes even permanently so.<sup>41</sup> Many crime victims may see forgiveness as an impossible demand and feel guilty about their failure to live up to it. Even worse, their social environment, sensing their failure to forgive, may forsake the solidarity and support that they need and deserve. In this bleak scenario, the labelling of those affected by crime as victims in a Christian sense sets them up as poten-

tial sinners. The label may then be an impediment to successfully coping with their pain and suffering. In the case of victims of sexual abuse, for example, the command of forgiveness in Amish communities is known to exacerbate existing feelings of shame and self-blame among abused women and girls.<sup>42</sup>

The emblematic Christian forgiveness practiced by the Amish also sheds light on the curious marginalization of the crime victim in Western law. The expectation that victims must forgive their offenders explains such marginalization. A forgiving victim has no role to play in criminal proceedings other than to make a plea for mercy toward the offender, a plea that the prosecution may deem unhelpful. If the victim is

not forgiving, his participation in the proceedings would contravene Christian morality. In both cases exclusion of the victim from criminal proceedings seems justifiable from a Christian perspective. For fear of acting revengefully, members of the Amish communities are reluctant to take part in criminal trials and sometimes refrain from reporting criminal incidents to the police or to testify.<sup>43</sup> The Christian value of forgiveness fundamentally denies the moral right of victims to be angry and seek gratification for their emotional need to see their victimization avenged. It therefore presents a strong intuitive justification for reducing to an absolute minimum the victim's rights in criminal procedure.

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### The Victim as a Secondary Scapegoat, or Why the Label Fits so Well

As discussed above, the crucifixion of Christ can be understood as an instance of scapegoating in a theological sense (collective redemption through the self-sacrifice of Christ) and as scapegoating in a more mundane, psychological sense (an instance of anger and hatred within the community vented at an innocent outsider). In both interpretations, the figure of Christ fulfills the typical role of the sacrificial object who brings peace to the community through his meek suffering. In the view of Girard, primitive communities restore a broken social peace through ritually sacrificing people, such as foreigners or orphans, who are not only incapable of defending themselves but also incapacitated from arranging any form of retaliation.<sup>44</sup> Victims in sacrificial rites are supposed to plead guilty to alleged sins and forsake any thought of retaliation. The story of the Crucifixion places the figure of Christ in exactly this position of chosen defenselessness. In his polemical tirade against Christianity, Nietzsche portrays Christ's behavior at the Cross in the following terms: "He doesn't resist, he doesn't put up a fight, he doesn't lift a finger to avoid the worst, in fact, he provokes it. . . . And then he is praying, suffering, he loves together with or in the ones hurting him."<sup>45</sup>

In the context of Christian culture, victims are challenged to follow in the steps of Christ at the Cross. They are expected to play a healing role in the aftermath of the crime. The label of *victim* invites them to render a service to the community by relinquishing their natural right to seek vengeance. By labelling them as victims, those affected by crime are forced into a passive role. They are prohibited from engaging in

retaliatory action and, until recently, were expected to remain silent in court about their suffering and anger. Like victims of scapegoating rituals, they are incapacitated from arranging any form of retaliation.

Crime victims, then, are victims in a double sense: they have been damaged first by the offender and second by society's institutional response to their victimization—a response that restricts their freedom to arrange a revenge. The label of victim, with its dual connotations of suffering and non-retaliation, seems then particularly appropriate for those affected by crime. By calling them victims, we acknowledge their suffering while at the same time restraining their vengefulness. The application of the *victima* label to those harmed by crime is a linguistic stroke of genius. This may well explain why all European languages have opted for this loaded label for those affected by crime. This speculative interpretation also explains why the concept did not, contrary to Fletcher's assumption, originally emerge as a legal term in criminal trials. The victim label has been adopted to try to exclude victims from criminal trials or to minimize their role. In this view, the function of the victim label is diametrically opposed to the accusatory role assumed by Fletcher and others. It is an oxymoron if someone called "a victim" speaks up assertively or vindictively in a criminal trial.

These final thoughts on the implications of the victim label suggest that the increasing resistance to crime victims being defined as such is etymologically well-grounded. Critics rightly reject the implied connotations of the victim label of passivity, shame, and helplessness.<sup>46</sup> They have sound reasons to demand

to be called survivors or wronged parties.<sup>47</sup> By rejecting the victim label they can enhance their chances of being taken seriously, being adequately assisted in coping, and getting access to justice and voice. In the final analysis, the opposition of many legal scholars to stronger procedural rights for crime victims in criminal justice law seems grounded in insufficiently understood or articulated religious beliefs. In my view, the hidden assumptions about victims should be critically re-examined in order to arrive at less biased opinions on the proper place of the wronged in criminal proceedings.

