Abstract—Few defences of retribution in criminal justice make a plausible case for the view that punishment plays a necessary role in restoring relations between offenders, victims and the community. Even fewer defences of retribution make a plausible appeal to the interpersonal practice of apologizing as a symbolically adequate model for criminal justice. This review article considers Christopher Bennett’s engaging defence of an apology ritual in criminal justice, an account of justifiable punishment that draws from the best of retributive and restorative justice theory.

In The Apology Ritual: A Philosophical Theory of Punishment, Christopher Bennett defends a theory of state punishment that seeks to reconcile restorative justice with retributive justice by drawing upon the symbolism of two ordinary practices: blaming and apologizing. As a model for criminal justice, the cycle of blame and apology that we typically undergo when we do wrong to each other contrasts sharply with the formal processes of arrest, charge, try, sentence and punish, which characterize most existing bureaucratic, state-centred systems of criminal justice. Bennett opens his discussion by examining the impact that such formal processes have upon both a victim and an offender by sidelining these two principal parties to a criminal offence, assigning them ‘bit-parts’ in their own narrative. In Anglo-American jurisdictions, once an offence occurs, offender and victim are separated and shielded from each other. The symbolic messages that underlie their formal separation and formal adversity support, first, a narrow view of self-interest on the part of the offender as the party who aims to avoid blame and punishment, and second, a resentful attitude of self-preservation and vengeance on the part of the victim as the party who aims to impose suffering upon the offender. Such symbolism discords not only with ideals of mercy, dignity and decency, but also with an Aristotelian ideal of responsible agency according to which the offender seeks to take responsibility...
for her action by offering an account of herself and her behaviour.\(^1\) Such symbolism also discords with a plausible ideal of criminal justice that is humanizing, restorative and respectful of both victims and offenders. The model of the impersonal, structured system of criminal justice pales in comparison with Bennett’s proposed restorative alternative, which puts the offender’s response to the victim, and specifically the offender’s initial impulse to apologize, at the centre of their narrative. In Bennett’s view, the ideal scenario brings the victim and the offender together (voluntarily) with a facilitator and other affected members of the community, so that, first, the victim may let the offender know how the offence has affected her, second, the offender may respond, demonstrate remorse, apologize, outline the insights she has gained through the discussion and vow to remedy her conduct, and third, together they may work through the process of recrimination to some resolution including appropriate reparation. Of course, this ideal scenario, centred around a genuine apology, is too good to be true, but it offers Bennett a model for a restorative approach to criminal justice.

The picture of criminal justice within which Bennett locates the ideal resolution is not a familiar abolitionist picture, which conceives of restoration in contrast with state-directed, punitive responses to wrongdoing, since, in Bennett’s view, there is a legitimate public interest in censuring crime, and in having the state communicate that censure. That said, the picture of criminal justice that Bennett advances is also not a standard retributive picture (such as those outlined in Part I of *The Apology Ritual*) since, although the state must communicate the censure of the community, such censure must be symbolically adequate in its mode of communication. Briefly, the censure that is animated by emotions of resentment, anger and revenge is not symbolically adequate because, first, it fuels these kinds of emotions and the aggressive actions they tend to invite, and second, it communicates primarily a sense of distance between the community and the wrongdoer. In contrast, the censure that is symbolically adequate, Bennett argues, is that modelled on the emotions that characterize a genuine apology, namely, remorse, regret and concern, as well as a deep desire by the wrongdoer to aid the victim, to remedy relations with the victim and the community, and to restore a sense of self-respect. Such emotions and desires not only highlight the connections amongst the offender, the victim and the community, but also outline a path to reconciliation and restoration of good relations.

