

Terrorism, Forgiveness and Restorative Justice

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Abstract

This paper is intended to enhance understanding of the complexities of restorative justice in cases of terrorism from a victimological perspective. It does so first by analysing what separates terrorism from other forms of crime. The author argues that the main distinction concerns the peculiarly public nature of terrorism, in which the attack on the direct victims is intended to influence a (far) larger group of so-called *vicarious* victims. This means that the public is likely to experience terrorist attacks as attacks on themselves. As a consequence the public can feel entitled to processes of forgiveness which in turn can conflict with the direct victims' own experience. To illuminate this issue the paper proposes a novel distinction in third party forgiveness processes: between *public forgiveness*, i.e. forgiveness relating to the public wrongfulness inherent in crime, and *vicarious forgiveness*, i.e. the public's experience of forgiveness itself. The complexities for restorative justice after terrorism can be then be viewed in terms of the tensions between the direct victims' *private* and the publics' *vicarious* forgiveness processes.

Key words

Terrorism; restorative justice; victimology; forgiveness; criminal justice

Resumen

Este artículo pretende facilitar la comprensión de las complejidades de la justicia restaurativa en casos de terrorismo desde una perspectiva victimológica. Lo hace primero mediante el análisis de lo que separa el terrorismo de otras formas de delincuencia. El autor sostiene que la distinción principal se refiere a la naturaleza pública específica del terrorismo, ya que mediante el ataque a las víctimas directas se pretende influir en el grupo (mucho) más grande de las llamadas víctimas vicarias. Esto significa que es probable que el público sienta los ataques terroristas como ataques contra ellos mismos. De esta forma, el público puede sentirse con derecho sobre los procesos de perdón, lo que, a su vez, puede entrar en conflicto con la propia experiencia de las víctimas directas. Para iluminar esta cuestión, el

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artículo propone una novedosa distinción en los procesos de perdón de tercera parte: entre el *perdón público*, es decir, el perdón en relación con la injusticia pública inherente al crimen, y el *perdón vicario*, es decir, la experiencia del público sobre el propio perdón. Las complejidades de la justicia restaurativa en casos de terrorismo pueden entonces verse en términos de las tensiones entre los procesos de perdón de las víctimas directas *privadas* y los de las víctimas públicas *vicarias*.

Palabras clave

Terrorismo; justicia restaurativa; victimología; perdón; justicia criminal

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1. Introduction

One of the most important developments in the reaction to crime of the last decades is the rise of restorative justice (RJ). RJ most commonly refers to procedures that following Marshall (1999, p. 5) can be defined as processes 'whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future' (the process oriented definition), while RJ is also characterized as an option for doing justice that is primarily focused on repairing the harm caused by crime (the outcome-oriented definition, see Walgrave 2008).

RJ has made the greatest inroads as a diversionary measure in juvenile criminal justice, but increasing attention is focused on its use in cases with adult offenders and more severe forms of crime. In the latter cases it is most often a supplementary rather than a diversionary measure to the criminal justice process, with meetings between victims and offenders taking place (even years) after sentencing, for instance when the offender is incarcerated (see Armour and Umbreit 2005). Here the distinction between restorative *processes* and restorative *justice* is relevant: safeguarding the interests of the victims as well as the publics' stake in the matter, is argued to mean that the use of restorative justice as a full-fledged response is inadvisable (e.g. Robinson 2003).

A particularly contentious area for restorative justice concerns its use in cases of terrorism (e.g. Pemberton 2010a). This extends beyond the view of the 'virtues of restorative processes and the vices of restorative justice' (Robinson 2003), to the extent that even restorative processes – for instance victim offender meetings without any judicial consequences – are viewed as controversial (e.g. Rugge and Cormier 2005). In the aftermath of terrorist attacks even victims' acts evidencing a less than all-out negative stance towards the offender- for instance expressions of (partial) understanding or unwillingness to be associated with retaliatory responses, let alone participating in a restorative process - are often met with concern and even hostility (see Tulloch 2006 for a particularly poignant example;¹ more generally Pyczinski *et al.* 2003).

This tension between society's perspective and that of those suffering the consequences of terrorist attacks might however also occur with reversed poles. Societal concerns, for instance the wish to reach a peace agreement with the terrorist group, might lead to pressure upon victims to adopt a more appeasing stance, in similar vein to what Annalise Acorn (2004) once described as 'compulsory compassion'. As Alonso (2013, see also Alonso and Reinares 2005) demonstrates the recent history of the Spanish government's approach to the terrorist organisation ETA has met with resistance from its victims: precisely because it adopted a more conciliatory stance to the organisation combined with pressure on the victims' organisations to do the same.

In this paper I seek to enhance understanding of the complexities of restorative justice in cases of terrorism from a victimological perspective. My approach is two-pronged. First I analyse in more detail what distinguishes terrorism from other forms of crime (section 2). As will be outlined in more detail below this lies in terrorism's distinctively public nature, in which the terrorist attack on the direct victims is intended to influence a (far) larger group of so-called *vicarious* victims. In turn this characteristic of terrorism qualitatively distinguishes the way society experiences terrorist attacks from other forms of severe crime. Where members of the public experience crime from the vantage point of third party observers, they are more likely to experience terrorism as their own victimization. This view will be developed further in section 3.

