

Is Penal Substitution Unsatisfactory?

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Abstract

It might be objected to penal substitutionary theories that punishing Christ could not possibly meet the demands of divine retributive justice. For punishing another person for my crimes would not serve to remove my guilt. The Anglo-American system of justice, in fact, does countenance and even endorse cases in which a substitute satisfies the demands of retributive justice. Moreover, Christ's being divinely and voluntarily appointed to act not merely as our substitute but as our representative enables him to serve as our proxy before God, so that when he is punished, we are punished, to the satisfaction of divine justice.

1. Introduction

In my book *The Atonement* I have argued that any biblically adequate atonement theory must include the notion of propitiation, that is to say, the appeasement of God's just wrath against sin.¹ The source of God's wrath is His retributive justice,² and so appeasement of wrath is a matter of the satisfaction of divine justice. Biblically speaking, the satisfaction of God's justice takes place, not as Anselm thought, through compensation, but through punishment.³ In the view of the Protestant Reformers the just desert of those outside of Christ is borne in their proper persons, whereas Christ bears the just desert of those who are united with Christ by faith, a view that has come to be known as penal substitution.⁴

Penal substitution in a theological context may be defined as the doctrine that God inflicted upon Christ the suffering which we deserved as the punishment for our sins, as a result of which we no longer deserve punishment. Notice that this explication leaves open the question whether Christ was punished for our sins. Some defenders of penal substitution recoil at the thought that God punished His beloved Son for our sins.⁵ Even in their ringing defense of penal substitution, Steve Jeffery, Michael Ovey, and

Andrew Sach do not define penal substitution in such a way as to imply that Christ was punished in our place. Rather they offer the subtler explication: “The doctrine of penal substitution states that God gave himself in the person of his Son to suffer instead of us the death, punishment, and curse due to fallen humanity as the penalty for sin.”⁶ If we take the definite description “the punishment due to fallen humanity” referentially,⁷ it refers to the withdrawal of God’s fellowship and blessing.⁸ This Christ suffered on the cross instead of us.

On such an understanding, God afflicted Christ with the suffering which, had it been inflicted upon us, would have been our just desert and, hence, punishment. In other words, Christ was not punished, but he endured the suffering which would have been our punishment had it been inflicted on us. We should not exclude by definition such accounts as being penal substitutionary theories, since Christ on such accounts suffers as our substitute and bears what would have been our punishment, thereby freeing us from punishment.⁹

An attractive feature of penal substitutionary accounts according to which Christ was not punished for our sins is that they enable the Christian theologian to avert so easily the standard objections against both the coherence and justice of penal substitution.¹⁰ For on such accounts it is false that God punished an innocent person for our sins, an assumption which lies at the root of the standard objections. Even Socinus recognized that God might inflict non-punitive harsh treatment on an innocent person,¹¹ Job being the paradigmatic biblical example, and the discussion of such treatment takes us out of the theory of punishment and the philosophy of law and into the familiar concerns of theodicy.

Unfortunately, a penal substitutionary theory which does not affirm that God punished Christ for our sins seems less promising when it comes to a third objection to penal substitutionary theories, namely, that Christ’s penal substitution fails to satisfy the demands of God’s justice. Penal substitutionary theories hold that the satisfaction of divine justice, whether by a necessity of God’s nature or by a free choice of God’s will, is a pre-condition of God’s pardon and salvation of sinners. Here the superiority of a theory involving Christ’s punishment emerges over penal substitutionary theories according to which God does not punish Christ. For it is hard to see how divine justice could be satisfied by Christ’s voluntarily taking suffering upon himself if it were not a punishment meted out for our sins. If the punishment for an

offense were, say, deportation, how could justice be satisfied by someone else's voluntarily going or even being sent into exile unless it were intended to be a punishment for the wrongdoing in question? If the suffering or harsh treatment is not punishment, then the demands of retributive justice seem to go unsatisfied.¹²

Socinus objected, however, that neither could God's punishing Christ in our place possibly meet the demands of divine retributive justice.¹³ For punishing another person for my crimes would not serve to remove my liability to punishment. How, then, can penal substitution satisfy God's justice?

2. The Alleged Unsatisfactoriness of Penal Substitution

I have never seen this objection to penal substitution carefully formulated. But I think that the following formulation neatly captures the objection:¹⁴

1. Unless the person who committed a wrong is punished for that wrong, divine justice is not satisfied.
2. If God practices penal substitution, then the person who committed a wrong is not punished for that wrong.
3. Therefore, if God practices penal substitution, divine justice is not satisfied.

It follows that penal substitution is thus unsatisfactory.

3. Responses to the Alleged Unsatisfactoriness of Penal Substitution

3.1 Meta-Ethical Contextualization

In order to address the question of the satisfactoriness of penal substitution adequately, we must view it within the context of an over-arching meta-ethical theory about the foundation of moral values and duties. Who or what determines what satisfies the demands of justice? The classic proponents of penal substitutionary theory all held to a view of God as at once the supreme Legislator, Judge, and Ruler of the moral order. Contrast the U.S. separation of powers, according to which Congress defines crimes and their punishments, the judiciary interprets and applies those laws and punishments, and the executive holds the power of pardon.¹⁵ In God's case all these powers are vested in the same individual. So if He determines that the demands of justice are met by Christ's punishment, who is to gainsay Him? He is the

source of the moral law, its interpreter, and its executor. He Himself determines what meets justice's demands. So what is the problem?