These conclusions about the secondary meaning of the victim label, that of self-effacing healer, also suggest a new line of inquiry regarding the puzzling adoption of the victim label in Hebrew and Arabic. As noted, the story of Abraham and Isaac/Ishmael seems an unlikely basis for calling crime victims *korban* or *udhiya*. Unlike crime victims, the sons of Abraham did not suffer but were saved from victimization by divine intervention. However, the label's connotation of a passive, self-effacing healer may apply neatly to victims of crime in a Jewish and Islamic theological setting. In both religions, the story of Abraham centers round the readiness of the protagonist to bring the highest sacrifice. In fact, the Islamic Holiday of

the Sacrifice celebrates the human capacity to make sacrifices in a moral sense.<sup>48</sup> It seems worth exploring whether, in modern Hebrew and Arabic, the victims of crime are perhaps called victims not so much because they are sufferers resembling Christ but because the label usefully invites them to sacrifice their right of revenge in the interest of communal peace. Sharia law may fully acknowledge the talionic principle, but Islamic clergymen play an important role in persuading victims to be moderate in requesting blood money or to engage in other acts of mercy or reconciliation.<sup>49</sup> By calling the affected party *udhiya*, the Muslim community perhaps hopes to persuade that person or his family to sacrifice their right to seek revenge and to adopt a more reconciliatory stance. If this interpretation is correct, those affected by crime are called victims in these three religions partially for the very same reason—namely, the wish to instill in them a spirit of sacrifice in spite of their recognized suffering.<sup>50</sup> With this final hypothesis, we may have identified common ground in the foundations of Christian, Jewish, and Islamic criminal law. On this basis, legal scholars of all three religions could perhaps assist each other in finding the right balance between legitimate retributive impulses of the wronged party and the need to treat offenders humanely.<sup>51</sup>

#### NOTES

1 Natasha Kampusch is a young woman who was kidnapped and kept locked in a cellar in Vienna for eight years. From the film "Natasha A Year On," shown on Channel ORF, as reported in *The Telegraph*, August 20, 2007 <<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/08/19/wnatasha119.xml>>.

2 The equivalent term in Arabic is *qurbani*, which means both the sacrifice and the sacrificial animal. The Feast of the Sacrifice is known as the Feast of the Korban in Turkish and many other languages of the Islamic world.

3 George P. Fletcher, *The Grammar of Criminal Law: American, Comparative, and International*, vol. 1: *Foundations* (New York: Oxford University Press, 2007). [Bracketed page numbers in the text refer to this volume.]

4 J. J. M. Van Dijk, "The Mark of Abel: Reflections on the Social Labeling of Victims of Crime," (inaugural lecture, Pieter Van Vollenhoven Chair in Victimology and Human Security, Tilburg University, Tilburg, the Netherlands, November 24, 2006).

5 Hyam Maccoby, *The Sacred Executioner* (New York: Thames and Hudson, 1982).

6 René Girard, *The Scapegoat*, trans. Yvonne Freccero (Baltimore: Johns Hopkins Press, 1986); Girard, *Job: The Victim of His*

*People*, trans. Yvonne Freccero (Stanford: Stanford University Press, 1987).

7 Abdullah Yusef Ali, *The Holy Quran, Text, Translation and Commentary* (St. Brentwood, MD: Amana Corp., 1983).

8 Nils Christie, "The Ideal Victim," in *From Crime Policy to Victim Policy*, ed. Ezzat Fattah (Hampshire, UK: Palgrave Macmillan, 1986).

9 Ybo Buruma, *De Aandacht van de Strafrechter* (Arnhem, NL: Gouda Quint, 1996). The title of this inaugural lecture given at the University of Nijmegen can be translated as, "The Attention of the Criminal Judge."

10 Ezzat Fattah, "From a Handful of Dollars to Tea and Sympathy: The Sad Story of Victim Support," in *Caring for Crime Victims*, ed. J. J. M. Van Dijk, Ron G. H. van Kaam, and JoAnne Wemmers (Monsey, NY: Criminal Justice Press, 1999); R. Elias, "Which Victim Movement? The Politics of Victim Policy," in *Victims of Crime: Problems, Policies and Programs*, ed. Robert C. Davis, Arthur J. Lurigio, and Susan A. Herman (Newbury Park, CA: Sage, 1990).

11 *Woordenboek der Nederlandsche Taal* (Den Haag: Nijhoff, 1936), available at: <http://wnt.inl.nl/>.