¹ As will be discussed below John Tulloch was a survivor of the London Underground Bombings. The image of his bloodied face was used to support the counter-terrorism policies of the United Kingdom, to which he was vehemently opposed (Tulloch 2006).

Second I discuss the subject of forgiveness after wrongdoing (section 4). I do this not because I consider forgiveness and restorative justice to be synonymous nor because I find restorative justice to have the purpose to achieve forgiveness (see Braithwaite 2002 for convincing arguments against this position). Instead an analysis of forgiveness, including its collective forms, can lay bare the *dimensions* of the difficulties in using restorative justice in cases of terrorism (e.g. MacLachlan 2012). To this end it will be necessary to introduce a distinction between *vicarious forgiveness* and *public forgiveness* in section 5. The analysis from section 2 through 5 will be applied to the subject of restorative justice following terrorism in the concluding section 6.

2. The peculiar public nature of terrorism

2.1. Crime as a public wrong

An essential component of criminal behaviour concerns its wrongfulness (Duff 2001, 2003). This also applies to the harm victims experience as a result of crime. As Antony Duff (2003, p. 47) summarizes: '*the wrong done to the victim of rape, or wounding, or burglary, is in part constituted by, but also part constitutes the harm that she suffers: to understand such harm, we must understand it is a criminal harm- as a harm that consists in being wrongfully injured*'. Indeed it is hard or even impossible to identify the harm visited on the victim independently from the wrong, the crime, that caused it.

Moreover crime is not only a wrong,² but indeed a *public* wrong, in that it transgresses the values, *by which the political community defines itself as a law governed polity* (Duff 2003, p. 48, see also Duff 2001). This distinguishes it from *private* wrongs, including torts. There is a good deal of behaviour that we might rightly consider to be wrong, but do not carry the same significance for the political community as a whole and are therefore fully within the remit of private parties to settle and if wanted and needed to censure.

The nature of crime as a public wrong means that "the public" - i.e. the community as a whole, including state actors and instruments representing it- has standing and a proper interest in the resolution of the crime (Duff 2001). This proper interest has given rise to the misunderstanding that crime is a wrong against the public *rather than* the victim (e.g. Groenhuijsen and Pemberton 2011).³ Instead the public nature is better understood in that the community as a whole has an obligation to provide an appropriate reaction – the criminal justice reaction - while public law norms constrain the possible outcomes of any adequate solution. Where the resolution of private wrongs can be a matter of unrestrained negotiation, for public wrongs cessation of the wrongful behaviour is a minimum requirement, most often accompanied by communication of censure for the offence through the authoritative voice of the law.

This public interest in crime is not merely a legal proposition: it is infused and reinforced by a reality in which society at large does, as a matter of empirical fact, concern itself with crime and criminal justice (e.g. Reiner 2002). A considerable proportion of our daily news consumption concerns crime and this is supplemented by a large dose of fictional accounts of crime, both in literature and broadcasting (e.g. Baumeister 1997). There is a sense that the attention to crime is increasing, although historical analysis reveals that this type of 'savage pastimes' has been part and parcel of life – at least in Western societies - over a longer period (Schecter 2005). Moreover research in social psychology (Lerner 1980, Hafer and

² I am aware that this position is not without its critics, see for instance Christie (1977), Hulsman (1986). See Duff (2001, p. 60-64) and Robinson and Darley (2007) for convincing rebuttals.

³ This point is also a mainstay of the restorative justice literature. As (Pemberton 2012b) noted various prominent RJ theorists (for instance Christie 1977) extend this to conceiving crime as a primarily private matter. See Duff (2001) for arguments against this position.

Begue 2005) and behavioural economics (Fehr and Garchter 2002) reveals the lengths third party observers will go to resolve the personal distress felt when confronted with criminal injustice.

I will return to some of the insights the research into the *justice motive* (Hafer and Begue 2005) has provided below; for now it is sufficient to recognize that the public nature of crime is also perceived as such by society at large. "The public" feels to have a stake in the resolution of crime, even if it is not in any way directly affected. Sociologists and criminologists are wont to explaining this phenomenon through the risk crime and criminals are perceived to pose to the public: it is the fear of crime or even the 'moral panic' that entices the public to be involved (e.g. Goode and Ben-Yehuda 1994). However this is better seen as an artefact of research focusing on one particular emotional reaction to crime, namely fear (see Ditton *et al.* 1999), rather than an accurate assessment (e.g. Pemberton *et al.*, 2008). The understanding that the primary emotional reaction to crime and injustice is anger rather than fear (Rozin *et al.* 1999, see also Winkel 2007) and that anger is related to a different and often oppositional set of action tendencies to fear (Lerner and Keltner 2001, Lerner *et al.* 2003, Skitka *et al.* 2006, Huddy *et al.* 2007), casts a different light upon this matter: it is the public's distress at viewing norm transgressions that motivates their interest, rather than their own personal potential risk (see also Pemberton 2012a).