The above response might seem to imply an unsettling account of satisfaction as so-called *acceptation*. John Duns Scotus suggested that God might have accepted any sacrifice He pleased as satisfactory for the demands of His retributive justice (*Distinctiones in quatuor libros Sententiarum* 3.19.1). Defenders of penal substitution have not been sympathetic to acceptation accounts.¹⁶ For then God might have accepted as satisfactory the death of any ordinary human being or even an animal. But then it is not true, as Scripture affirms, that "it is impossible that the blood of bulls and goats should take away sins" (Heb 10.4).

How might acceptation be avoided? Retributive theories of justice require not merely that the guilty deserve punishment but also that the punishment be proportionate to the crime if justice is to be satisfied. The objector to substitutionary satisfaction would find a sympathetic ear among penal substitution theorists, if he affirmed that retributive justice, as we know and understand it, is essential to God's nature and so could not be arbitrarily satisfied by divine fiat. This would preclude God's justice's being satisfied by the offering of mere animal sacrifices. But then the question persists: if retributive justice, as we know and understand it, is essential to God, how can the punishment of Christ satisfy the demands of retributive justice?

3.2 Penal Substitution and our Justice System

Perhaps some progress can be made toward answering this question by considering whether any analogies to penal substitution exist in our secular justice system. If something like penal substitution appears in our justice system, that would lend credibility to the claim that it can be satisfactory of divine justice's demands. After all, if we are talking about retributive justice as we know and understand it, then divine justice must be significantly analogous to enlightened human justice systems. Otherwise, the defender of penal substitution can just assert that God's essential retributive justice is quite unlike our understanding of retributive justice, problem solved.

The Anglo-American system of justice, in point of fact, does countenance and even endorse

cases which are significantly analogous to substitutionary punishment. David Lewis claims that although we do not think that a criminal offender's friend can serve his prison sentence or death sentence, we do believe that a friend can pay a criminal's fine if both agree to the arrangement. "Yet this is just as much a case of penal substitution as the others."¹⁷ Lewis rejects the view that these penalties are not really punishments. Some of these fines, Lewis remarks, are just as burdensome as prison sentences and convey the same opprobrium. If we were single-mindedly against penal substitution, Lewis says, then we should conclude that fines are an *unsatisfactory* form of punishment, that such punishment, in other words, fails to satisfy justice's demands. But we do not.¹⁸ Lewis draws the lesson that both secularists and Christians agree that "penal substitution sometimes makes sense after all, even if none can say how it makes sense. And if both sides agreed to that, that is some evidence that somehow they might both be right."¹⁹

We can press the analogy even further. For in criminal law there are cases involving vicarious liability for criminal acts. In such cases the principle of *respondeat superior* (roughly, *let the master answer*) is invoked in order to impute the liability of an employee to his employer.²⁰ Both the employer and the employee may be found guilty for crimes which only the employee committed. For example, in *Allen v Whitehead* (1930) the owner of a café was found to be guilty because his employee, to whom management of the café had been delegated, allowed prostitutes to congregate there in violation of the law. Cases often involve employers' being held liable for employees' illegal sale of items. In *Sherras v De Rutzen* (1895) a bartender's criminal liability for selling alcohol to a constable on duty was imputed to the licensed owner of the bar. Interestingly, a case of vicarious liability is a case of so-called strict liability, where the superior is held to be guilty without being blameworthy, since no *mens rea* (blameworthy mental state) is required for conviction. The employer is not in such cases being held liable for other acts, such as complicity or negligence in, for instance, failing to supervise the employee. Rather the liability incurred by his employee for certain acts is imputed to him in virtue of his relationship with the employee, even though he did not himself do the acts in question. In *Allen v Whitehead*, "The acts of the manager and his *mens rea* (knowing that the women present were prostitutes) were both to be imputed to his employer, not simply because he was an employee, but because the management of the house had been

delegated to him.”²¹ In *Sherras v De Rutzen*, even though the bartender poured the drinks and collected the money, the *actus reus* (wrongful act) of the bartender was attributed to the person holding the license to sell alcohol in the bar, since only the licensee can be the seller.

Vicarious liability is strikingly analogous to the Reformers’ doctrine of the imputation of our sins to Christ.²² In virtue of the imputation of our sins to him, Christ is legally liable for our sins and so may be justly punished by God for those sins. In the Reformers’ view Christ did not merely suffer the punishment due us for our sins. Rather, as the Swiss Reformed theologian Francis Turretin explained, our sins themselves were imputed to Christ so that he might be justly punished for them.²³ Turretin emphasizes that such imputation is a purely forensic notion and does not involve an infusion of sin into Christ.²⁴ The Reformers insisted that because our sins were merely imputed to Christ and not infused in him, Christ was, as always, personally virtuous, a paradigm of compassion, selflessness, purity, and courage. Nevertheless, he was reckoned legally guilty before God. Therefore, he was legally liable to punishment.

