Chapter 9

The Restorative Gaze

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Introduction

> Jon watches CCTV footage of petty vandalism targeted at a local
> corner shop. The recording lasts barely a few minutes and Jon
> concludes that his best interests will be served if he agrees that
> these are images of him. The surveillance gaze in which Jon has
> been caught might follow him through the retributive criminal
> justice process. However, the assessment of his eligibility in such
> terms as previous record, and absence of intimidation place him
> below the boundary of those deemed not suitable (in other words,
> too-risky) for a restorative justice conference. Alice, the owner of
> the corner shop was initially reluctant to participate; she knows her
> area of town has a bad reputation and the statistics frighten her.
> However, Alice is willing to embrace her fear and give Jon a
> chance to listen. Jon is under a restorative gaze.

Surveillance is a dimension of restorative justice but, as this chapter will demonstrate, not
limited to evidence-gathering. Strategies of gathering and analysing personal information
feature at many points around a restorative justice process. Furthermore, the participants in,
and promoters of, restorative justice processes are themselves shaped by cultures of
surveillance in everyday life. This chapter makes an original contribution by bringing together
two discourses and practices: surveillance and restorative justice, and framing the intersection
as *the restorative gaze.* For this first time a theological perspective on surveillance is deployed
as a critical tool in the context of restorative justice. The theological paradigm proposed
challenges a traditional framing of watching and being watched. Instead of motifs of
supervision from on high, this chapter draws on the notion of surveillance from the cross.
Cruciform surveillance privileges solidarity with all under unjust and discriminatory
surveillance. The Jesus who watches the world in self-giving love models a paradigm for
practicing surveillance that turns traditional models through 90 degrees. Cruciform

surveillance differs from that suggested by the iconography of Christ, the glorified judge/emperor; Christ pantocrator as he is portrayed in the apse of a basilica. Such an image of the divine gaze too-readily lends support to patriarchal and kyriarchal models of oppressive watching which, in turn, underpin retributive modes of justice. In distinction, surveillance from the cross offers a lens shaped by servant-hood, friendship and agape as self-giving, unconditional love. Cruciform surveillance critiques pantocratic surveillance by interrogating the form of power deployed as well as foregrounding issues of discrimination on the basis of ethnicity, socio-economic status, etc.

The cruciform paradigm also re-frames claims to knowledge that might be gained by systems of digital surveillance. Agapic, solidaristic surveillance is profoundly relational and, as a result, mere data-gathering is problematised by the theological notion of relational knowledge; that within which all are held in God's covenant love. In the context of restorative justice a dichotomy cannot be forced between relational knowledge and digital information. This is because surveillance data have an important part to play in detection of an offence, monitoring of an offender and, more significantly still, in shaping victim, offender, facilitator and institutions with broader cultures of everyday surveillance.

With this in mind, I will propose that the restorative gaze serves as a concept to recognise the tension between relational knowledge and digital information. This tension is articulated in the notion of *relational information.* The outcome is a heightened awareness of how surveillance technologies may drag restorative justice away from its relational emphasis. Conversely, we can appreciate the valuable contribution of digital data-gathering to what is otherwise a profoundly relational practice.

Surveillance

'Surveillance' is a morally-freighted term in popular (and often intellectual) imagination. In much public perception, risky others such as 'brown' terrorists are legitimate targets of state and citizen surveillance (Selod 2018). Similarly, black bodies are under significant and disproportionate monitoring and suspicion by the police (Hattery and Smith 2018). To be further down the socio-economic ladder entraps people in circles of algorithmic oppression when claiming welfare benefits, as well as when seeking credit or insurance (Noble 2018; O'Neill 2016). At a trivial, but still concerning level, a number of English local authorities have

used surveillance techniques (and anti-terrorism legislation) to tackle so-called 'bin crimes' involving domestic refuse (Moore 2008). Oppressive states keep their opponents in fear of reprisals under illegitimate scrutiny by way of an intermittent (and unpredictable) watchful gaze. (The Muslim Uyghurs of northwestern China are a contemporary example of a group facing significant repression by multiple forms of surveillance (Chung 2018)).

Charles Taylor has given us the concept of 'the social imaginary' as 'the ways people imagine their social existence…and the normative notions and images that underlie [their] expectations' (Taylor 2004: 23). George Orwell's *Nineteen Eighty-Four* (perhaps more as a cultural icon than a closely-read text) profoundly shapes underlying popular notions of surveillance (Orwell 2001 [1949]). However, this 'Orwellian' lens means that everyday, often consumer-driven, surveillance is rendered invisible. Furthermore, when 'Big Brother' is the intrusive and threatening source of state surveillance attention to him means that the possibilities for surveillance to be an act of care simply never occurs to people (Stoddart 2011). For example, the benefits of data-gathering to monitor epidemics of disease or movement-detection devices in the homes of frail elderly people are not how most people conceptualise twenty-first century surveillance. In order to secure a more nuanced understanding we need a critical definition.