This public recognition is also victimologically relevant. Social support and acknowledgement of victimisation is a key 'protective factor' in the aftermath of victimisation (Brewin *et al.* 2000, Maercker and Muller 2004). It is increasingly clear that this acknowledgement should include the wrongfulness of the event: it is not sufficient that only the harm or damage caused to the victim is recognized (e.g. Pemberton 2014). A significant contribution to this end is the acknowledgement through public actors and representatives of the public interest, including criminal justice agencies and magistrates (e.g. Bilz 2007).

2.2. Terrorism versus crime: what sets terror apart?

Terrorism has proven notoriously difficult to define, or more accurately: a notoriously difficult concept to reach agreement about a definition (see Schmid 1988). However each definition shares an understanding that terrorism's core feature lies in the fact that violence is used against direct targets to threaten, frighten and otherwise influence a wider group of indirect or *vicarious* victims (Pemberton 2011). The object of harmful intent in terrorist acts therefore extends beyond its direct physical target. It is specifically geared toward (psychologically) harming others as well. The impact of terrorism on vicarious victims has been the subject of a number of studies concerning its psychological effects, in particular after the 9/11 attacks. The general gist of these studies that mass-victimisation terrorist attacks not only intend to cause damage far and beyond the direct victims, but in fact succeed in doing so (see Cohen-Silver *et al.* 2002, Wayment 2004, Gerwehr and Hubbard 2007).

This means that terrorism's status as a public wrong is relevantly different from crime in general. Of course, terrorism is a crime, and as such already has the public qualities outlined above. Nevertheless the public nature of terrorism is more pronounced, in the sense that the public was itself the –albeit secondary and/ or additional- target of the terrorist act. Where crime most often poses a symbolic threat concerning the polity – the transgression of the key norms of society - the threat posed by terrorism is more manifest: it is not only a symbolic attack on society at large, but proposes to be a real one, however marginal its impact in direct terms.

There is good cause to label the interest in terrorism 'overblown' (Mueller 2007). With the exception of terrorism as part of an ongoing (civil) war, its impact in terms

of damage and loss of life does not seem to merit the attention afforded to it.⁴ However, although this observation has been rightly marshalled in criticism of the US government expenditure on anti-terrorism activities, it should be supplemented by the understanding that terrorism is both intended and felt to be an attack on the polity as a whole. Here inspiration can be drawn from Nietzsche's (1887/1966, p. 72) views that '*As its power increases, a community ceases to take a transgression so seriously, because they can no longer be considered as dangerous and destructive to the whole as they were formerly*', and "*As the power and self-confidence of a community increase, the penal law always becomes more moderate; every weakening or imperilling of the former brings with it a restoration of the harsher forms of the latter*" Terrorism - in intent and perception –reignites this sense of danger and destructiveness- in a way that ordinary crime does not.

The upshot of this is that the public stake in a terrorist act is of a qualitatively different nature than in crime. The extent to which this qualitative difference becomes clear depends upon the severity of the terrorist act, as well as the extent to which it is interpreted in terms of an in-group versus out-group dyad (Lickel *et al.* 2006): mass-victimisation acts of terrorism perpetrated by a member of an out-group are more readily understood as an attack on others than the direct victims and indeed society as a whole than acts targeting one or a few victims, perpetrated by fellow members of a given society.⁵ The sense that an act can be conceived in terms of in-group versus out-group also has the additional feature of fusing disparate acts. What has happened to a victim in an individual terrorist act, becomes one instance of a larger phenomenon, a struggle between the in-group and the out-group.

The key difference lies in the sense that terrorism affects society at large as if *they were victims themselves*, while crime affects the public as if *they are an interested third party*. The content of societal acknowledgement of what happened is therefore also different. In both cases it involves an understanding that what happened to the victim was wrong and should, if possible, have been prevented. However in the case of victims of crime it is interpreted as something that happened to the victim *as an individual*, while in the case of terrorism it is an event that happened to the victim *as a representative of the collective*, and thereby to *the collective as well*.

3. Vicarious victims, observers and direct victims

3.1. The justice motive and the moralization gap: separating (vicarious) victims from observers

To fully understand the relevance of the distinction between victimized and viewing victimisation as a third party, it is necessary to briefly elaborate two (social psychological) perspectives on the differences in the ways victims and observers view victimisation (see also Pemberton 2012a). It should not come as a surprise that victims' perspectives concerning their experience are at odds with that espoused by the perpetrators. It is noteworthy though, that the manner in which these perspectives differ follows a particular pattern. Experimental evidence reveals the existence of a *moralization gap* between victims' narratives on the one hand and offenders' narratives on the other (Baumeister 1997, Pinker 2011). Victims see the event as an injustice, inflate the impact, minimize the context and extend the time frame of the event forward and backward in time, while perpetrators tend to find justifications for what happened, attribute the event to outside causes,

⁴ Alex Schmid once pointed out that even on the exact date of 9/11 more people passed away due to the effects of malaria - a disease for which cures are available - than in the WTC, the aeroplanes and the Pentagon. This means that in the past 12 years 5.000 times more people died from malaria than on 9/11. Similarly statistical comparisons are possible for other preventable maladies, misfortunes and accidents.