The lesson to be learned from cases of vicarious liability is that what is required for the satisfaction of justice is that only persons who are *liable* for a wrong are to be punished for that wrong. Accordingly, (1) should be revised to

1*. Unless a person who is liable for a wrong is punished for that wrong, divine justice is not satisfied.

That person might be the wrong-doer himself or someone vicariously liable for that wrong.

Now in affirming that justice is satisfied only if a person who is liable for a crime is punished for that crime we have not yet arrived at an analogy to penal substitution. For in a case involving vicarious liability both parties, the subordinate who did the wrong and the blameless superior to whom the wrong is imputed, may be found guilty and punished for the crime.

Intriguingly, however, it is sometimes the case that only the vicariously liable superior is prosecuted and punished. In cases involving the illegal sale of items only the licensee may be prosecuted as the principal in the crime. Even in cases of delegated responsibility the state may forgo prosecution of the subordinate or forgo exacting a penalty at his hand in favor of the employer’s satisfying

justice's demands. In cases where a corporation is held vicariously liable for crimes committed by employees, the corporation alone might be prosecuted. David Ormerod explains, "Corporations have a separate legal identity. They are treated in law as having a legal personality distinct from the natural persons—members, directors, employees, etc—who make up the corporation. That presents the opportunity, in theory, of imposing criminal liability on the corporation separately from any liability which might be imposed on the individual members for any criminal wrongdoing."²⁵ In cases in which the demands of justice are too heavy for individuals to bear, the corporation may be held solely responsible for satisfying justice's demands. Such a case seems to be as much an instance of penal substitution as Lewis' example of fines' being paid by a third party. At the least, we can say that it appears that (1) is false in our Anglo-American justice system. Sometimes the demands of justice are met not by the wrongdoer himself but by someone held vicariously liable for that wrong.

Emmanuel Mwale disputes the relevance of vicarious liability to Christ's vicarious atonement on the ground of various disanalogies. He claims that the relationship subsisting between employer and employee "is completely different from that between God and man."²⁶ For example, God is not some third party but the Creator of the human being who has offended Him. In civil cases involving vicarious liability three parties are involved: the employer, the employee, and the person who suffers damage as a result of the employee's act or omission, whereas in the case of the atonement only two parties are involved: God and man. Again, an innocent employer cannot choose, as Christ did, to die in place of an employee who has committed a capital offence. Again, while the employer may be held vicariously liable for the criminal offence or tort of the employee, the employee is not always released from personal liability. Vicarious atonement is different in that "Christ's death releases the offender from all liability."²⁷

Disanalogies, however, are always to be expected when an analogy is drawn, so the question is whether they are so significant as to subvert the analogy that does exist between penal substitution and certain cases involving vicarious liability. I think not. The number of parties involved in a case is irrelevant to the fact that a blameless person may be found vicariously liable for another's wrong and punished instead of him (not mention the fact that in a criminal case only two parties are involved). The divine status of the superior party is again just not relevant to the analogy.²⁸ The fact that in our justice system

an employer cannot choose to die in the place of his employee does not subvert Lewis' point that cases of penal substitution are to be found in our justice system. Finally, Mwale recognizes that there are cases involving vicarious liability in which only the employer is prosecuted and punished—and, moreover, that it is up to each jurisdiction to decide.²⁹

Mwale seems to assume that in appealing to certain cases involving vicarious liability as analogous to penal substitution, one is trying to construct a doctrine of the atonement based on human justice systems. But one is not engaged in so silly a project. Theological construction of a doctrine of the atonement will be based on the teaching of Scripture. Rather, in appealing to the analogy of vicarious liability, one is merely offering a defeater of the objection raised to penal substitution that it is unsatisfactory because our legal system allows only the wrongdoer to be punished for his wrong. In fact, we do sometimes penalize or punish in place of the wrongdoer blameless persons held vicariously liable for wrongs they did not commit.³⁰

Now the objector might reply at this point that in cases of vicarious liability in which only the superior is punished the demands of justice are not really satisfied, but merely waived. When the state declines either to prosecute a subordinate for his wrongdoing or to exact the penalty from him that justice demands, it is not because his superior has met the demands of justice on his behalf. Rather the demands of justice are just overlooked. Hence, (1) remains true.

It seems to me, however, that intuitions can reasonably differ here. It is the state that determines whether justice has been satisfied in a particular case. If the state is satisfied in such cases with the penalty exacted from the superior and requires nothing further from the subordinate, then the demands of justice are met. Even in cases in which both parties are convicted and sentenced, we can imagine scenarios in which only the superior discharges justice's demands. Criminal law theorist Antony Duff explains,

If both are convicted, the question turns to sentencing: . . . If the punishment is a fine, for both the employer and the employee, it seems to be a demand of penal justice that the size of the fine be related to the defendant's means--a wealthy defendant's fine should be much larger than that imposed on a poor person (hence the attraction of 'day fines' or 'unit fines', which fine a person a

specified proportion of his income). We could therefore expect that the employer's fine will be, in dollar terms, much greater than the employee's--which will serve the ends of penal justice.³¹

In Duff's view, even in the case in which the state prosecutes both parties, just desert is not absolute but relative to the defendants' means. If the employee for some reason had no means, then the demands of justice would be fully met by the employer alone.