Michel Foucault's genealogical investigation described a late seventeenth century example of measures of spatial partitioning and monitoring to be effected when a plague hits a town (Foucault 1977: 195-98). One of his key insights lay in paying attention to how such processes become internalised. Whilst prisoners experience the panoptic gaze in penitentiaries the same effect occurs in everyday life in hospitals, schools and workplaces. Surveillance is thus a method that 'induces in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power. So to arrange things that the surveillance is permanent in its effects, even if it is discontinuous in its action' (Foucault 1977: 201). Panopticism is thereby 'a generalizable model of functioning; a way of defining power relations in terms of the everyday life of men' (Foucault 1977: 205). This analytical model is partial, especially given more recent socio-technological developments.

As Gary Marx notes, observation is now not necessarily about a 'suspected person' nor is it confined to persons, but is directed towards geographical places, networks and, most importantly now that digital technologies permit, to *categories* of persons (Marx 2002). We are no longer in a realm of mere gathering of coded information but, as David Lyon observes, such

practices become '*means* of supervision' (Lyon 2007: 54). Lyon's most recent definition of surveillance unpacks the notion into three, inter-related, components: 'surveillance means the operations and experiences of gathering and analysing personal data for influence, entitlement and management' (Lyon 2018: 6). Whereas panoptic surveillance (the few watching the many) was prevalent (in prisons, schools, hospitals), mass media, particularly in a digitally-networked age, create copious opportunities for synoptic surveillance: 'the situation where a large number focuses on something in common which is condensed' (Mathiesen 1997: 219). Panopticism and synopticism interact on social media platforms where many are watching the few whilst sellers observe the individual in his or her transactions and choices (Mathiesen 1997: 224). With the capacity to unobtrusively and quickly record and upload video of a minor misdemeanour or dispute on the street, the public place each other under surveillance. Often this is with a view to shaming the perpetrator quite out of all proportion to the seriousness of the 'offence' (Trottier 2018).

Crucially for our discussion in this chapter, Lyon includes subjective experiences of surveillance (not only technological processes) in his definition. This step is important because it foregrounds the subject who will be shaped - to a greater or lesser extent - by surveillance that is not necessarily a function of the immediate process of restorative justice. (I will return to this when considering the *dispositif / apparatus*.)

However, we need to resist the gravitational pull of negative associations of surveillance. It need not be about imposed constraint but, as Michalis Lianos, argues, be 'often optional, or even desired by a sovereign subject' (Lianos 2012: 183). Similarly, the surveillance subject is not passive but a political actor with skills and strategies for her active response; 'tacit knowledge and everyday forms of cultural know-how that allow surveillance subjects to contest surveillance in a variety of local and specific settings' (McCahill and Finn 2014: 186). At the same time, we are prosumers of data in what Shoshana Zuboff has rightly dubbed 'surveillance capitalism'; 'a new economic order that claims human experience as a free raw material for hidden commercial practices of extraction, prediction, and sales' (Zuboff 2019, in frontispiece).

Algorithmic oppression and actuarial justice

Within surveillance systems lie biases and discrimination. There is 'asymmetrical transparency'

(Beatty and Hristova 2018: 19) required from categories of people. This can be around race/ethnicity, class, age, gender, sexuality or other identity marks and be acute at the intersections. A young black mother may have a quite different, and less positive experience of surveillance within the welfare system than an older white childless man. On the other hand, the latter's economic and class position, for example, in an area of high unemployment might require him to be more transparent to the Department of Work and Pensions that a young black mother in a relatively more affluent region of the country.

But not only is transparency asymmetrical in terms of traditional metrics. In a world of 'automated inequality' we are sorted into new categories, what Cathy O'Neill terms 'behavioural tribes, generated entirely by machines' (O'Neill 2016: 171). Where the context is one in which poverty is, in effect, criminalised by the authorities (bolstered by media representations of the undeserving or fraudulently poor), surveillance bears down as a deterrence to legitimate welfare claims. It is not necessarily that people are worried about being caught making a fraudulent claim but that their citizenship status, disability or 'more generalised anxieties around information sharing' (Magnet 2011: 83) inhibit them. The 'digital poorhouse' (Eubanks 2017) means not merely barring access to public benefits, but worse, the:

> … classification and criminalisation work by including poor and working-class people in systems that limit their rights and deny their basic human need. The digital poorhouse doesn't just exclude, it sweeps millions of people into a system of control that compromises their humanity and their self-determination (Eubanks 2017: 181).

Despite assumptions of 'scientific objectivity' it is vital to understand algorithms as 'value-laden propositions'; termed by Safiya Noble as 'algorithmic oppression'(Noble 2018: 171).

Surveillance within policing strategies can be particularly problematic along racial/ethnic lines. The policing of Black bodies for being Black in 'white spaces' is part of the culture of surveillance in which a person can be deemed risky by 'transgressing mainstream norms of behaviour, for the mere possibility that they might engage in crime' (Hattery and Smith 2018: 212). As Goddard and Myers observe with reference to the US: 'In too many measures, poor youth, particularly youth of color, are positioned to earn more points than their similarly delinquent middle-class counterparts, mostly for reasons entirely out of their control' (Goddard and Myers 2016: 155-6).