⁵ I should add to this that the sheer heinousness of criminal acts, including terrorism, can convey a sense of otherness (Garland 2001, Gromet and Darley 2009, Pemberton 2010b) on the offender.

minimize the impact on the victim and others and see the event as a moment in time.

Poignantly severe forms of victimisation defy the presupposition of *an end* to the unfolding story (e.g. Poletta 2009, see in similar vein: Hyden 1997). Where perpetrators view the narrative of the events as a story with a beginning and a conclusion, the experience of victimisation often leaves the final resolution open. Like illness narratives, victimisation narratives and their meaning can be repeatedly reinterpreted and re-evaluated. As I will discuss below this open-ended quality of the narrative of victimisation, is an important element of the process of forgiveness, but also makes victims' experience vulnerable to other people's changing views of the events.

Observers find themselves in between the victim's and the offender's perspective. The main theoretical lens through which to describe the views of third party observers on victimisation is *just world theory*. Its basic tenet is that people have an inert need to believe that the world is just (Lerner 1980, see also Hafer and Begue 2005), which involves a need to believe that good things happen to good people and bad things happen to bad people. The occurrence of an event that conflicts with this need (i.e. something bad happening to a good person, or vice versa) leads to justice-related distress, which in turn elicits cognitive, affective and/or behavioural reactions on the part of observers of this event. The justice motive can lead to more or less helpful behavioural responses to injustice and misfortune, from compensation and reparation to altruistic punishment and retribution, but also to negative reactions to those suffering from the consequences, like distancing, derogation of character, appearance and behaviour; psychological distancing and blaming (Hafer and Begue 2005, see also Pemberton 2012a). Importantly both positive and negative reactions stem from the need to alleviate the observer's own justice-related distress. When compensatory action is either not feasible or not successful, negative reactions become increasingly likely (Haynes and Olson 2006). This has been well documented in the experience of victims of severe crime: enduring suffering on their part will not be matched to an ongoing outpouring of third party support, but instead is likely to processes of distancing and even blaming (e.g. Pemberton 2012a).

What is relevant here is that even when the observer's initial reaction bears similarity to the victims' reaction - in its emphasis on the injustice of the perpetrator's act - in the longer run it incorporates elements of the perpetrator's perspective. The key distinguishing variable is *time*. Observers are motivated to view the occurrence of injustice in the past tense, as something that in one way or another is resolved. Instead in the experience of victims the implications of injustice extend over a longer period of time, often with consequences for their attitudes and behaviour in the here and now, even to the extent that the narrative sequence is open to reinterpretation and re-evaluation as a function of current experience. This also applies to vicarious victims. Indeed the victimisation experiences with the longest lasting consequences involve collective victimisation, even though most, if not all of those experiencing a sense of victimhood, did not personally experience the victimisation themselves (Waller 2007). One of the clearest cases of this, is the 1389 battle of the Field of Blackbirds in current day Kosovo, which until this day still has a marked influence on the attitudes and perspectives of many inhabitants of the Balkans.

The distinction between the victim's and the observer's perspective has particular bearing on justice procedures following criminal victimisation (see Pemberton 2014). A recurring theme concerns the extent to which the final verdict in a case can or should lead to the experience of 'closure' (Weinstein 2011). The end result of a justice process would then serve as a narrative ending to this particular chapter in victims' lives: failing to do so is attributed to mistakes in the structure, goals and processes of criminal justice and perhaps as a reason to turn to restorative justice

processes as an alternative. However the prospect of closure through the justice procedure should itself be disbanded, as the notion that this is an appropriate measure is largely a function of mistakenly viewing the victims' ordeal through the observer's (or even the perpetrator's) perspective (see Bandes 2009, Weinstein 2011). For the latter the justice process indeed serves as a counterpoint to the justice motive-related distress; for the former it is but one element in a narrative that continues to unfold long after justice has run its course.

3.2. The vicarious dimension of terrorism: consequences for direct victims

Taken together therefore the key distinctive characteristic of victimisation by terrorism in comparison to victimisation by crime translates into a qualitative difference in the experience of society at large: vicarious victims versus third-party observers. The self-relevance of vicarious victimisation is of a different kind than the experience of observers; where the latter are wont to find crime and victimisation to be distressing because of its 'just-world' implications, the former are more prone to seeing themselves as being victimized.

The implications of this for the direct victims of terrorism are twofold: first this implies that, more so than in the case of other crime, the public will consider victimisation to be relevant to their appraisals of the present, which in turn can translate in enduring support and acknowledgement of victims (see also Pemberton 2010a). The understanding that the direct victims were threatened, harmed and even killed as representatives of the wider group of vicarious victims translates into a sense that the direct victims 'took the bullet' for the rest of us.

However and secondly this also means that the public will be more prone to a sense of *narrative ownership* of the victimisation. A key issue in (re-) interpreting victimisation events is who is *entitled* to tell and re-tell its story. As is true more generally (e.g. Ochs and Capps 1996) the presumption is that those who have personally experienced the events in question have a prerogative in this regard. The experience of vicarious victims –that they were personally effected by the event- can translate into a view that they have standing as *victims* to do so. In turn this can place pressure on the direct victims' own perspective, in particular where the views and experience of the vicarious and direct victims conflict and/ or when the development of the views of vicarious victims follow a different course than that of the direct victims.