We as condemned sinners are, as Anselm saw, utterly bereft of any means of satisfying divine justice apart from enduring the punishment of hell. If God does not want to send His children to hell, then He must alone satisfy the demands of justice instead of us. It is God, as the analogue of the state, who determines whether the demands of divine justice have been met by Christ's substitutionary punishment. God may be satisfied with the infinite penalty exacted from Christ for my sins. He may therefore issue a pardon to us, freeing us from condemnation.

The objector's reply, then, is not decisive. We do seem to have some analogy in our justice system to penal substitution. In any case (1) seems to be defeated.

3.3 Substitution and Representation

Even more can be said. For now consider

2. If God practices penal substitution, then the person who committed a wrong is not punished for that wrong.

In cases of penal substitution is it always the case that the person who did the wrong is not punished for that wrong?

Contemporary theologians have disputed the point by distinguishing between exclusionary place-taking (*exkludierende Stellvertretung*) and inclusionary place-taking (*inkludierende Stellvertretung*).³² This important distinction requires a word of explanation about substitution and representation respectively. In cases of simple substitution someone takes the place of another person but does not represent that person. For example, a pinch hitter in baseball enters the lineup to bat in the place of another player. He

is a substitute for that player but in no sense represents that other player. That is why the batting average of the player whom he replaces is not affected by the pinch hitter's performance. On the other hand, a simple representative acts on behalf of another person and serves as his spokesman but is not a substitute for that person. For example, the baseball player has an agent who represents him in contract negotiations with the team. The representative does not replace the player but merely advocates for him.³³

These roles can be combined, in which case we have neither simple substitution nor simple representation but rather substitutional representation (or representative substitution). A good illustration of this combination of substitution and representation is to be found in the role of a proxy at a shareholders' meeting. If we cannot attend the meeting ourselves, we may sign an agreement authorizing someone else to serve as our proxy at the meeting. He votes for us, and because he has been authorized to do so, his votes are our votes: we have voted via proxy at the meeting of shareholders. The proxy is a substitute in that he attends the meeting in our place, but he is also our representative in that he does not vote instead of us but on our behalf, so that we vote. This combination is an inclusionary place-taking.

Turretin believes that Christ, in bearing our punishment, was both our substitute and our representative before God. He states, "the curse and punishment of sin which he received upon himself in our stead secures to us blessing and righteousness with God in virtue of that most strict union between us and him by which, as our sins are imputed to him, so in turn his obedience and righteousness are imputed to us."³⁴ This relation is not one of simple substitution; there is an inclusive union here which is the basis of the imputation of our sins to Christ and his righteousness to us. According to Turretin, so long as Christ is outside of us and we are out of Christ we can receive no benefit from his righteousness. But God has united us with Christ by means of a twofold bond, one natural (namely, communion of nature by the incarnation), the other mystical (namely, the communion of grace by Christ's mediation), in virtue of which our sins might be imputed to Christ and his righteousness imputed to us. Christ was punished in our place and bore the suffering we deserved, but he also represented us before God, so that his punishment was our punishment. Christ was not merely punished instead of us, rather we were punished

by proxy.³⁵ For that reason, divine justice is satisfied.³⁶

How does it come to pass that we are so represented by Christ? As mentioned, Turretin proposed two ways in which we are in union with Christ, first, by way of his incarnation and, second, by way of our mystical union with him. Although theologians often appeal to this latter union of believers with Christ to explain the efficacy of his atonement, such an account seems to be viciously circular.³⁷ Turretin emphasized that it is our union with Christ that is the basis of the imputation of sins to Christ and of our justification.³⁸ But the problem is that the mystical union of believers with Christ is the privilege only of persons who are regenerate and justified. There is here a vicious explanatory circle: in order to be in mystical union with Christ one must first be justified, but in order to be justified one must first be in mystical union with Christ. What is needed is a union with Christ which is explanatorily prior to (even if chronologically simultaneous with) imputation and justification.

Turretin's first proposal is therefore to be preferred.³⁹ In virtue of Christ's incarnation (and, I should say, his baptism, whereby Jesus voluntarily identified himself with fallen humanity), Christ is appointed by God to serve as our proxy before Him. The Logos, the second person of the Trinity, has voluntarily consented to be appointed, by means of his incarnation and baptism, to serve as our proxy before God so that by his death he might satisfy the demands of divine justice on our behalf.

Herein we see the organic connection between Christ's incarnation, death, and resurrection. God's raising Jesus from the dead is not only a ratification to us of the efficacy of Christ's atoning death; it is a necessary consequence of it. For by his substitutionary death Christ fully satisfied divine justice. The penalty of death having been fully paid, Christ can no more remain dead than a criminal who has fully served his sentence can remain imprisoned. Punishment cannot justly continue; justice demands his release. Thus, Christ's resurrection is both a necessary consequence and a ratification of his satisfaction of divine justice.

4. Concluding Remarks

In summary, while proponents of penal substitutionary theories which do not feature Christ's being punished for our sins may have difficulty rebutting the charge that on such theories Christ's suffering is unsatisfactory, the proponents of penal substitutionary theories which do feature Christ's

being punished for our sins are not so clearly vulnerable to this charge. We need to keep in mind that God, as the supreme Legislator, Judge, and Ruler, Himself determines what satisfies the demands of His justice. If we say that retributive justice, as we know and understand it, belongs essentially to God, the question will then become why substitutionary punishment cannot satisfy the demands of retributive justice. We saw that in criminal law we find cases that closely resemble penal substitution. We may think of Christ as being vicariously liable for our sins and his punishment as satisfying for us, just as an employer might satisfy justice's demands rather than his employee.