Thus, Bennett’s picture of apology-centred restoration conceives of restorative justice as inextricable from retributive justice. This view is grounded upon the claim that blame and punishment are a necessary part of a response to wrongdoing that does justice to the offender as a reasoning agent. The key intuition in this claim derives from Bennett’s analysis of the workings of

valuable human relationships amongst reasoning persons as ‘qualified practitioners’ or ‘qualified members’ of such relationships (Part II of The Apology Ritual). The qualified members of intrinsically valuable relationships are those members whose participation in the relationships is, in an important sense, self-governing and independent. A qualified member knows how to carry on in the relationship without further intervention or training from other people. Core cases of wrongdoing, Bennett argues, are those that involve qualified members of an intrinsically valuable relationship acting in ways that fundamentally fail to respect the legitimate norms and expectations of the relationship. Choosing not to subject a qualified member to retributive sanction, but instead to make allowances for her when she fails to respect the demands of the relationship, is sometimes incompatible with maintaining the valuable relationship with her. Yet, maintaining the relationship with her is part of taking her seriously as a self-governing member of the relationship. And therefore, sometimes it is necessary not to make allowances for her or to terminate the relationship with her, but to hold her to account and to blame her when she departs from the legitimate norms of the relationship. Blame in this sense is retributive; its proper expression takes the form of temporarily suspending normal relations with the person by suspending some of her rights and privileges until she assumes the responsibilities that are hers in virtue of her poor conduct. Not to suspend normal relations with her, and hence not to convey condemnation of the wrong she has done would fail to respect her as a full reasoning member of the relationship. In short, making allowances for her would breach her right to be punished.

From this model of human relations including the cycle of blame and apology and the right to be punished, Bennett extracts his account of criminal justice (Part III of The Apology Ritual), according to which state punishment is an institutional version of this cycle of blame and apology. Bennett calls his account the apology ritual in recognition of the fact that there is a limit to the extent to which the state can require offenders to apologize. In everyday life, a meaningful apology is a sincere apology that is made voluntarily. In criminal justice, exacting such an apology is often unfeasible, and attempting to exact one is intrusive and indefensible. Consequently, instead of staging events in which genuine apologies might be derived, a society should draw on the symbolism of apology to express condemnation; the society should make the offender act as the offender would act were she genuinely apologetic. Thus, this ritual of apology has the form of expressing the attitude that the offender ought to have. And, by requiring offenders to undertake the kind of reparative action that they would be motivated to undertake were they genuinely sorry for

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2 The Apology Ritual (hereafter TAR) 95.
3 TAR 125.
4 TAR 152.
5 TAR 146.
what they had done, the state condemns crimes in a way that is symbolically adequate and hence more meaningful than simple imposition of hard treatment.\(^6\)

Many elements of Bennett’s theory of punishment raise complex and interesting questions, not all of which can be examined here. The issues that will be examined here are those that flow from two core notions deployed in Bennett’s analysis: the notion of a *qualified practitioner* and the notion of *symbolic adequacy*. Each of these notions has weighty implications for an apology-centred conception of criminal justice and for the idea of a right to be punished, and some of those implications may lead us away from Bennett’s own stated conclusions about the ways in which condemnation of criminal wrongdoing is to be communicated.

### 1. Valuable Relationships

Let us begin by fleshing out more fully Bennett’s account of the workings of intrinsically valuable relationships. Bennett observes that, while our meaningful relationships bring different sorts of demands upon us, in general we owe a certain amount of goodwill or respect to our fellow participants in those meaningful relationships. This means that we do not simply have a general duty to bring about good results through our interactions with others; rather, we have a duty to treat people in a manner appropriate to the relationship that we have with them.\(^7\) We should treat them with respect due to the status they have as persons with whom some valuable form of interaction or relationship is possible. Treating a person in the manner appropriate to our relationship with her concerns, on the one hand, what we should *do* for her in the way of non-interference and positive assistance, but it also concerns, on the other hand, what we should *expect from* her. Being subject to certain expectations is an important part of being treated as a full participant in a meaningful relationship.

Two models of intrinsically valuable relationships that Bennett considers, about which more will be said below, are those between neighbours and between professional colleagues. A third model of an intrinsically valuable relationship that Bennett examines is that of friendship. Bennett argues that speaking out in dissent against a friend’s conduct can be one way of honouring the valuable relationship we have with her and of treating her as a full member of that relationship. If our friend becomes increasingly abusive, distracted, churlish and quick-tempered, we might choose to bite our tongues and let the relationship die, allowing our friend to go her own way. Or, if we value the relationship, we might speak out and complain to the friend to try to get her to

\(^6\) TAR 9.
\(^7\) TAR 68.
see what she is doing. In other words, we might hold our friend to the demands of the relationship, which can be a necessary part of taking her seriously as a member of that relationship.\textsuperscript{8} Not to hold her to the expectations that we have of a participant in the friendship would be not to treat her as a full member of that relationship, Bennett argues.