This is of interest in the immediate aftermath of terrorism - see the case of John Tulloch- but also in the longer run. As is evidenced by the experience in Northern Ireland (e.g. Monaghan 2008) society might find reason to change their views on the terrorist acts. This does not necessarily entail, see for instance the recent history of South Africa, that what once was viewed as terrorism can be fully viewed as a positive 'fight for freedom'; what is important is that the connection between the present and the victimisation experience is severed. What was wrong then is still wrong, but loses its purchase on current experience. To understand what is the issue here, we must examine the concept of (public) forgiveness in more detail. It is to this issue that I now turn.

4. Key notions in private forgiveness

4.1. Defining forgiveness

Forgiveness can be defined as 'a willingness to abandon one's right to resentment, negative judgement and indifferent behaviour toward the offender, while fostering the undeserved qualities of compassion and generosity to him or her' (Exline and Baumeister 2000). It involves both a remained understanding that the act was wrongful, sufficiently so to warrant resentment, but combined with an attitude/ a choice to see the offender in a different light than that could be gleaned from his or her actions (Allais 2008). In Govier's (2012, p. 26) terms this specifically entails

'the re-framing or shift in attitude toward such persons so as to regard them as capable of engaging in decent relationships in the present and future.' and 'the setting of wrongful deeds in the past' (Govier 2012, p. 26).

Forgiveness can be seen as a necessarily conscious binary decision -to forgive or not to forgive- , an act of will, and/ or the product of a gradual process in which the victim's emotional attachment to the injustice caused by the perpetrator is reduced (see Pemberton 2010b). Forgiveness does not necessarily have to be communicated as such to the offender, who therefore is not always aware whether or not he or she is forgiven. Forgiveness is associated with a number of positive features for the person who forgives: reduced anger, depression and anxiety, heightened self-esteem, improved life satisfaction and even physical health (see for an overview McCullough *et al.* 2013).

4.2. Forgiveness as a counterpoint to victimisation by injustice

Three key points should be stressed here. First, forgiveness – perhaps even more so than recovery - serves as a *counterpoint* to the experience of victimisation by injustice. Recovery may also apply to harmful acts that do not involve wrongdoing, but forgiveness requires as its precursor a wrongful act. It concerns releasing the negative feelings – e.g. anger, resentment, hatred and contempt (Richards 1988)- caused by the *wrongfulness* of victimisation (see also Arendt 1958).

In fact forgiveness acquires additional meaning in the situations where full recovery/ full repair is a difficult to achieve or even impossible (Duff 2003). We can contrast situations where a reparatory course of action is clear - either through direct replacement of what has been damaged, or where conversion into monetary values is relatively straightforward (see for a fuller exposition of this point Pemberton 2012b) - with situations where there is not the case. The most extreme example of the latter is homicide, but it is also open to question what full repair means in cases of rape and even infidelity, for instance. Any reparatory (including retributive) action that is open to us in these cases cannot, in any real sense, undo what has happened. The victim of homicide cannot be returned to life, the rape victim cannot become un-raped, and the perpetrator of infidelity cannot retrospectively become faithful. This means that the victim in these cases will always have a lingering ground for resentment, and that disconnecting the victimisation/ crime from the current state of affairs, will include a process of forgiveness.

Here it is important to note that forgiveness as a counterpoint to victimisation also relates to the way it changes the temporal perspective on an event. More precisely, it entails situating wrongdoing in the *past*. '*The past shall not be forgotten, but it will be the past*' (Govier 2012, p. 26, Walker 2006). Forgiveness means that wrongdoing will not steer our course in the present, nor does it have moral implications for the future. Full forgiveness implies that the victim of an act, 'wipes the slate clean' (Allais 2008). In this sense it serves as an endpoint to the narrative of victimisation, the only way in which the victimisation experience can resume to have purchase on the present, is by the wrongful deed being un-forgiven anew.

4.3. Forgiveness versus retribution and revenge: not opposites

Secondly, forgiveness is not opposite to revenge and retribution (see also Pemberton *et al* 2008).⁶ As McCullough *et al.* (2013) emphasize it is a mistake to see revenge as the 'illness' for which forgiveness is the 'cure'; nor does it make sense to view revenge and forgiveness as binary options, between which a victim can and should choose. In an important sense they share the view of the original

⁶ Revenge is used here to denote private retaliatory action on the part of the victim, while retribution is the state-sanctioned public response (e.g. Nozick 1981, Pemberton 2012b), although I am aware that this distinction is an oversimplification (e.g. Elster 1990, Zaibert 2006).

event: the notion that the victim was wronged is inherent to revenge, retribution and forgiveness. As McCullough (2008) noted: "they play on the same team".