Moreover, an inclusionary penal substitutionary theory does not preclude that we are punished for our sins in Christ's being punished for our sins. For Christ's being divinely and voluntarily appointed to act not merely as our substitute but as our representative enables him to serve as our proxy before God, so that when he is punished, we are punished by proxy, to the satisfaction of divine justice.

¹ William Lane Craig, *The Atonement*, Elements in the Philosophy of Religion (Cambridge: Cambridge University Press, 2018), pp. 10-11, 15-16. For a discussion of the biblical basis of propitiation see Leon Morris, *The Atonement: Its Meaning and Significance* (Downers Grove, Ill.: IVP, 1983), chap. 7; I. Howard Marshall, *Aspects of the Atonement: Cross and Resurrection in the Reconciling of God and Humanity* (London: Paternoster, 2007), chaps. 1 and 2.

² Theories of justice may be classified as broadly retributive or consequentialist. Retributive theories of justice hold that punishment is justified because the guilty deserve to be punished. Consequentialist theories of justice hold that punishment is justified because of the extrinsic goods that may be realized thereby, such as deterrence of crime, sequestration of dangerous persons, and reformation of wrong-doers. Consequentialism seems ill-suited to serve as a theory of divine justice because God's judgement is described in the Bible as ultimately eschatological. Punishment imposed at that point could seemingly serve no other purpose than retribution. In any case, the biblical view is that the wicked deserve punishment (Rom 1.32), so that God's justice must be in some significant measure retributive. Over the last half-century or so there has been a renaissance of theories of retributive justice, accompanied by a fading of consequentialist theories, so that retributivism has come to be the standard view.

³ Especially important in this regard is Isaiah 53 and its New Testament employment. See the essays by Bailey, Farmer, and Watts in *Jesus and the Suffering Servant: Isaiah 53 and Christian Origins*, ed. William H. Bellinger, Jr. and William R. Farmer (Harrisburg, Penn: Trinity Press International, 1998); also the essays by Hermisson and Hofius in *The Suffering Servant: Isaiah 53 in Jewish and Christian Sources*, ed. Bernd Janowski and Peter Stuhlmacher [1996], trans. Daniel P. Bailey (Grand Rapids, Mich.: Wm. B. Eerdmans, 2004). With regard to Anselm's theory of compensation (*satisfactio*) given to God, Pannenberg rightly comments, "Without this vicarious penal suffering, the expiatory function of the death of Jesus is unintelligible, unless we try to understand his death as an equivalent offered to God along the lines of Anselm's satisfaction theory, which has no basis in the biblical data" (Wolfhart Pannenberg, *Systematic Theology*, 3 vols., trans. Geoffrey W. Bromiley (Grand Rapids, Mich.: William B. Eerdmans, 1991), II. 427). Still, Mark Murphy's suggestion is worth exploring, that just as an offense can demand not only punishment under criminal law but also compensatory damages under civil law, so our

sins might demand not only Christ's being vicariously punished but also his giving compensation on our behalf to God (Mark C. Murphy, "Not Penal Substitution but Vicarious Punishment," *Faith and Philosophy* 26 [2009]: 272-3).

⁴ See, e.g., Martin Luther, *Commentary on St. Paul's Epistle to the Galatians*, trans. Theodore Graebner, Christian Classics Ethereal Library (Grand Rapids, Mich.: Zondervan, 1939), pp. 63-64; John Calvin, *Institutes of the Christian Religion* II.16.2.

⁵ For example, John Stott advises, "We must never make Christ the object of God's punishment" (John Stott, *The Cross of Christ* [Leicester: IVP, 1986], p. 151). Cf. I. Howard Marshall: "It is not a case of God punishing Christ but of God in Christ taking on himself the sin and its penalty. Indeed, at some point the challenge needs to be issued: where are these evangelicals who say that God punished Christ? Name them!" (I. Howard Marshall, "The Theology of the Atonement," in *The Atonement Debate*, ed. Derek Tidball, David Hilborn, and Justin Thacker [Grand Rapids, Mich.: Zondervan, 2008], p. 63).

⁶ Steve Jeffery, Michael Ovey, and Andrew Sach, *Pierced for Our Transgressions: Rediscovering the Glory of Penal Substitution*, Forward by John Piper (Wheaton, Ill.: Crossway Books, 2007), p. 21.

⁷ That is, we consider the referent or denotation of the description, however it may be described. On the difference between an expression understood referentially and attributively, see Keith Donnellan, "Reference and Definite Descriptions," *Philosophical Review* 75 (1966): 281-304.

⁸ Jeffery, Ovey, and Sach, *Pierced for Our Transgressions*, p. 301.

⁹ These features serve to distinguish such an account from satisfaction theories like Anselm's. On a penal substitutionary account, in contrast to satisfaction theories, the harsh treatment deserved by sinners is still administered or vicariously endured, even if it is not punishment. For discussion of what they characterize as penal substitutionary theories of various strengths, i.e., the degree to which they affirm that God punished Christ, see Daniel J. Hill and Joseph Jedwab, "Atonement and the Concept of Punishment," in *Locating Atonement: Explorations in Constructive Dogmatics*, ed. Oliver D. Crisp and Fred Sanders (Grand Rapids, Mich.: Zondervan, 2015), pp. 139-53.