By sorting people into groups that are designated levels of threat or risk, surveillance is part of a strategy of 'managing danger' (Feeley and Simon 1994: 173). One consequence within the criminal justice system is that prisoners' 'needs' are less about a claim for resources to be allocated than it is 'a calculation of criminal potential (or risk of recidivism' (Hannah-Moffat 1999: 84)). Goddard and Myers make the useful point that this approach also deflects attention from broader political responsibilities: 'the current actuarial youth justice model is quite troubling because the approach privileges individual-level interventions and discourages policy change at the community or structural level' (Goddard and Myers 2016: 162). On the other hand, actual systems can have a positive contribution to make: 'to produce forms of usable knowledge that constitute types of "networked social action"' (Hannah-Moffat 2018: 4). This is in addition to providing an impetus (and evidence base) to improve services: 'In principle, if risk considerations improve and expand services for "at-risk" young people, discovering "at-risk" youth through assessment could be positive' (Goddard and Myers 2016: 157). But, as Muncie argues, albeit some 15 years ago:

> Juvenile/youth justice has become progressively more disengaged from philosophies of welfare and/or justice in favour of improving internal system coherence through evidence-led policy, standardized risk assessments, technologies of actuarial justice and the implementation of managerial performance targets (Muncie 2005: 40).

Where the context is pressure to cut costs in a justice system that is heavily criticised for either its failure to support offenders or its failure to prevent (all) egregious harms, 'actuarial justice offers beleaguered personnel at least a chance to succeed, although only through a redefinition of goals' (Kempf-Leonard and Peterson 2000: 68).

Culture(s) of surveillance

Surveillance technologies are ubiquitous; CCTV in supermarkets, facial recognition at border control, and tailored recommendations whilst online shopping are amongst the most familiar. Our subjective experiences of such technologies are commonplace; acceptance, welcome, and canny complicity on the part of some people contrasts with resistance, resentment, and canny subversion from others. Lyon argues that we are now creating a *culture* of surveillance and being formed by it: 'surveillance has become part of a way of seeing and of being in the world.

It is a dimension of a whole way of life' (Lyon 2018: 30). It is not simply that devices are commonplace but that there is a process of normalising surveillance. The questions then become ones around what behaviour and identity are deemed 'normal' and how they become so (Lyon 2018: 103).

It might be having the 'wrong' skin colour in a particular part of town that triggers focused scrutiny by CCTV operators. Failing to be 'normal' will make it more expensive to secure credit. On the other hand, if within media representations of people receiving welfare benefits 'normal' is constructed to mean having a propensity to fraud, then being honest marks one out as a deviant, and likely viewed as a person more skilled at covering up fraud than actually being honest. In response to vandalism, petty crime, welfare 'scrounging', children's under-achievement, health 'time-bombs' such as an 'obesity epidemic' (to list only a few) the cry is that 'something needs to be done'. When surveillance is normalised that 'something' will now include, if not actually be first and foremost, a form of digital monitoring and analysis.

Twenty-first century everyday life is made possible through surveillance technologies. An Orwellian social imaginary alerts us to the dystopic in its contemporary form of algorithmic oppression. Foucauldian sensitivities draw our attention to how we internalise the gaze whether today it be that of corporations or the state. With the origins of the word lying amidst the brutalities of the French Revolution in the Committee of Surveillance it is unsurprising that the term is so freighted with negative associations. Health data can save lives through early intervention for susceptible groups. Similarly, children's under-achievement can be tackled pre-emptively thanks to data analysis by government departments of education. People working for the good of society can be protected by digitally-managed access to local government offices. Surveillance is a way of caring and a means to oppress.

There is a public theological contribution to be made in viewing surveillance through the lens of care, not to merely redress a balance in public appreciation of the technologies and those working in the industry. Rather, there is a more fundamental issue as I have explored in detail previously (Stoddart 2011); probing how all surveillance might be practiced care-fully. In the context here of a putative restorative gaze we must now turn to a theological paradigm of surveillance.

Surveillance from the Cross

In a nutshell, I argue that thinking theologically about surveillance involves a significant paradigm shift, from images that readily suggest dominating power to ones that point towards care. This requires turning our conceptual paradigm of God's surveillance of us through 90 degrees. Rather than the familiar vertical surveillance (from heaven), we need to think of surveillance from the Cross. Here, Christ, one who knew what it was to be under surveillance himself, is in horizontal solidarity with all those unjustly treated, marginalized and oppressed. It is his solidarity that is our solidarity with those for whom surveillance is both disproportionate and unjust. David Hollenbach makes this point with reference to Christian ethics more broadly:

> The cross is the revelation of divine solidarity with every human whose experience is that of forsakenness and abandonment…The sign of the cross thus opens the possibility of an ethics of compassionate solidarity (Hollenbach 1996: 13).

Given the dystopic and technologised baggage attached to 'surveillance' it may appear counter-intuitive, even inappropriate, to deploy the term in relation to God's actions. A leap is required in order to open imaginative space for an Orwellian Big Brother to be replaced by a Davidic big brother. (The allusion here being to Romans 8:29 and Hebrews 2:11, 27). We are brought into the metaphorical sphere of the good shepherd who watches over his sheep (John 10). Such imperial allusions of Jesus the judge there might be in Christian iconography are to be understood in the light of his cross. Kyriarchy is lordship redefined by servanthood.

To put this another way, the Cross is not only something that happened to Jesus. Rather *that* he was executed is revelatory of his character. He is one who surrenders to others' barbarity as a political action that coheres with the kingdom of God. He is not so much performing a function, as being who he is when he lets himself be captured in the Garden of Gethsemane and taken eventually to Golgotha. It is in this sense that we can speak of Christ keeping us under surveillance from the Cross. It is not to say that in those fateful hours he has omniscient knowledge of all our actions. Neither is he gathering information about us from across time and space. That is too literal an approach to what I am suggesting. Rather, it is the Christ *of the* Cross - whose nature was demonstrated to us on the Cross - who keeps us under surveillance.