This sketch of the workings of valuable relationships provides a useful, preliminary foundation both for certain reactive attitudes and for the right to be punished. But the sketch does leave some details of the picture unpainted. How do we assess different views of the nature of the demands generated by valuable relationships? To what extent should participants themselves be the judge of which demands arise from a relationship? What degree of specificity or burdensomeness in demands is defensible? Does the way in which a person enters a relationship (eg voluntarily or non-voluntarily, formally or informally) affect the nature of the demands upon her? Are persons who are unable to respond to stringent demands incapable of entering into valuable relationships? Do all meaningful relationships necessarily bring with them demands upon the parties to those relationships? Can interactions between persons, which cannot properly be called relationships (such as encounters governed by etiquette and courtesy), be equally demanding or more demanding than some valuable relationships? Can we hold to account persons with whom we do not personally have a valuable relationship? Some of these questions are tangential to Bennett’s discussion; others, however, such as the last question just posed, raise some pressing concerns, which Bennett’s discussion leaves unanswered.

2. The Qualified Practitioner

Amongst other things, Bennett’s notion of the qualified practitioner has implications for the permissibility of different modes of condemnation. Bennett states that, unlike an apprentice, the qualified member of a relationship or practice knows how to continue in that relationship or practice without guidance from others. Of course, the qualified practitioner may continue to learn to act better within the practice and she may learn this to some extent from other people, but, as a self-governing member, she is nonetheless capable of identifying for herself how she might improve her conduct without intervention, training or guidance from some superior.\textsuperscript{9} Being a qualified practitioner gives a person a particular status; her qualification is a reason to respect her because it stems from her mastery of some valuable activity. And her status is marked by the bearing of responsibilities appropriate to her mastery.

\textsuperscript{8} TAR 69.

\textsuperscript{9} TAR 95.
Bennett deploys the notion of qualification to challenge the claim that punishment could be conceived of, and justified, in terms of the provision of moral education. The moral education view of punishment implies that the wrongdoer is not a fully qualified practitioner, and thus could not reasonably be expected to know how to act better than she did. Bennett also deploys the notion of qualification to flesh out his defence of the right to be punished as a right to be held to account and blamed for wrongdoing. It is a right possessed by a person who is able both to appreciate fully the nature of the wrong she has done and to take responsibility for making amends for that wrong. Her abilities make the appropriate response to her wrong one of condemnation and blame. With this argument, Bennett responds to the sceptical position that it is only if we have ultimate control over our actions and the sources of our actions that it could be just or morally acceptable to respond to any wrong we do with blame and punishment. Bennett argues that, since we have reason to respect people's status as full members of valuable social relationships, we have reason to blame them when they do wrong. Therefore, the fact that we have no ultimate control over who we are is irrelevant to the importance of holding each other responsible.

At least two difficulties may attend Bennett's use of the notion of the qualified practitioner. The first concerns the parameters of the concepts of qualification and mastery, both which imply levels of knowledge, competence and self-direction that few, if any of us, may claim to possess much, if any, of the time. The question is: can we conceive of qualification in a way that accommodates Bennett's observation that competence is a necessary condition for holding a person responsible for wrongdoing, without so narrowly circumscribing the concept that few persons could be deemed appropriate objects of condemnation? One option might be to conceive of qualification not in binary terms, but as a matter of degree. Such a continuum conception of qualification is intuitively plausible, but it raises questions that are salient in the context of criminal justice: Can the label 'qualified' apply to a person in one domain and not in another? Can it apply to that person under one set of conditions and not under another? Can it apply to a person at the time that she acts wrongly, but not at the time that she would be held to account or vice versa? Negative answers to some of these questions seem to be required in order to maintain norms of generality and predictability in criminal justice. And yet, negative answers seem to lead us, if not to a binary conception of qualification, to an arbitrary threshold for accountability.