¹⁰ For the coherence objection see Murphy, "Not Penal Substitution," pp. 255-60; for the justice objection (as well as a coherence objection) see Eleonore Stump, *Atonement* (Oxford: Oxford University Press, 2019), p. 124. Classically, the most important source of objections to penal substitution, rarely if ever equaled in contemporary discussions, is Faustus Socinus, *De Jesu Christo Servatore* (1578). For responses to the coherence and justice objections, see my "Is Penal Substitution Incoherent?" *Religious Studies* 54/4 (2018): 509-26; "Is Penal Substitution Unjust?" *International Journal for Philosophy of Religion* 83 (2018): 231-44.

¹¹ Socinus *De Jesu Christo Servatore* III.10.

¹² For more on the possibility of non-punitive vicarious satisfaction, see Blaine Swen, "The Logic of Divine-Human Reconciliation: A Critical Analysis of Penal Substitution as An Explanatory Feature of Atonement" (Ph. D dissertation, Loyola University, Chicago, 2012), pp. 226-39. Swen's focus here is not on whether vicarious punishment can be satisfactory but whether vicarious satisfaction in any form is possible. Accordingly, his discussion will be relevant to penal substitution theorists who claim that Christ was not punished for our sins but nonetheless by his suffering discharged the debt of punishment we owe to God. Swen argues that penal and pecuniary debts, *pace* Socinus, are similarly compensatory and similarly flexible with regard to the dissolution of the debt. As a non-necessitarian, Swen holds that God has the freedom simply to cancel our debt; accordingly, He has the freedom to stipulate whatever conditions must be met in order for the debt to be dissolved. In other words, God sets the conditions for

the satisfaction of the debt, and when the conditions are to be met by a third party, the satisfaction is vicarious.

¹³ Socinus *De Jesu Christo Servatore* III.3. For contemporary statements of the objection, see, e.g., Philip L. Quinn, "Christian Atonement and Kantian Justification," *Faith and Philosophy* 3/4 (1986): 440-52, and Eleonore Stump, *Aquinas* (New York: Routledge, 2003), p. 436.

Socinus presses other objections as well to Christ's satisfaction of divine justice, especially that satisfaction is logically incompatible with God's remitting our sins (Socinus *De Jesu Christo Servatore* III.2), an objection that is still repeated today (e.g., by Stump, *Atonement*, chap. 3). Hugo Grotius responded ably to Socinus on this score in his *A Defense of the Catholic Faith concerning the Satisfaction of Christ, against Faustus Socinus* (1617), (VI). I have also responded to this objection in my "Divine Forgiveness and Legal Pardon," in *The Philosophy of Forgiveness*, vol. IV: *Christian Perspectives on Forgiveness*, ed. G. L. Bock (Wilmington, Del.: Vernon Press, 2018), pp. 1–22.

¹⁴ The conclusion follows from the premises via Conditional Proof. Letting p = "Divine justice is satisfied," q = "The person who committed a wrong is punished for that wrong," and r = "God practices penal substitution," the form of the argument is:

1. $p \supset q$ Premiss
2. $r \supset \neg q$ Premiss
3. r Assumption for Conditional Proof
4. $\neg q$ M.P., 2, 3
5. $\neg p$ M.T., 1, 4
6. $r \supset \neg p$ Conditional Proof 3-5, Q.E.D.

¹⁵ Jeffrey Crouch, *The Presidential Pardon Power* (Lawrence, Kan.: University Press of Kansas, 2009), p. 14.

¹⁶ See Oliver Crisp, "Salvation and Atonement: On the Value and Necessity of the Work of Christ," in *The God of Salvation: Soteriology in Theological Perspective*, ed. Ivor J. Davidson and Murray A. Rae (Farnham, England: Ashgate, 2011), pp. 105-20. Contrast Swen, who speaks approvingly of Scotus' acceptance view (Swen, "Logic of Divine-Human Reconciliation," p. 251; cf. p. 134), despite acknowledging that on this view each of us could without Christ provide satisfaction for his own sin.

¹⁷ David Lewis "Do We Believe in Penal Substitution?," *Philosophical Papers* 26/3 (1997): 207.

¹⁸ In response to Lewis, Quinn makes the interesting observation that courts have sometimes expressed diffidence about allowing companies to purchase insurance policies to cover possible penalties (Philip L. Quinn, "Papers in Ethics and Social Philosophy by David Lewis," *Noûs* 38/4 [2004]: 722-30). For in such cases the insurance company pays the penalty demanded by the law rather than the guilty party. But such cases do not show that penal substitution is unsatisfactory; quite the contrary, in fact. Rather such cases furnish a good example of the way in which *ultima facie* considerations can justify penal substitution, thereby meeting justice's demands in a specific action. On the interplay of *prima facie* and *ultima facie* considerations see my "Is Penal Substitution Unjust?"

¹⁹ Lewis "Do We Believe in Penal Substitution?," p. 209.