12 One could also argue that Fletcher's interpretation is rather far-fetched. Is a label for the killed person chosen in order

to label indirectly the other party? Would it not be rhetorically more economical just to introduce terms labeling the perpetrator as a blasphemous or a very guilty person? Is not stigmatizing the offenders as evil persons exactly what accusers have always been doing?

13 In the Qur'an, Ishmael is called *Zabiyullah* (the sacrifice requested by God) (3, XIX, 54, see annotation Abdullah Yusef Ali, *The Holy Quran, Text, Translation and Commentary* (St. Brentwood, MD: Amana Corp., 1983).

14 According to the *Oxford English Dictionary* (Oxford: Oxford University Press, 1970), *victima/victim* is related to the Germanic concept of *weißen*, to consecrate. The word "victim" seems therefore to be etymologically related to the German word for Christmas: *Weihnacht*. The verb *weißen* is, according to the *OED*, etymologically related to the Sanskrit word *vinakti*, which means setting apart or singling out. Etymologically, "victim" refers to the sacred scapegoat. In this context, reference should also be made to the etymology of the words "sacred" and "sacrifice" (*sacer* and *facere*). Both words are derived from the Latin word, *sacer*, which means both the holy and the accursed (Chris Fleming, *René Girard: Violence and Mimesis* [Cambridge: Polity Press, 2004], 174). The verb *sacrare*, like *vinakti* in Sanskrit, means to set apart. At a deeper etymological level, then, "victim" refers to those sacrificed, meaning those who achieved holiness by having been killed as scapegoats.

15 Paul Rock, *Constructing Victim's Rights: The Home Office, New Labour, and Victims* (Oxford, UK: Oxford University Press, 2004).

16 *Le Grand Robert de la Langue Francaise: Dictionnaire alphabetique et analogue de la langue francaise* (Paris: Le Robert, 1985).

17 *Woordenboek der Nederlandsche Taal* (Den Haag: Nijhoff, 1936).

18 André Lascaris, *Het Soevereine Slachtoffer: Een theologisch essay over geweld en onderdrukking* (Baarn, NL: Ten Have, 1993). The Dutch title can be translated as, *The Sovereign Victim: A Theological Essay on Violence and Repression*.

19 Translation from Dutch into English by the author. In his Dutch translation of the Latin text Lascaris inserts *victima* between brackets after the Dutch word *slachtoffer*, indicating that Calvin used this Latin term. Lascaris used an edition of John Calvin's *Institutio Christianae Religionis* of 1536 edited by A. Tholuck and published in London in 1846.

20 René Girard, *Things Hidden Since the Foundation of the World*, trans. Stephen Bann and Michael Metteer (Stanford: Stanford University Press, 1987).

21 For example, Friedrich Nietzsche, *Werke in Zwei Bänden* (München: Carl Hanser Verlag, 1969). Strident criticism of Christian compassion is most notable in his two last publications *Ecce Homo* and *The Anti-Christ*.

22 Girard, *Things Hidden Since the Foundation of the World*. The book's last chapter dealing with the God of the Gospel is called "God of the Victims."

23 René Girard, *I See Satan Fall Like Lightning* (New York: Orbis Books, 2001). Chapter 13, in which Girard praises Christian care for actual victims, is called "Victim Care."

24 Abram de Swaan, *In Care of the State, Health Care, Education and Welfare in Europe and the USA in the Modern Era* (New York: Oxford University Press, 1988).

25 Stephan Schafer, *The Victim and his Criminal*, (New York: Random House, 1968).

26 For the United Kingdom, see Rock, *Constructing Victim's Rights*. In the Netherlands, the main impetus for the establishment of provisions for victim support has come from an organization promoting voluntary work based on the traditions of humanism, called *Humanitas*.

27 An inquiry into the link between the story of the Crucifixion and the command to forgive lies outside the scope of this article. As discussed by Girard and many others, a religion that re-enacts the killing of a scapegoat, while identifying with the scapegoat rather than the killers, runs the risk of promoting an endless series of vendettas against presumed killers. The command of forgiveness is therefore not to be seen as accidental but as the essential countervailing power of the Passion of Christ within Christianity (see also Chris Fleming, *René Girard, Violence and Mimesis* [Cambridge: Polity Press, 2004]). Without the meekness of Christ, Christianity would have a strong paranoid streak.