The second potential difficulty for Bennett's use of the concept of qualification arises in his specification of appropriate responses to culpable wrongdoing. In Bennett's view, holding a qualified practitioner responsible for
wrongdoing means blaming her and, hence, temporarily suspending normal relations with her by withdrawing the status of respect and recognition that otherwise are due to her as a self-governing member of valuable relationships. According to Bennett, defensible ways in which normal relations may be suspended in this framework include ones in which victims and authoritative bodies literally withdraw temporarily from interactions with the wrongdoer. For example, in the non-criminal case of Jane, a grossly incompetent university teacher, Bennett argues that the university, as the authoritative body with overall responsibility for upholding educational standards, ought to communicate condemnation of her poor performance by having its disciplinary committee temporarily partially suspend Jane’s status within the university and require her to make appropriate amends that mirror as closely as possible the demands she would make of herself were she genuinely sorry.12 Similarly, in the non-criminal case of Bryson, a carefree, noisy neighbour who hosts rowdy, late-night parties, Bennett argues that it is appropriate for Bryson’s neighbour Brewster to shun Bryson on the street in order to signal the suspension of normal relations.13 By ‘cutting him dead’, Brewster tries to make Bryson understand that he is being ignored, that they are not on friendly terms, and that Bryson cannot expect to be treated civilly because he is disrespectful of his neighbours’ needs. These ordinary, non-criminal cases are the models for Bennett’s account of appropriate responses to criminal wrongdoing. Thus, in the criminal case with which Bennett opens his book, in which Bryson hits a cyclist Judith while driving under the influence of alcohol, Bennett’s view is that the suspension of normal relations with Bryson means Bryson’s temporary forfeiture of some civic rights and liberties (including sometimes the denial of freedom as such) until he assumes the responsibilities that flow from his wrongdoing.14

The difficulty here is that no accommodation is made for the value, if not the necessity, of support and assistance to remedy a wrong. In the above cases, the chosen modes of condemnation—isolation and rejection—disregard the fact that even an adequately qualified practitioner may be unable, alone, to rectify fully the wrong she has done. Empirically, it is unlikely that any gaps or limitations either in a person’s understanding of her wrongdoing or in her capacity to rectify it will be eliminated through the kinds of ostracizing sanctions that Bennett endorses. First, discussion with others can make vivid to a person salient considerations that would not occur to her through private reflection. Second, a remorseful wrongdoer’s grief and distress may render her private reflections less accurate tools for self-assessment and less accurate guides for good conduct than the support and advice of others would be. Third, a wrongdoer may well feel anxiety at being shunned or ostracized, and

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12 TAR 150.
13 TAR 104.
14 TAR 171.
this may have detrimental effects upon her ability to reflect upon how best to remedy her wrongs. Even if Jane is ‘qualified’ in the relevant sense to appreciate her failure to honour her teaching responsibilities, being shamed before a disciplinary committee and having her status within the university suspended may render her less able, not better able, to honour the restorative responsibilities that are hers in light of her poor performance. Similarly, Bryson’s ability to recognize and honour his restorative responsibilities to his neighbours may be hampered by his anxiety at being shunned by them. Likewise, his ability to act upon his initial impulse to apologize to Judith and to make good on his restorative responsibilities to her may be hampered by the kind of suspension of normal relations that involves his temporary loss of status and his isolation from her and the community.