To talk in metaphorical terms of cruciform surveillance is to say something about the character or qualities of the person undertaking the surveillance. It is Christ - the identifier with us, the

one in solidarity with us, who is the one who keeps us under surveillance. (See, more broadly on Christ's solidarity as a basis for a notion of human rights (Newlands 2006).) Surveillance is not co-opted to be a tool for oppressive religious control but redeemed to be a practice of care. The new criteria for evaluating surveillance is therefore its contribution to care, not its economic efficiency nor its capacity to control.

This proposal is underpinned by three hermeneutical principles: God in history, solidarity, and the sacramental potential of technology. The church is but one element in the history of God's dealings with the world: God's being glorified includes the liberation of creation so that, wherever this liberation happens, it is the Holy Spirit who is at work. In experiences of liberative self-transcendence, it is the one and the same Spirit of God in Christ who is at work. So, when people are able to step back from a technological or economic or political paradigm that determines surveillance, and in those moments see possibilities for resisting, re-shaping, perhaps even subverting, ill-judged, disproportionate, or unjust surveillance such critical reflection is the work of the Spirit of God in their history, and in the history of their community. I am, therefore, with Jürgen Moltmann in understanding God in the world and therefore history as a sacrament, 'a reality qualified by God's word and made the bearer of his presence' (Moltmann 1974: 321, 37). There is no space here for triumphalism and utopian aspirations for surveillance strategies that somehow or other always, and only, ever lead to liberation. The hope for moments, 'praesentia explosiva'[1] (Moltmann 1974: 338)

In the moments of fragmentary liberation, and crucially in the days, months, or years, between those moment, solidarity is vital. Eucharistic prayers express Christians' unity in Christ; another way of talking about solidarity in, and through, Him. What it perhaps less easily acknowledges is solidarity, in Him, with the bodies of fellow Christians throughout time and, perhaps much more importantly, across space in our own time. A worshipper might be able to recognise this in the presence of her neighbour at the altar rail but that this solidarity extends to the impoverished and wealthiest Christian is less immediately present. Not only did the Word become flesh, but as Lisa Isherwood argues, "flesh becomes word" (Isherwood 2001: 124). Here lies a still more radical dimension of inclusion of all human flesh in this model of solidarity.

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[1] A moment of liberation

Jon Sobrino considers the multitude of ways in which people in the Global South are suffering. Their poverty and slow death warrants their description as 'crucified peoples' because, through systemic injustice, they are being put to death (Sobrino 1994: 254f). For Sobrino, given his context in Latin America of embedded Christian practice, it is the poor of the Church who are the victims who constitute the image of the 'Crucified Christ.' Igancio Ellacuria goes a step further in positing the poor and the oppressed of the world as 'the preeminent locus of Christ's embodiment'; in Ellacuria's terms there is a 'true body of Christ outside the Church' (Ellacuría 1993: 546).

God's solidaristic engagement is in history that is deeply technologised. Technology is part of the history of God's world, and similarly sacramental – at least potentially. We do not need to transcend the technologized world – as if God's grace is only associated with pastoral scenes of pre-Industrial, agrarian landscapes - in order to be surprised by 'praesentia explosiva'. As Elaine Graham puts it: 'the fabricated, technologized worlds of human labour and artifice [are] as equally capable of revealing the sacred as the innocence of "nature"' (Graham 2002: 233).

So, at the same time as we might look for liberation from surveillance that is discriminatory, overly-intrusive or otherwise unjust the same technological systems might prove to be sacramental in the sense that they are a means of liberation. It might be the information regarding injustices with which surveillance confronts us which propels us to political or individual response. But it might be that surveillance offers a way of practicing care-full oversight and monitoring for protection of any or all who are vulnerable to the harm planned by others. Ours always must be a *critical* theology of surveillance; neither veering into the ditch of despair or careering over the crest of utopian trust in data-gathering. Whilst attention to the actual technologies is important, equal - if not perhaps more attention - needs to be paid to the social imaginary in which surveillance operates; the *culture* of surveillance and its concomitant constructing and reinforcing of discriminatory stereotypes of the 'risky' individual or group.

Restorative Justice

For this chapter I use Zehr's classic definition of restorative justice:

> Crime is a violation of people and relationships. It creates obligations to make things
> right. Justice involves the victim, the offender, and the community in search for solutions

which promote repair, reconciliation, and reassurance (Zehr 1990: 181).

The locus of intervention is thus at the micro level and recognises that offence is not primarily against the state but against specific people. As a consequence, the focus of justice includes emotional effects on individuals in its concern for constructive outcomes that are to the satisfaction of those who are directly affected. The means to those outcomes involve, as a normative principle, direct decision making by those affected rather than this being in the hands of judicial authorities. Instead of sanctions or obligations imposed upon an offender, she or he is given the opportunity to demonstrate remorse and, in some way or other, make things right (McCold 2004: 18-19). Such a distinction between restorative and retributive justice ought not be pushed into a simplistic dichotomy. As Declan Roche concludes, attempts at *fairness* in retributive justice theories require to be acknowledged as should critical thinking about a possible place for punishment within restorative processes (Roche 2007: 88).