Righting the wrongs may include the offender's apology (Tavuchis 1991), penance (Duff 2001) or compensatory efforts (Darley and Pittman 2003), but also can also involve a form of censure or punishment (Duff 2003, Bilz 2007). The more serious offences will often require this for forgiveness to be a viable option. Each of these actions can contribute to a willingness on the part of the victim to see the offender in a new light, and to view the victimisation as a matter of the past. In this sense public retribution and private revenge can serve as a precursor to forgiveness (Pemberton *et al.* 2008).

Retributive justice can contribute to private forgiveness (see also Pemberton 2010b), and in turn the victims' forgiveness after crime can be a mitigating factor in criminal justice procedures. In many cases though the victim's private decision to forgive the offender does not interact with public retribution. Retribution and private forgiveness follow different paths. The rationale underlying retribution includes a clear and precise quantification of the punishment that is in order for a given crime, and thereby can function as a full stop behind the public interest in the crime (Pemberton 2012b). This is also captured in the notion that the *offender's debt to society has been paid*. Private forgiveness by contrast belies this type of exact quantification: it remains up to the victim whether or not forgiveness is in order. This also goes to show that the role of forgiveness in resolving public wrongs is less pronounced than it is in private wrongs. In the latter case the issue can be seen to be resolved in the event of the victim's forgiveness: the public's interest in crime means that the victim's forgiveness alone is not sufficient for this aim to be achieved.

4.4. Forgiveness, condoning, excusing, forgetting

Thirdly although forgiveness can have benefits for victims, this is contingent on the victim actually forgiving, rather than being enticed or pressured into forgiving (Exline and Baumeister 2000).⁷ A victim being pressured into adopting a forgiving stance will not reap the fruits of forgiveness, in particular because this does not amount to forgiveness at all.

Here we should take care to distinguish forgiveness from a number of closely related constructs. It is different from *forgetting*, from *excusing*, which supposes that the offender cannot be (fully) blamed for the offence, and from *condoning*, which implies finding ulterior reasons to justify or offset the offence (Exline and Baumeister 2000, see also Hampton 1988). Where the victim would be pressured into forgiveness, the reality of their experience is more like excusing or condoning than forgiving.

This difference can also be viewed in terms of a *power-relationship* between the offender and the victim or alternatively between society and the victim. A forgiving stance that is fuelled by excusing or condoning, implies that the hold that society or the offender have over the victim is sufficiently strong for the victim to relinquish their justified resentment about what happened and to try and reinterpret the event. A good example is found in abusive relationships (for instance Kimmel 2002), in which victims often make allowances for the offender's behaviour - "*he's only like that, when he's drunk*"- or offset it against other positive aspects of the offender –"*he's a good father to our children*". The hold that the offender has over the victim in these situations –financial or emotional- means that the victim is not

⁷ In the philosophical and religious literature there is some talk of moral obligations for victims to forgive repentant and - particularly within Christianity - even unrepentant offenders (e.g. Schimmell 2002). There are good reasons not to adopt this position. For one thing it is deeply illiberal, to lay claims on obligations concerning the attitudes, thoughts and feelings that people have separate from their acts (see also Von Hirsch *et al.* 2003) but here it is additionally wrong-footed because of the difficulties with conceptualizing an absolute and cardinal standard for when the righting of wrongs is sufficient.

in the position to maintain a sense of resentment. Evidence of this also abundant in mass victimisation processes (e.g. Waller 2007). A staple element of the process leading up to genocide and gross abuses of human rights is that victimised population loses standing to resent the way they are treated: they are forced to excuse and/ or condone their treatment (e.g. Groenhuijsen and Pemberton 2011).

5. A key distinction in collective forms of forgiveness

5.1. Distinguishing public and vicarious forgiveness

Recently there has been a surge of interest in political forgiveness (see for instance the collection of Van Stokkum *et al.* 2012). Much discussion of the concept has concerned the question whether collectives can in fact forgive, the relationship between reconciliation and forgiveness and the question whether it is always the prerogative of the direct victim to forgive (the victim prerogative principle (VPP), Govier 2012). The former discussion appears to have been settled (collectives can indeed forgive, MacLachlan 2012) and the second issue lies beyond the focus of this paper. The main issues in this paragraph have bearing on the third discussion, although I do not have the intention to directly address the morality of the VPP. Instead the purpose is to add an important distinction to the debate –that between *public* and *vicarious* forgiveness – which has particular relevance to the experience of the direct victims of wrongdoing.

The core of this distinction is that *public* forgiveness is public in the same sense as *public* wrongs. Indeed it is this public dimension of wrongdoing what makes public forgiveness possible. In the case of purely private wrongs, the issue of public forgiveness –in this sense! –cannot arise. Key to *public forgiveness* is that the standing to forgive (e.g. Murphy 1982) is found in the same spot that defines crime as a public wrong: it transgresses the values, by which the political community defines itself as a law governed polity, while it is up to the public to see to an appropriate reaction – the criminal justice reaction – that is constrained by similarly public norms. From this it follows that public forgiveness is subject to limitations that do not apply to private forms of forgiveness: unlike private forgiveness public forgiveness requires reasons - procedures even - that are open to scrutiny. Moreover it necessitates action. Where private forgiveness might never be revealed to any other person, let alone the offender him or herself, public forgiveness must be expressed.