Related to this concern about the effects of ostracism upon the apology ritual is the more pressing, general concern that Bennett’s endorsement of ostracizing modes of condemnation is in tension with his commitment to the maintenance of valuable relationships. As noted above, treating persons as responsible members of meaningful relationships means both investing in them, and reaffirming the force of social bonds and mutual interests in the relationship. These elements inform and constrain the ways in which ordinary relations with a wrongdoer may be suspended. In brief, commitment to valuable relationships seems not to licence condemnation by dismissal or temporary rejection of a person since such modes of condemnation put those relationships at risk. Rather, commitment to valuable relationships supports responses to wrongdoing that both focus directly upon the responsibilities generated for the wrongdoer and offer ways for her to make good on those responsibilities. Thus, Jane’s university might respond to her poor performance by requiring her to take teaching–training classes, asking her to team-teach with colleagues, requiring her to observe other colleagues in their lectures, assigning her a mentor, requiring her to submit teaching plans and so on. All of these responses communicate that normal relations are temporarily suspended and that her current performance is worthy of censure. But, they also communicate an investment in the relationships of which she is a member; they do not send the message that she is on her own when it comes to figuring out how best to rectify her conduct.

The same is true in the context of criminal justice. We can agree with Bennett that culpable offending permits or necessitates the expression of collective condemnation through an appropriately authorized body (eg the state) and that this communication of condemnation signals a change in the wrongdoer’s civic status, without endorsing the further claim that this change in civic status licences retributive responses that directly isolate, marginalize or ostracize the offender. In the case of Bryson and Judith, the community might respond to Bryson’s offence not only by requiring him to pay Judith’s medical costs and to compensate her financially for the injury and its negative effects
upon her daily life, but also by requiring him to devote his time over an extended period to raising awareness of drunk-driving, for example, by giving talks about his experience to high school students and by engaging in other forms of community service. These responses communicate that normal relations have been suspended temporarily, but they do not signal that Bryson is on his own when it comes to working out how best to rectify the wrong he has done.

More inclusive responses to wrongdoing, which focus directly upon the wrongdoer's reparative responsibilities, are compatible with a nuanced conception of the qualified practitioner; this conception recognizes that a person can act in a culpably wrongful way and yet not be fully able to rectify the wrong she has done without the support and assistance of those affected by her action.

3. Symbolic Adequacy and Inalienable Rights

The above concerns about ostracizing modes of condemnation apply to a second dimension of Bennett's account, namely, his thesis on symbolic adequacy. Bennett maintains that an argument about punishment must attend to the ways in which punishment is carried out; responses to wrongdoing must be symbolically adequate, in part because the mode of communication chosen can have considerable impact upon the content of what is communicated. Therefore, the 'condemnation' used must genuinely express condemnation. As noted above, Bennett argues, rightly I believe, that punishment structured around the symbols of resentment, revenge and anger has a corrupting effect upon relations between victims, offenders and other interested parties, including the community as a whole. Punishment structured around symbols of repentance, regret and apology offers the offender and victim a healthier path to restoration and reacceptance. What is surprising then, as just noted, is that Bennett goes on to endorse modes of punishment that seemingly are symbolically at odds with apology, restoration and respect for persons as members of valuable relationships. He advocates suspending normal relations by literally withdrawing from the offender, by suspending her status, civic rights and liberties.

Underlying Bennett's position is the unstated assumption that none of these rights—to recognition, inclusion and acceptance—are inalienable or non-forfeitable. But it is an important and non-obvious question whether a person could, even temporarily, forfeit her rights to inclusion and recognition by culpably acting in ways that make her deserving of ostracism. There are reasons to think that she could not. First, on a familiar interest-based account of rights,

15 TAR 9.
16 TAR 145.
with which Bennett's account seems to be compatible, rights arise from those interests that are sufficiently strong to ground duties in others. And, a person's fundamental interests in social interaction, inclusion and recognition, which are presumably sufficiently strong to ground duties of recognition and inclusion in others, cannot be said to disappear when that person acts wrongly. Basic rights to recognition and inclusion do not disappear, because they are not bestowed privileges that may be withheld or retracted when a person acts wrongly. Since they arise from fundamental interests, they remain as long as the interests remain. It is only when a person ceases to have the interests that give rise to such rights that those rights could be said to be alienable or forfeitable. Second, a person's interests in social inclusion and recognition could be said to become stronger once she acts wrongfully since inclusion and support not only reaffirm her identity as a reasoning human agent, but also may aid her in overcoming any proclivity she has for wrongful behaviour, and may give her responsibilities and a sense of empowerment that reduce the likelihood of such behaviour. If this is correct, then it is a non-sequitur to argue that culpable wrongdoing legitimizes the temporary forfeiture of a person's claim right to inclusion and recognition.