²⁰ See L. H. Leigh, *Strict and Vicarious Liability: A Study in Administrative Criminal Law*, Modern Legal Studies (London: Sweet and Maxwell, 1982).

²¹ David Ormerod, *Smith, Hogan, and Ormerod's Criminal Law*, 15th ed. (Oxford: Oxford University Press, 2018), p. 270.

²² Significantly, the Reformers also affirmed the forensic imputation of Christ's righteousness to us, for which no analogy in our justice system is known to me. This may be a uniquely divine prerogative.

²³ Francis Turretin, *Institutes of Elenctic Theology* [*Institutio theologiae elencticae* 1679-85], 3 vols., trans. George Musgrave Giger, ed. James T. Dennison (Phillipsburg, N. J.: Presbyterian and Reformed, 1992), 14.13. Contrast in this regard Augustine, who affirms penal substitution but appears to deny imputation of our sin to Christ. In *Against Faustus* he says to his opponent, "Confess that he died, and you may also confess that he, *without taking our sin*, took its punishment" (14.7). Perhaps he is here speaking *ex concessis*. But elsewhere he says, "By taking on your punishment, *while not taking on your guilt*, he canceled both guilt and punishment" (*Sermon* 171.3). According to Franks, this sentence "*Suscipiendo poenam et non suscipiendo culpam et culpam delevit et poenam*" is frequently repeated with slight variations in Augustine's writings (Robert S. Franks, *A History of the Doctrine of the Work of Christ in its Ecclesiastical Development*, 2 vols. [London: Hodder & Stoughton, (1918)], 1:126.) See, e.g., Augustine, *The Merits and Forgiveness of Sins* 1. 61, where he says that Christ transferred to his own flesh death but not sin. Advocates of the Reformers' doctrine have questioned the justice of penal substitution without imputation of sin, a somewhat ironic concord with their Socinian opponents. See, e.g., Roger Nicole, "Postscript on Penal Substitution," in *The Glory of the Atonement: Biblical, Historical, and Practical Perspectives*, ed. Charles E. Hill and Frank A. James III (Downers Grove, Ill.: InterVarsity Press, 2004), p. 450.

²⁴ Turretin, *Institutes of Elenctic Theology*, 14.16. Turretin distinguishes between "imputed" and "fictitious." For imputation is no less real in its own order (judicial and forensic) than infusion is in a moral or physical order (*Ibid.* 16.3).

²⁵ Ormerod, *Smith, Hogan, and Ormerod's Criminal Law*, p. 245.

²⁶ Emmanuel Mwale, "Jesus Christ's Substitutionary Death: An Attempt to Reconcile Two Divergent Seventh-Day Adventist Teachings" (M.A. thesis, University of South Africa, 2015), p. 181.

²⁷ *Ibid.*

²⁸ Intriguingly, a necessary condition of a finding of vicarious liability is that the superior be so related to the subordinate as to have either the right, the power, or the duty to prevent the subordinate's wrongdoing. Christ, of course, stands in such a relationship to us, since he possesses both the power and the right to prevent our sinning, even if he has no duty to do so. Equally intriguing is the fact that a delegation of authority by the superior to the subordinate can be crucial. In *Vane v Yiannopoulos* (1965), the licensed owner of a restaurant was initially found vicariously liable for a sale in breach of license by a waitress. The House of Lords reversed the decision on the grounds that the waitress had not been left in charge of the premises and all the effective management handed over to her. A striking feature of the Genesis creation story is that God gives to the man and woman authority over creation to act on His behalf and delegates to them the responsibility of managing creation (Gen 1. 27-28). Thus, the analogy between God and the employer is unexpectedly close!

²⁹ Mwale, "Jesus Christ's Substitutionary Death," p. 181.

³⁰ Murphy might complain that our experiences of imputation involve only a legal and not a moral transaction. But it is characteristic of the Reformation doctrine of salvation that "justification" and "condemnation" are precisely forensic terms and that imputation is a legal transaction. See, e.g., Morris, *The Atonement*, chap. 8, "Justification," esp. pp. 187, 196; John Murray, *The Imputation of Adam's Sin* (Grand Rapids, Mich.: William B. Eerdmans, 1959), p. 84, who insists, "And neither are we to posit any such notion as the *transfer* from Adam to us of the moral character involved in his trespass" (cf. pp. 86-87). Indeed, the forensic nature of justification is Pauline (see Andrew T. Lincoln, "From Wrath to Justification. Tradition, Gospel, and Audience in the Theology of Romans 1:18-4:25," in *Pauline Theology*,

vol. 3: *Romans*, ed. David M. Hay and E. Elizabeth Johnson [Minneapolis: Fortress, 1995], p. 148). Michael Horton reports that there is now a “considerable” and “settled” “scholarly consensus,” including advocates of the new perspective on Paul and Roman Catholic exegetes such as Joseph Fitzmeyer, Raymond Brown, and Karl Rahner, that “Justification is a declarative, judicial verdict” (Michael S. Horton, “Traditional Reformed View,” in *Justification: Five Views*, ed. James K. Beilby and Paul Rhoads Eddy, assoc. ed. Steven E. Eenderlein, with contributions by Michael F. Bird, James D. G. Dunn, Michael S. Horton, Veli-Matti Kärkkäinen, and Gerald O’Collins, S. J., and Oliver Rafferty, S. J. (Downers Grove, Ill.: IVP Academic, 2012), p. 93; also Michael S. Horton, “Traditional Reformed Response,” in *Justification*, p. 293. Cf. the verdicts of James D. G. Dunn, “New Perspective Response,” p. 118; Michael F. Bird, “Progressive Reformed Response,” in *Justification*, p. 296).