In public forgiveness representatives of the collective express or extend forgiveness toward the offender(s), or the offending group, even though their behaviour constituted a crime. It is overlapping but not synonymous with offering mercy – i.e. forswearing an enforceable right to inflict punishment- (Duff 2011), as it is also possible in situations in which punishment of the offender is not an (immediate) option. Similarly withholding public forgiveness does not automatically entail punishing the offender.

Maybe the clearest examples of this type of public forgiveness are amnesties and pardons. The practice of amnesties and pardons following the election of a new French president are clear cases in point (Levy 2007). Not only is this a clearly public matter – the decision is the sole province of the French president him or herself- but also because it is clearly distinguished from the private obligations the offender has to the victim. For instance, the French criminal code in article 133-8 expressly states that a pardon 'does not defeat the victim's right to compensation for the damage caused by the offense'. Extended further public forgiveness could also be argued to include retributive punishment itself (see Meyer 1999, Novitz 1998). Undergoing the sentence, 'fulfilling one's debt to society' in this view is then a necessary and sufficient requirement for public forgiveness. Whatever remains is a private matter.

This public forgiveness can be helpfully distinguished from *vicarious* forgiveness.⁸ This relates to the experience of *vicarious victimization*. The reason why this distinction is important concerns the fact that although this form of forgiveness also concerns the wider public or even public actors themselves, it is in an important sense similar to *private* forgiveness. Unlike public forgiveness, the standing to forgive here is located in the experience of being *personally wronged*, even though this wrong was experienced as a part of a collective and/ or due to an act that directly targeted someone else (see also Radzik 2011).

5.2. Tensions between private (un)forgiveness and public/ vicarious (un)forgiveness

In many instances private forgiveness will co-occur with public and/ or vicarious *unforgiveness* and vice versa. When the offender has received public forgiveness, 'paid his debt to society', been amnestied or pardoned, the victim's resentment of and anger at the offender may remain unchanged- or particularly in the cases of amnesties and pardons, may *increase* because of public forgiveness. The reverse also applies: Mark Umbreit's work in dialogue between victims and offenders of severe crime reveals a regular occurrence of victims expressing private forgiveness, while the offender remains incarcerated (e.g. Umbreit *et al.*, 1999). In domestic violence cases, in particular in legislatures with systems of mandatory arrest, offenders are regularly prosecuted for wrongdoing for which the victim has already forgiven them (e.g. Mills 2003).

This divergence between public and private (un)forgiveness may be a bone of contention for victims: they may attempt to prevent release or parole of the offender (Roberts 2009), or petition the correctional authorities to mitigate or annul the sentence (Umbreit *et al.* 1999). However, public (un)forgiveness does not lay an explicit claim upon their own stance: Francois Hollande may pardon an offender, but the victim does not have to adopt a similar forgiving stance, and her compensation claim is explicitly exempted from the pardon. This co-existence of public and private forgiveness is a function of their different sources of standing to forgive. The latter is found the experience of being personally wronged by another person, the former in the public interest in crime.

A similar co-existence is more difficult in cases of conflict between private and vicarious forgiveness: the standing to forgive in both these forms of forgiveness is located in the experience of being personally wronged. As a consequence, when the stance of the direct victim is at odds with that of the vicarious victims, the direct victims position is likely to come under considerable pressure.⁹

In the case of private forgiveness and vicarious unforgiveness, the difficulties for the direct victim is twofold. First the victim is associated with a frame, a narrative of the events, that does not match his or her own view and to which he or she may be deeply antagonistic. The well-known example of British tabloid newspaper *The Sun* publishing a picture of the blood-stained face of John Tulloch, a victim of the London Underground Bombing, under the headline 'Tell Tony he's right!' is a clear case in point (e.g. Tulloch 2006). Tulloch did not find his experience to support British Prime Minister (Tony) Blair's extension of the period of detention without charge of terrorist suspects to 90 days. Indeed he had already spoken out against Blair before the 7th of July 2005 and remained to do so afterwards.

Second the vicarious victims may react critically and even with outright hostility when direct victims voice their more forgiving stance. The infamous interview of

⁸ Other authors might call this third-party forgiveness (MacLachlan 2012) or view it as political forgiveness (Digeser 2001).

⁹ This gives a new spin on the concept of *competitive victimhood* (e.g. Noor *et al* 2012), which concerns a comparison of the magnitude of injustice visited on the in-group versus the out-group. The current analysis suggests that a similar concept may also be of use *within* groups involved in group-based conflict.

Fox News anchor Bill O'Reilly with Jeremy Glick, whose father was killed in the World Trade Center is a clear example (see Greenwald 2004),¹⁰ while the intolerance of dissent after 9/11 has been well-documented (Pycsinski *et al.* 2003). More generally victims voicing dissent in the aftermath run a real risk of becoming the proverbial 'black sheep' (see Marques and Paiz, 1994)- the ingroup member whose deviant position is ostracized in situations where group membership is salient (see also Lickel *et al.* 2006).