This conclusion about inalienability does not commit us to the view that there is a right not to be punished for culpable wrongdoing, because a person's interests in inclusion are distinct from, and indeed compatible with, her interests in being blamed and censured for culpable wrongdoing. Inalienable rights to inclusion and recognition can be reconciled with the retributive insight that normal relations with a culpable wrongdoer are to be suspended until she assumes the restorative responsibilities that flow from her conduct when that retributive insight is given a sufficiently narrow interpretation. A narrow interpretation of the insight holds that the suspension of normal relations need not, does not and indeed should not entail a withdrawal of recognition and inclusion of the culpable wrongdoer. Instead, suspension of normal relations with that party entails that the relations become focused upon the responsibilities that flow from the wrongdoing. Relations become oriented towards providing forums and opportunities for the wrongdoer meaningfully to make good on the restorative responsibilities that are hers in light of her wrongdoing. This approach to retribution honours a person's right to be engaged with non-coercively as a reasoning agent who is responsive to moral reasons.

A rough practical model for this interpretation of the retributive insight may be found in those criminal justice systems which, amongst other things: (i) favour practices that respect offenders' sense of dignity (such as, in prisons, allowing offenders to retain the right to vote, addressing them formally with a title and their last names and allowing them to wear their own clothing); (ii) give those in prison a voice about their conditions; (iii) assign to them transparently meaningful responsibilities related to reparation; and (iv) enable
them to retain many of their familial responsibilities. Assigning a wrongdoer specific responsibilities to care for, protect, support and provide for the victims and society whom she has wronged, directly connects the communication of blame and the suspension of normal relations with the wrongful conduct, and thus is more defensible than a coercive, dismissive and dehumanizing response of isolating the wrongdoer from both victims and society.

This model of focusing relations upon wrongdoers’ newly acquired responsibilities can be applied to more modest cases of wrongdoing, such as those that arise within ordinary valuable, human relationships. The parent may do well to choose not to send the child to her room when she breaks the vase, but instead to give the child a meaningful responsibility—raising the funds to replace the broken vase—that is directly linked to the wrongdoing and thereby gives the correct meaning to the communication of blame through this suspension of normal relations.

In response to this line of objection, Bennett might highlight that his view appeals to the symbols of both blame and apology, not the symbols of blame alone. In his view, the suspension of rights goes hand in hand with the imposition of positive duties to make amends; we cannot consider the one separately from the other. Developing the symbols of punishment from the structures of blame (that is, from the suspension of status) alone is inadequate because it cannot make sense of the reacceptance of the offender that follows once she has ‘done her time’. ‘Such reacceptance of the offender looks like the kind of forgiveness that results from a person’s having made a sincere and adequate apology’, and this is why the symbolism of blame must be combined with the symbolism of apology. To earn the institutional version of forgiveness, the offender has to be made to do something that is an institutional version of apology.

This response may go some way to alleviating the above concerns, but it may still be inadequate since the objection above was not that Bennett disregards the importance of apology (by, say, disregarding the positive duties of reparation); rather the objection was that Bennett’s specification of the symbolism of blame takes forms that are in tension with, and that undermine, the symbolism of apology.

4. Ritualistic Justice

A more general concern about the apology ritual may be that there is something false in a process structured around emotions that the parties involved do not necessarily feel. If the model of apology were adopted in criminal cases, the criminal justice process would enact this ritual not only for the unrepentant and the wholly repentant, but also for the wrongfully convicted
and the conscientiously offending. Such a process, in being oriented around the ritual of apology, seems to make a mockery of the sincere emotions of remorse, regret and repentance, and the fervent desires to aid the victim and to remedy relations, which the genuinely remorseful wrongdoer endeavours to act upon. Bennett is sensitive to this objection. He observes that:

...in the case of state punishment, from which the offender cannot just walk away as he might from a sanction imposed by a professional body – we cannot require sincerity as condition of the successful completion of the sentence. All sorts of unrepentant offenders – the wrongfully convicted, those who have conscientiously committed a crime for good or bad reasons, the wilful or stubborn or insensitive – have to be able to earn the restoration of their civic status as a result of having done their time. This suggests that the sincerity of the apology will have to be irrelevant to the possibility of restoration.18

But, Bennett continues, this does not make the apology element (the imposition of duties to make amends) an empty ritual that could be left out. Rather, it highlights the limits of what the state may take its responsibilities to be in bringing about a resolution. The state does not have the responsibility to condemn all wrongs; its responsibilities extend only to addressing those wrongs that are of concern to the community—public wrongs. The state tasks the wrongdoer to remedy the public wrong. Given the intrusiveness of demanding a sincere apology, only apologetic action may be legitimately required of the offender. Whether the offender is genuinely repentant and remorseful is irrelevant to her relations with the state.19

This response is plausible as a nod to the inevitable complexities and imperfections of any practical application of idealized theorizing. However, a critic might reply that, in at least some cases, whether the offender is genuinely repentant or remorseful is relevant to her relations with the state. On one hand, when an offender demonstrates repentance prior to punishment this cannot be disregarded in the determination of the appropriate response by the law. John Tasioulas, for one, argues that, since a key aim of justifiable punishment is to lead the offender to repent her action and to reform her conduct, when the offender demonstrates prior to punishment that she does repent and has reformed, this gives the law reasons of charity to show mercy towards her and to impose a lesser punishment on her than that which she deserves according to retributive justice.20 On this nuanced account, the justified punishment is distinct from, and in this case is less than, the deserved punishment. The interaction between the state and the offender is fleshed out here in a way that takes account of the offender's contribution to that interaction in being sensitive to her repentance for her wrongdoing. We can endorse this sensitivity

18 Ibid.
19 TAR 173.
to genuine repentance without arguing that a demonstration of repentance and reformation should necessarily lead to no punishment. As Bennett would note, remorse and repentance are one aim of punishment, but they are not the only aim. To rectify the damage done through her wrongdoing, an offender has reason to make reparations to those whom she has harmed and, as noted above, punishment can be part of such a process.

On the other hand, when an offender is wholly unrepentant this too is relevant to her relations with the state. Defiance is relevant to the decision to punish in cases in which an offender is conscientiously motivated. Persistent defiance by a political offender, for example, must be given thoughtful consideration with an eye to appreciating why the offender refuses to repent and to reform her conduct. Such appreciation does not mean that punishment is not justifiable. To satisfy the Kantian requirement of treating an offender as a responsible, reasoning agent, the state simply must mete out punishments that it could justify to her as the appropriate response to her conduct that mirrors as closely as possible the censure she would impose on herself were she repentant for the part of her conduct that is worthy of censure. But, in other contexts, it may be the law and not the offender's conduct that should undergo revision. Recognition of this fact might be lost if the offender's attitude is viewed as irrelevant to her relations with the state.

Additionally, when deciding how to respond, authorities should be sensitive to the fact that an offender may be defiant towards certain kinds of responses, but not towards others. The defiant offender's apparent unreceptiveness may be due to the modes of communication that authorities have adopted to address her. If her reasons for being unreceptive are well-founded, and if she would be receptive to other responses that are more respectful of her conscientiousness, then authorities must consider whether such responses would be more appropriate.

The objections to Bennett's thesis outlined above are in part a testament to his ability to stimulate and challenge the reader. Bennett's book offers both a rich, critical examination of contemporary forms of retributive theory and restorative theory, and an innovative and appealing alternative to familiar accounts in those two traditions. His hybrid account retains from retributive theory both the imposition of hard treatment and the collective's interest in censuring wrongdoing, and from restorative theory, a more personalized, victim- and offender-centred process. Bennett does well to highlight the theoretical value in attending to the principal participants' emotional and cognitive needs, as this can serve to enact an institutional process that is more reflective of humane personal encounters where remorse, apology, forgiveness and repentance are given centre stage. The book offers a thorough and thoughtful defence of this fusion of the best of retributive and restorative theory.