A restorative process will likely take the form of one of three prototypes: victim-offender mediation (VOM), group (usually family) conferencing, and circles. In VOM there is typically one victim and one offender for whom a facilitator ensures a safe and guided process in which both can speak and be heard. The crucial difference in conferences lies in the inclusion of the family (or supporters) of the victim and offender. Circles extend the range of participants to include interested members of the wider community (who may or may not have direct knowledge of the particular offence under review), and criminal justice partners (in this situation as equal participants rather than neutral facilitators) (Raye and Roberts 2007). Those unfamiliar with the process can find case studies available (e.g. Restorative Justice Council 2019). Meredith Rossner's microanalysis of one restorative conference provides transcripts of sections of the dialogue (Rossner 2013: 46-74).

Giuseppe Maglione analyses restorative justice as a Foucauldian *dispositif* (Maglione 2018). A dispositif comprises three dimensions. It is an ensemble of 'discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions' (Foucault 1980: 194). Second, dispositif is the connections between the ensemble of elements. Third, the strategic instantiation in a particular historical context; as a response to a need (Foucault 1980: 195). Giorgio Agamben moves beyond Foucault to conceptualise the apparatus/*dispositif* as 'literally anything that has in some way the capacity to capture, orient, determine, intercept, model, control, or secure the

gestures, behaviours, opinions, or discourses of living beings' (Agamben 2009: 14). The point for Agamben is that in the 'relentless fight' between living beings and apparatuses, subjects results (Agamben 2009: 14).

Such an approach to restorative justice is helpful because it problematises not merely the context within which it is practiced but the possibility of restorative justice being implicated in a wider neoliberal project, here surveillance capitalism (whether or not individual participants understand it as such) (Maglione 2018: 4). Whilst there may indeed be resistance by particular individuals, restorative justice is 'producing subjectivities consistent with ethopolitical imperatives' (Maglione 2018: 16). Maglione argues that one dimension of such subjectivity is based on a particular notion of community within which membership is anticipated (as the goal of the restorative process) for the offender in 'alignment with an idealized citizen marked by homogeneity, regulated deviance and belonging' (Maglione 2018: 15).

Identity construction takes place within the apparatus of restorative justice. This is so for both victims and offenders. Kelly Richards argues that we ought not take the construction of victim-identity for granted but instead appreciate that what might appear to be 'common sense' is actually 'culturally and historically specific' (Richards 2005: 392). She contends that an 'Oprahfication' of victimhood comprises three discourses: expanded victimhood (in which almost everyone has in some sense been harmed at one time or another); talking cures (of expressing and, crucially, being heard); and closure (as a goal) (Richards 2005: 384). Adam Crawford (2009) identifies a similar self-help discourse (such as the language of 'closure' following a harm).

However, with this discourse lies one arguably even more powerful: the contractualised self. Crawford argues that the notion of contract as a form of social organisation has been penetrated by 'consumerist and commercial values and modalities of control' (Crawford 2009: 174). A similar claim is advanced by Maglione, the privatization and marketisation of public space. Such 'refeudalization' of social decision-making occurs on the airwaves, in the derogation of government responsibilities to private providers, to commercialised educational sites and in shopping malls as 'public' spaces for private profit. (Maglione 2013: 78). Both Crawford and Maglione consider such a move to impact restorative justice not least through the shaping of 'the community' (Maglione, see also (Brown 2015)) and of the offender (Crawford). The contract as a commitment to responsible behaviour assumes a particular (consumerist) form of

agency. There is an implied act of choosing (the consumerist ideal of 'choice') which can be an unrealistic expectation on the part of both offenders and victims. The particularly serious problem in restorative justice is the blame that is subsequently placed on the offender who does not comply with norms of good behaviour: 'failure to comply becom[ing] symptomatic of poor choices made by uninformed individuals, unmotivated, incompetent, or irresponsible individuals' instead of addressing issues of systemic social or structural forces (Crawford 2009: 191).

Cruciform Surveillance in the Restorative Justice Process

Within the apparatus of restorative justice participants encounter surveillance technologies directly and indirectly. The institutional context of restorative justice might well be itself thoroughly implicated in surveillance. For example, schools that use restorative approaches (McCluskey 2018) are also sites of close monitoring whether of the corridors of the building (via CCTV) or of the minds of the students (via standard assessment tests). Were a restorative process to be at the encouragement of the police then surveillance is integral to the force's identity as well as its practice. (Eligibility for a restorative justice process can be determined on the basis of both data-driven and subjective criteria, for example (United Nations Office on Drugs and Crime 2006: 73)). Should the precipitating events fall within the orbit of social services then here too is a surveillance institution; including the monitoring of its staff performance as well as its clients' compliance. Where the philosophical underpinning to restorative justice for a community comes from its religious heritage this too presents a connection with a culture of surveillance. Religious groups monitoring their members' behaviour, if not always their beliefs, are ancient practices of oracular confession to a priest, group accountability as in early Methodism and more recent forms of fervent Christianity.