Private unforgiveness and vicarious forgiveness can also be a harrowing experience, even more so if the vicarious forgiveness coincides with public forgiveness, and where the connection between this vicarious forgiveness and private forgiveness is explicitly made. This has for instance been observed concerning the South African Truth and Reconciliation Commission (TRC), which formally distinguished the public nature of any resulting amnesties from the private issue of forgiveness (MacLachlan 2012). However "the language of forgiveness dominated the public hearings of the TRC" (Moon 2008), with Desmond Tutu calling upon all South Africans, including the victims, to put an ethic of forgiveness into practice (Verdoolage 2012). The pressure felt by direct victims sometimes leads to defence of their own right to unforgiveness, as is evidenced by this much-quoted example from a South African woman, reacting to the testimony of her husband's killer at the TRC: "No government can forgive....No commission can forgive....Only I can forgive...And I am not ready to forgive." (see MacLachlan 2012). It can also give rise to the experience of being forced to condone or excuse the unforgivable, which is visible in Alonso (2013)'s description of the stance of victims associations in Spain.

Put in a different way, the victim's narrative is radically under pressure (e.g. Poletta 2009). The implicit or explicit challenge to victims' prerogative to forgive first calls into question victims' ownership of the narrative of the victimisation experience, but it also undermines it fundamentally. It does so in a temporal sense, with forgiveness positioning the event in the past, without purchase upon the present: society moves on, while the victim is left behind in this past. This latter experience is visible in cases of victims of severe forms of crime as well (for instance co-victims of homicide Spungen 1998, Pemberton 2010b). However the combination with the particular pressure on victims' narrative ownership brings it into sharper relief in the case of victimisation by terrorism. This coincides with a sharp reduction in the support and acknowledgement experienced by victims of terrorism, because of their shared understanding of the event with vicarious victims. Instead of being the representatives of the collective, who took the bullet for the rest, they become framed as impediments to the future purposes of the collective, who should not 'get in the way of the government's counterterrorism policy' (Alonso 2013).

6. Conclusion: terrorism, forgiveness and restorative justice

The public nature of terrorism is doubly pronounced: in the first place it is not solely a symbolic attack on society – in the sense that it transgresses a society's public norms – but it is or at least proposes to be a real one. This qualitatively raises the public stake in the response to terrorist attacks, and adds to the severity of the transgression involved in terrorism. Secondly the public experiences terrorism as an attack on itself: instead of third party observers, members of the public find themselves to be vicarious victims. These characteristics of terrorism are at variance with the 'privatising' quality of restorative justice: the view that resolving crime and conflict is preferably left to those directly affected. Any attempts to theorize full-blown restorative justice (rather than restorative practices) as a response to terrorist acts will have to reckon with this feature.

¹⁰ O'Reilly became increasingly antagonistic towards Glick who disagreed with him on the causes of the 9/11 attack and the preferred policy in the aftermath. It culminated in O'Reilly telling Glick to "shut up" out of "respect for Glick's father".

The tensions between private and vicarious (un)forgiveness further illuminate the complexities of restorative justice after terrorism. In cases of severe crime restorative practices can exist alongside criminal justice procedures. They offer a separate space in which the victim's private experience of (a process or a degree of) forgiveness can co-exist with public unforgiveness. Even when victims do not wish to use this parallel avenue of justice (Herman 2010), its existence serves to reinforce victims' experience that they are entitled to construct their own narrative of events, whether or not this is in sync with the public version (Pemberton 2014).

Vicarious (rather than public) unforgiveness makes this considerably more difficult. The fact that the victims' narrative of events is under pressure from this vicarious interest in the terrorist attack likely increases the need for the private space offered by (the possibility of) restorative practises. This increased need contrasts with a decreased likelihood of vicarious acceptance of restorative practices under these circumstances. Victims who (attempt to) attend meetings with current or former terrorists will be met with criticism or even outright hostility, while the necessary (public) budget for restorative practices will be curtailed, either by a negative stance of funding authorities or because of their fear of vicarious backlash. Even when the victim-offender meetings are far removed from any purpose of reconciliation it is not difficult to see the electoral gain that political opponents can make by framing the meetings as evidence that the government has become 'soft on terrorism'.

The notion that victims can become a political football (e.g. Alonso 2013) is also visible in the reverse situation. When the prevailing vicarious mood shifts into a more forgiving stance, victims' qualms with this development can rapidly transform their standing from representatives and even heroes of the collective, to a hindrance of the peace process. Restorative justice can then become an element of a compelled forgiveness. This experience is undoubtedly tantamount to secondary victimisation: the victim's narrative is shattered, support and recognition dries up, while victims have to condone a recasting of the offenders and their actions in a more positive, even righteous light. Any parallel system of justice in these cases should at a minimum acknowledge the second sacrifice that society requests from these victims.

Unfortunately this acknowledgement is not likely to be forthcoming, is at loggerheads with the overarching narrative that is necessary to reach a solution to political conflicts. This leads to a doubly pessimistic final note on restorative justice in cases of terrorism. Private forgiveness and vicarious unforgiveness will lead restorative justice to be subject to criticism and hostility, while it can offer a (partial) solution to the problems facing victims. In private unforgiveness and vicarious forgiveness restorative justice is more likely to be on offer, but will be experienced as an element of the problems facing direct victims, rather than a solution.

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