³¹ Antony Duff to William Lane Craig, March 13, 2019. The envisioned case concerns criminal liability for an oil spill. As for the civil liability of cleaning up the mess, Duff opines, “it doesn’t look to me as if justice is frustrated if the employer/company has to pay a massive amount (assuming that it is just to hold them vicariously liable in the first place) and the employee whose misconduct directly caused the spill avoids any civil liability.”

³² Alternatively, *ausschliessende vs. einschliessende Stellvertretung*. See, e.g., the influential work of Hartmut Gese, “The Atonement,” *Essays on Biblical Theology*, trans. Keith Crim (Minneapolis: Augsburg, 1981), p. 106; Otfried Hofius, “Sühne und Versöhnung: Zum paulinischen Verständnis des Kreuzestodes Jesu,” in *Paulusstudien*, 2nd rev. ed., WUNT 51 (Tübingen: J.C.B. Mohr [Paul Siebeck], 1994), p. 41.

³³ Representation in this sense needs to be distinguished from representation in the sense of symbolization. A baseball scorecard is a representation of the playing field and marks on it represent hits, outs, runs, and so on. Christ’s death as a representation in this sense would be akin to the popular misunderstanding of Grotius’ governmental theory of the atonement as a representation to the world of what it would look like if Christ were punished for our sins.

³⁴ Turretin, *Institutes of Elenctic Theology*, 16.3.

³⁵ Atonement theorists have identified examples of such punishment by proxy even in human affairs, such as a team captain’s being punished for his team’s failings or a squad leader’s being punished for his troops’ failings (Steven L. Porter, “Swinburnian Atonement and the Doctrine of Penal Substitution,” *Faith and Philosophy* 21/2 [2004]: 236-7). Of course, Christ has been uniquely appointed by God to be our proxy, which may make his case *sui generis*.

³⁶ As for Socinus’ several arguments against Christ’s death’s being sufficient to satisfy for humanity’s sins, I consider Turretin’s response based upon the deity of Christ to be entirely adequate. Because of the divinity of his person, the suffering of God the Son, who had never experienced anything other intimacy with the Father, has an infinite value, more than sufficient to pay the penalty due for every sin that ever has been or will be committed. Turretin’s analysis of Christ’s punishment as God the Father’s withdrawing from him the beatific vision and suspending the joy and comfort and sense and fruition of full felicity comports well with the model of the incarnation I have proposed, whereby the Logos in his waking, human consciousness is bereaved of these blessings (William Lane Craig and J. P. Moreland, *Philosophical Foundations for a Christian Worldview*, 2d ed. [Downers Grove, Ill.: Inter-Varsity Press, 2017], chap. 32). It is the divine Logos himself who suffers these bereavements in his human nature.

³⁷ As recognized by Reformed theologian Henri Blocher, “Justification of the Ungodly (*Sola Fide*): Theological Reflections,” in *Justification and Variegated Nomism: A Fresh Appraisal of Paul and Second Temple Judaism*, 2 vols., ed. D. A. Carson, Peter T. O’Brien, and Mark A. Seifrid, vol. 2: *The Paradoxes of Paul*, *Wissenschaftliche Untersuchungen zum Neuen Testament* (Tübingen: Mohr Siebeck, 2004), pp. 497-8. Cf. the discomfiture of Bruce L. McCormack, “What’s at Stake in Current Debates over

Justification? The Current Crisis of Protestantism in the West,” in *Justification: What’s at Stake in the Current Debates*, ed. Mark Husbands and Daniel J. Treier (Downers Grove, Ill.: InterVarsity Press, 2004), pp. 101-2.

³⁸ He calls our union with Christ the “cause and foundation” of our sharing in all his benefits, including justification (remission of sins and adoption as sons) (Turretin, *Institutes of Elenctic Theology*, 16.6).

³⁹ So-called realist accounts of the union, which appeal to mereological fusions like “fallen humanity” and “redeemed humanity” as a basis for original sin and Christ’s redemption (Oliver D. Crisp, “Original Sin and Atonement,” in *The Oxford Handbook of Philosophical Theology*, ed. Thomas P. Flint and Michael C. Rea [Oxford University Press, 2009], pp. 437-46; cf. Oliver D. Crisp, *The Word Enfleshed: Exploring the Person and Work of Christ* [Grand Rapid, Mich.: Baker Academic, 2016], pp. 137-41), are implausible and unavailing, being dependent upon a principle of apparently unrestricted mereological composition and a tenseless theory of time and implying a view of human personhood incompatible with divine punishment and rewards (William Lane Craig, *Time and Eternity: Exploring God’s Relationship to Time* [Wheaton, Ill.: Crossway, 2001], chap. 5; William Lane Craig, *God Over All: Divine Aseity and the Challenge of Platonism* [Oxford : Oxford University Press, 2016], chap. 6).