We can consider more specific encounters with surveillance technologies prior to, within, and after a restorative justice conference. It is quite possible that the harm precipitating a particular restorative conference was recorded on a CCTV system. An offender might have unwittingly acted under a surveillance gaze that makes denial of culpability close to impossible. Online journalistic reports or a passer-by's smartphone images, shared online, could have generated a mix of support and opprobrium through peer surveillance. In such cases, the many could well have been watching the few - even watching just the one. The self-identify of the offended as 'victim' will have been constructed in relation to data-gathering in attitude to crime and

incidence of crime surveys. Similarly, the offender may understand his social location and life chances through snippets of information noticed from the demographics that have fed into the cultural standing of his neighbourhood.

On their way to the restorative justice conference all the participants will have passed through the gaze of at least a few, if not many, CCTV devices attached to buildings or on high poles that have blended with other street furniture. Access to the building in which the conference is taking place could have required authenticating the identities of the victim, offender and facilitator. Any CCTV camera in the conference room may be switched off - but even its temporary offline status being drawn to the group's attention may unsettle as many as it reassures.

 The offender's compliance to promises of good behaviour or restitution could later be monitored - possibly over an extended period of time - via data-gathering by officials. Where a restorative process has supplemented criminal proceedings, electronic monitoring by RFID or GPS[2] technologies in an ankle bracelet generate a considerable volume of surveillance data. An offender's compliance with a Community Service Order would likewise render him a subject of surveillance. As part of a wider study of the effectiveness, and perhaps efficiency, of restorative justice, data on the participants and outcomes might be gathered and fed into a regional or national survey.

The paradigm of cruciform surveillance pushes against the securitisation of educational and other nurturing spaces. Whereas pantocratic models can legitimate hierarchical, threatening forms of watching by emphasising the importance of the distant, central gaze, solidaristic models can promote mutual respect and responsibility for one another. Similarly, where this is racial/ethnic and/or social class disproportionality in school discipline practices (McCluskey 2018: 584), these are foregrounded for remedy by the solidarity with the marginalised expected of the privileged in cruciform surveillance. When the context of a restorative justice conference is a local police station, it is salutary to recall that it was the legal authorities who had Jesus under surveillance and who effected his execution. The gaze of the one on the cross falls critically upon, in the sense we are using it here, twenty-first century police forces. There is no unequivocal support for 'law and order' but rather a critical support for policing. Such critical

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[2] Radio-Frequency Identification or Global Positioning System

support arises out of solidarity with those who require the protection of the police from those who would do harm. It is the same solidarity that is suspicious of policing where it expresses prejudice and hatred of the other. The approach to social services is similar.

Cruciform surveillance encourages one to attend to CCTV systems and other means of capturing images as potentially sacramental. The facility offered by these technologies can be an expression of God's loving interest in victims and in the opportunity opened up for the restoration of offenders. We need not revert to a mistaken interpretation of technological devices as neutral tools in order to appreciate that the intention of users is morally, and theologically, significant. A moment of the in-breaking of the power of God's kingdom might occur in the capturing of an offence in digital images that might be used not for shaming but as a step towards an offender's restoration.

Crime statistics might not seem an obviously sacramental technology. However, a victim's or an offender's act of critical reflection on how they are being shaped by this data-gathering and analysis might be disclosure of God's grace. If the prodigal son came to his senses in a pig-pen and transcended the boundaries of that predicament and its shaping of his self-image (Stoddart 2007), then twenty-first century opportunities might lie in being confronted with surveillance data about one's own conduct. Such an approach does not imply any simplistic or mechanistic glimpsing beyond this world through technology into a beatific vision. The point is that cruciform surveillance affirms many aspects of a twenty-first century technological gaze because it can be a vital expression of society's mutual caring and a possible stimulus to critical reflection about oneself and, particularly in relation to others (and those who are othered). This becomes a sharp critique of the contractualised self and the construction of victim- and community-identities. Grace-full solidarity, possibly at a cost to oneself, pushes against the marketed, contractualised relationships. Surveillance capitalism is set under the gaze from the cross and found to lack sufficient attention to notions of gift. The social imaginary of bodies instrumentalist as sources of data for exploitation encounter an alternative imaginary. This need not be naive or idealistic but critically conscious of biases embedded within surveillance systems - and how those biases are reproduced by the application of surveillance. In other words, if a suspicious group is the target of surveillance then, so the argument would go, it must be in need of being under scrutiny. In effect, ethnic, religious or class prejudice circulates within surveillance capitalism and is the imaginary in which both offenders and victims (and likely facilitators too) are easily entrapped.

This theological approach neither eschews punishment or repudiates monitoring of compliance by convicted offenders. Rather, by the 90º turn from kyriarchal surveillance, this paradigm confronts (but does not abandon) authority. This confrontation subjects the practice of the power to surveil to the paramount consideration of those unjustly affected. Such a theological claim does not exclude the possibility that disproportionate surveillance might be just. It does however mirror the parable of the sheep and the goats in which it is in attending to those in need that the righteous discover in the eschaton that it was indeed Christ whom they served (Matthew 25:31-46). (The pantocratic element in this parable - of Christ the eschatological Judge - is not wholly problematic to the claims advanced in this chapter because it is lordship practiced in servanthood and thereby heavily qualifying kyriarchal paradigms).