28 Luke 23:34.

29 Matt. 5:38.

30 Deut. 32:35.

31 Rom. 12:19.

32 Matt. 18:22.

33 André Lascaris, *Het Soevereine Slachtoffer: Een theologisch essay over geweld en onderdrukking* (Baarn, NL: Ten Have, 1993). The Dutch title can be translated as, *The Sovereign Victim: A Theological Essay on Violence and Repression*.

34 "Tooth for tooth, and wounds equal for wounds. But if anyone remits the retaliation by way of charity, it is an act of atonement for himself." From Abdullah Yusef Ali, *The Holy Quran, Text, Translation and Commentary*, verser 48 (St. Brentwood, MD: Amana Corp., 1983).

35 Matt. 6:15, 18:35.

36 Lascaris, *Het Soevereine Slachtoffer*, page 263-264.

37 Cited in D. B. Kraybill, S. M. Nolt, and D. L. Weaver-Zercher, *Amish Grace: How Forgiveness Transcended Tragedy* (San Francisco: Wiley, 2007), 49-52.

38 Pierre Allard and Wayne Northey, "Christianity: The Rediscovery of Restorative Justice," in *The Spiritual Roots of Restorative Justice*, ed. Michael Hadley (Albany, NY: State University of New York Press, 2004).

39 George Pavlich, *Governing Paradoxes of Restorative Justice* (London: GlassHouse Press, 2005), 6.

40 Annalise Acorn, *Compulsory Compassion: A Critique of Restorative Justice* (Vancouver: University of British Columbia Press, 2004).

41 Van Dijk, "The Mark of Abel."

42 Kraybill, Nolt, and Weaver-Zercher, *Amish Grace*, 138-40.

43 Kraybill, Nolt, and Weaver-Zercher, *Amish Grace*, 79-84.

44 Girard, *Things Hidden since the Foundation of the World*.

45 Nietzsche, *Werke in Zwei Bänden*, 513.

46 According to Rolf Kleber, one of the founders of the Institute for Psycho-Trauma in the Netherlands, both male and female victims increasingly refuse to call themselves victims because of the term's association with powerlessness. The victims' movement is confronted with increasing numbers of victims who reject stereotypical victim labels and try to present themselves with personalized labels revolving around their newly found strength. (Rolf Kleber, in I. van Teeseling, *Het Oog van de Storm, Slachtoffers in Actie (In the Eye of the Tempest; Victims in Action)* (Amsterdam: Veen), 258. See also Basia Spalek: "If the stereotype of victim as 'passive' and 'helpless' is perpetuated in dominant representations of victimhood, during a time when individual strength is valued in society, then both males and females may increasingly refuse to situate themselves in terms of victimhood. They may even reject services, despite the harms experienced, due to their distaste for the label 'victim' and the kind of stereotypes it elicits" Spalek, *Crime Victims: Theory, Policy and Practice* (New York: Palgrave, 2006), 9.

47 In the U.S., victims of crime are increasingly called survivors (for example, survivors of rape, sexual abuse, or human trafficking) and organizations for victim support are called survivor agencies. In Israel, activists have proposed to replace the word *korban* by the more neutral term *nifga*. In Turkey, the

word *korban* is increasingly perceived as old-fashioned in the more secular western part of the country.

48 During the Holiday of the Sacrifice, animals are killed as sacrifice to Allah, with the strict obligation not to waste any surplus of meat but distribute it among the needy (see Ali, *The Holy Quran*). It cannot be ruled out that the killing of goats or camels during this important religious feast forms part of the explanation for the adoption of the *udhiya* concept for victims of crime, but considering the cruelty of the actual slaughtering this does not seem very likely.

49 M. Rahami, "Islamic Restorative Traditions and Their Reflections in the Post Revolutionary Criminal Justice System of Iran," *European Journal of Crime, Criminal Law and Criminal Justice*, 15, no. 2 (2007): 227-48.

50 The reader is reminded that the words *korban* and *udhiya* (*qurbani*) share the double meaning of sacrifice and sacrificial animal in Hebrew and Arabic.

51 Leslie Sebba, *Third Parties: Victims and the Criminal Justice System* (Columbus, OH: Ohio State University Press, 1996); M. Groenhuijsen, "Victims' Rights in the Criminal Justice System: A Call for a More Comprehensive Implementation Theory," in *Caring for Crime Victims*, ed. Van Dijk, van Kaam, and Wemmers, 85-111; E. Erez, "Integrating a Victim Perspective in Criminal Justice Through Victim Impact Statements," in *Integrating a Victim Perspective Within Criminal Justice*, ed. Adam Crawford and Jo Goodey (Aldershot, UK: Ashgate, 2000), 165-185.