Cruciform surveillance keeps bringing our attention back to a tension between human relations and surveillance data within restorative justice processes. To consider this from a theological perspective we now turn to the creative proposals of Rachel Muers (2004) in which the notion of God's hearing with love invites reflection upon the nature of *what* God hears and, thereby, the difference between knowledge and information. Being a metaphor of the auditory, it can be transposed into the oracular by way of the wider concept of God's knowing - just as surveillance, although etymologically rooted in vision extends beyond images to all means of information gathering. It will be necessary to push further than Muers in order to consider the tension between embodied and digitised encounters; what I call *relational information*.

Relational Knowledge and the Restorative Gaze

Rachel Muers argues that God's is a 'listening silence' (Muers 2004: 65-8). This grounds her theological ethics of communication in which she then engages with contemporary debates on privacy by, usefully for our purposes here, challenging certain understandings of knowledge. One can gain information about someone with respect to minor or distinguishing characteristics. A much more complex picture of someone might be drawn using details from psychological or medical assessments. In some cases a person may have a corpus of published works from which detailed accounts of their views may be obtained. Whether trivial or significant, proffered or extracted, this is information about, not knowledge of, a person. This information may be correct in the sense of being accurate but, according to Muers, it would not necessarily be true. Truth, she contends, does not subsist in mere accuracy of data but truth is

profoundly relational. Fundamentally, a person is known only to God; each of us is an 'ultimate secret' (Muers 2004: 207). This is not because God alone is capable of gathering all possible information about us. Rather, we are known within God's covenants, within the commitment of God in Jesus Christ. God does not hold information on us but holds us in relational knowledge; accepting responsibility for us.

Muers develops Dietrich Bonhoeffer's 'truth-telling' in which the ethical evaluation of speech is bound not only to what is spoken about but to whom it is being spoken (Muers 2004: 189). Withholding speech may be more truthful than speaking what is accurate (the discussion is around a theology of privacy). Speaking what is factually correct may not always be truthful; vindictive wounding, shaming or betraying a confidence are examples (Muers 2004: 190). Muers queries the idea of omniscience framed as comprehensive knowledge (what is in effect information). Turning to the narratives of God's hearing of people crying out against injustice in the Hebrew Bible, she contends that God's knowledge is always linked to God's action (Muers 2004: 196). That hearing-action is in the context of God's covenant faithfulness. In Christological terms Muers argues that God's knowing 'cannot be considered apart from God's entering into a relation with the world characterised by intimacy and risk' (Muers 2004: 197). The implications for human knowing (and not being entitled to know, i.e. respecting another's privacy) are significant:

> The model of 'hearing knowledge'…asserts the inseparability of knowledge from responsibility and love, and from the formation of persons in the temporal processes of 'being know' and 'coming to know' (Muers 2004: 202-3).

So, speech can be true only when it is speech within not any relationship but within a relationship of responsibility for, and to the one spoken about (and the one who is being spoken to). Information (abstracted from such relationship) is just information - and can be damaging for being so, notwithstanding its accuracy. Such information includes data and therefore we can consider digital information in terms of its accuracy but it is never truthful, in the sense of being relational knowledge. For these purposes I define the restorative gaze in the following terms.

> The restorative gaze is a way of looking that holds in tension relational knowledge and digital information derived from surveillance systems. The restorative gaze is, therefore,

relational information within a restorative justice process.

We can properly talk of relational knowledge within the restorative gaze given the commitment of the parties in a restorative justice process. The practice is shot through with notions of ruptured relationships expressed in, and resulting from the offender's actions. By agreeing to the process, a victim is taking a path that frames an offence as a relational, not primarily an illegal, act. Offender and victim encounter one another in direct relationship rather than distanced parties in a judicial system. An offender's hearing the effects of his actions upon his victim is akin to a listening silence. The offender takes responsibility for his victim, expressed in taking responsibility for his offence. In a sense, the victim takes responsibility for enabling the restoration of the offender's relationship with himself, as well as with the victim, and the wider community.

Zehr's classic definition, arising as it does from his appreciation of the Judea-Christian theme of *shalom,* locates restorative justice within God's covenants:

> The Torah is thus a pattern for living in shalom under the old covenant. We misunderstand if we see it primarily as a set of imperatives, of rules that must not be broken. It is a promise, an invitation, an example of what life should be like (Zehr 1990: 143).

The knowledge that is spoken and heard within a restorative justice conference is predicated on human covenant. A victim agrees to listen to an offender's response to hearing the effects of his offence from the lips of his victim. The outcome is not guaranteed but the possibility of restoration is held out in the gracious initiative of the victim. We might also draw on one aspect of the theological idea of the resurrection of the person (Swinton 2000) in which those who have been rendered non-persons by society's stigmatising, are reborn into full personhood in the eyes of, in this case, their victims. Those who might otherwise be treated as data (categorised by surveillance data into 'risky' persons) are dehumanised by the restorative gaze. Such a gaze does not ignore the data about the offender but declines to avert its gaze at that point. The restorative gaze holds the gaze on the offender as she is reconstituted within the covenantal grace-full relationship offered by the victim. From a theological standpoint, the encounter holds the potential to be a *praesentia explosiva;* a moment of liberation.

Digital information is also circulating within a restorative conference. We have seen how

different types of surveillance data is available to the parties - not least in evidence of the offence. Evaluations of the process and possibly the monitoring of the offender's compliance with restitution also generate surveillance data.

Relational Information

It would a mistake to press a dichotomy between relational knowledge and digital information in the restorative justice process (and in most other contexts too). Deploying a CCTV system in a neighbourhood is, at least in part, an act of care for the community on the part of the local authority. It is unnecessarily cynical to view this equipment as, in popular terms, 'Orwellian'. At its best, concern to protect and to thereby keep open the possibility of good relationships can be a motivating factor in maintaining a CCTV system. This is notwithstanding motives to protect the aesthetics of consumer space as such as shopping malls. In a similar vein, statistics of the effectiveness of restorative justice processes may be, on the one hand, generated with a view to fiscal efficiency (and be part of political contesting of the merits of retributive justice). On the other hand, the same data-gathering can be grounded in a concern to establish best practice in caring for victims and offenders. (This is more than merely a question of the use to which the statistics are put but about the intention in collecting the data at all.) The paradigm of cruciform surveillance, with its critical affirmation of surveillance, foregrounds such nuanced considerations.

It is the *interaction* between relational knowledge and digital information which constitutes the *restorative gaze*. What, in effect, we have is *relational information*. It is a way of articulating the challenge faced in actual encounters where a priority is given to covenantal relationship and there exists a critical appreciation of the value of surveillance data. A tension occurs in, on the one hand, not idealising relationships because one knows these are formed and sustained within cultures of surveillance and, on the other hand, refusing to be wholly shaped by surveillance - itself an apparatus in the Agambenian sense.

This is not so much *using* surveillance data to justify the need for a restorative justice conference nor deploying surveillance techniques to monitor compliance by an offender to commitments he has made. Rather, it is keeping an eye on surveillance and its contribution to and effects upon the construction of victim-identity and offender-identity. At the same time it is a matter of appreciating how the disciplinary dimensions of surveillance may help the

offender to keep his commitments to changed behaviour. The restorative gaze is about, in this context, holding the tension between data and knowledge, and doing so creatively.

Conclusions

Surveillance cultures and technologies circulate alongside and within the profoundly relational processes of restorative justice. The depth of human interaction towards the goal of repairing a breach of relationship is not diminished by recognising that those interactions are partly constructed by technologies. The gaze held (or perhaps avoided) between victim and offender across a restorative justice conference table is, to a considerable extent, unmediated. Yet it is a gaze taking place within systems and cultures of surveillance, and between people whose subjectivity is enacted with those same systems and cultures. There is a restorative *gaze;* a surveillance-inflected gaze. This gaze is *restorative* in the sense that it is a component of restorative justice practice.

The victim is at once a gazer and one upon whom the restorative gaze also falls. Victims may be rendered as (mere) data points within cultures of surveillance in which policing is so heavily dependent, sometimes driven, by data (as that which is measurable). The restorative gaze, by recontextualising data which generates fear on the part of a victim (as another statistic in an 'epidemic' of crime) rehumanises the victim. The victim is pulled by the relational pole to reassess not necessarily the particular data regarding their incident - but the wider data world in which their sense of (threatened) self is created.

The originality of this discussion lies in its bringing a critical theology of surveillance into dialogue with restorative justice with the result that a new hybrid concept, relational information, can articulate the tensions between knowledge and data in contexts where human interaction remains significant. Relational information can be used to analyse, for example, ecclesial contexts where membership (customer) management software and pastoral care overlap. Similarly, relational information has the potential to offer understanding of teaching and learning within technologised and marketised classrooms. Rather than bifurcating technology and spirituality, relational knowledge opens questions of the interaction - and potential disclosive capacity - of the tension between devices and transcendence.

In the specific sphere of restorative justice, cruciform surveillance encourages practical steps

such as ensuring that participants are aware that monitoring devices built into rooms used for occasional conferences are switched off. It means consideration is given to the surveillance systems through which participants must pass in order to reach the conference room. How necessary are these? What implicit messages about the risk posed by the offender do these systems communicate? Should risk assessment calculations feature in decisions as to the suitability of an offender for a restorative process, the notion of the restorative gaze alerts all parties to the ways in which these algorithmic shape identities, much more than merely categorising. The digital footprints left by offenders might well be subject to a measure of erasure as time passes but data retention regulations do not touch the emotional impact to which the restorative gaze draws attention. The extent to which surveillance shapes attitudes within restorative justice practices requires future research.

In the broad terms of public theology, the restorative gaze of relational information contributes to debate over where cultures of surveillance should be affirmed and where challenged. Whilst focused here on restorative justice, there is wider relevance. If contract depersonalises, covenant re-personalises. In other words, the ideas in this chapter demonstrate that relational knowledge can be subject to a powerful gravitational pull (in other language, a temptation) towards the pole of digital information. Tokens of trust become almost invariably technological at the expense of personal interaction. At the same time, the supposed objectivity of digital information can be recontextualised to respect the integrity of the person. However, whilst human relations bear hallmarks of bias and prejudice, the pull towards relational information must be viewed critically, not idealistically.

Jon and Alice (and the facilitator) in our opening vignette practice, and are subject to, a surveillance gaze. Public theology here will help them choose between two ways of seeing. The pantocractic clusters with kyriarchal, patriarchal and retributive panopticism and shaming synopticism. The cruciform assembles servanthood, friendship and agapic solidarity within which the possibilities of God's liberation might be released by the restorative gaze.

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