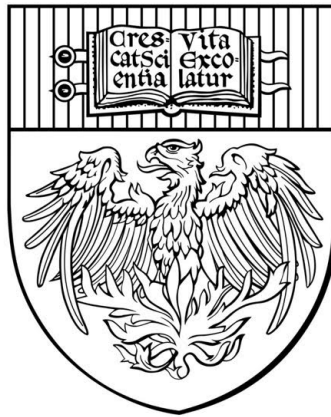


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Accounting for Harm: Moral Economies of Punishment and Repair

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Abstract

How might restorative justice still rely on retributive logics despite a desire to reject them? What shared assumptions might explain these convergences? Through a close reading of Danielle Sered's book, *Until We Reckon*, I explore the moral framework of Common Justice, a prominent restorative justice organization in New York. Building on David Graeber's analysis of moral debt, I argue that moral accounting is at the center of both restorative and retributive justice. Mapping accounts of retribution from Nietzsche and Daniel McDermott onto anecdotes from Danielle Sered, I show that moral accounting produces perverse hierarchies, necessary relations of domination, and ultimately, punishment itself. Finally, this thesis raises questions about what it might mean to reclaim accountability from the hegemony of moral accounting.

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I. Introduction

“What is, so to speak, the object of abolition? Not so much the abolition of prisons but the abolition of a society that could have prisons, that could have slavery, that could have the wage, and therefore not abolition as the elimination of anything but abolition as the founding of a new society.”

- Fred Moten and Stefano Harney¹

Over 50 percent of people incarcerated in state prisons are charged with “violent” offenses.²

Indeed, in order to significantly reduce the population of prisons and jails, we must address the problem of violence without incarceration.³ For a solution, reformers are increasingly turning to restorative justice, a framework for addressing harm and conflict that operates in stark contrast to punishment. Practiced in Navajo, Maori, and other indigenous communities before it was ultimately popularized in the U.S. in the 1970s by criminal justice reformers, restorative justice responds to instances of harm by asking: *Who has been hurt? What are their needs? Who has the obligation to address those needs?* These questions offer a stark contrast to the retributive framework, which frames crime as a “violation of the state, defined by lawbreaking and guilt.”⁴

Still, challenging the use of imprisonment in response to harm is profoundly difficult. A chief insight of anti-prison intellectuals has been to recognize the role of ideology and the taken-for-granted in enabling the reproduction of punitive logics and systems. In *Are Prisons Obsolete?*, Angela Davis writes that “people tend to take prisons for granted, and “it is difficult to imagine life without them.”⁵

¹ Fred Moten and Stefano Harney, *The Undercommons: Fugitive Planning and Black Study* (London, UK: Minor Compositions, 2013), 42.

² The category of “violent offender” is worth problematizing. As Gottschalk explains, “Drawing a firm line between nonviolent drug offenders and serious, violent, or sex offenders in policy debates reinforces the misleading view that there are clear-cut, largely immutable, and readily identifiable categories of offenders who are best defined by the offense that sent them to prison.” In fact, the binary between so-called “violent” and “nonviolent” offenses is largely arbitrary; the charge which ultimately sends someone to jail or prison often comes down to issues of evidence. And as Micah Herskind adds, the idea of a statically “violent offender,” rather than just a “violent offense,” implicates racialized categories of threat. See Marie Gottschalk, “Split Verdict: The Non, Non, Nons and the ‘Worst of the Worst’” in *Caught: The Prison State and the Lockdown of American Politics* (Princeton; Oxford: Princeton University Press, 2015), 167; Micah Herskind, “Three Reasons Advocates Must Move Beyond Demanding Release for ‘Nonviolent Offenders,’” *Medium*, April 14, 2020; Wendy Sawyer and Peter Wagner, “Mass Incarceration: The Whole Pie 2020,” *Prison Policy Initiative*, March 24, 2020; Michelle Alexander, “Reckoning With Violence,” in *The New York Times*, March 3, 2019.

³ Michelle Alexander, “Reckoning With Violence,” in *The New York Times*, March 3, 2019.

⁴ Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Harrisonburg, VA: Herald Press, 1990), 181.

⁵ Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003), 15.

Despite this fact, restorative justice is increasingly gaining a foothold in the mainstream, finding success in a political environment openly critical of mass incarceration's failures.⁶ Instances of restorative justice in the contemporary U.S. are formalized to different degrees, and exist on a spectrum from grassroots community organizations to authorized alternative courts. In the middle of that continuum are nonprofit diversion programs, which obtain case referrals from traditional criminal and juvenile courts. These diversion programs then direct relevant parties through dialogue and commitment-making processes, and if the processes are completed to the organization's satisfaction, charges are dropped or convictions expunged.

One such alternative-to-incarceration diversion program in New York, called Common Justice, explicitly focuses on responding to interpersonal violence. Indeed, their program is the first alternative-to-incarceration and victim-service program in the United States that focuses on violent felonies in adult courts.⁷ Their goals, instead of punishing those responsible for violence, are to “hold people accountable for harm, break cycles of violence, and secure safety, healing, and justice for survivors and their communities.”⁸

The transformative potential of restorative justice is not lost on those with an even more radical aim than reducing the incarcerated population. Prison abolitionists—that is, those committed to organizing towards a world without prisons, policing, and surveillance—feature among the most prominent theorists and practitioners of restorative justice.⁹ From the abolitionist perspective, restorative justice is a means to building a new society altogether. In the face of harm, it prescribes community-building and relational accountability instead of state-administered punishment.¹⁰ As abolitionist organizer Mariame Kaba explains, “restorative justice is a philosophy of life.”¹¹

⁶ Sandra Pavelka, “Restorative Justice in the States: An Analysis of Statutory Legislation and Policy,” in *Justice Policy Journal* 13(2), 2016.

⁷ “Our Work,” *Common Justice*, https://www.commonjustice.org/our_work.

⁸ *Ibid.*

⁹ “Thinking about how to abolish prisons with Mariame Kaba,” *NBC News*, April 10, 2019, <https://www.nbcnews.com/think/opinion/thinking-about-how-abolish-prisons-mariame-kaba-podcast-transcript-ncna992721>.

¹⁰ *Ibid.*

¹¹ *Ibid.*

For abolitionists, a deep shift in approach to conflict and interpersonal violence, like that promised by restorative justice, is necessary to make decarceration sustainable. If the abolitionist project sets out *only* to eliminate prisons without also eliminating the systems and ideologies that sustain them, it will destroy the buildings but fail to stop new ones from being built in their stead. To make possible the emancipatory future that abolitionists seek, we must imagine and work toward “a society in which...punishment itself is no longer the central concern in the making of justice.”¹² Indeed, we must conceive of justice beyond retribution.

Crucially, restorative justice stands capable of replacing incarceration, but also of replacing the moral logics that justify punishment in response to harm. For these reasons, when abolitionists discuss alternatives to punishment, they frequently cite restorative justice as a central site of investment. Restorative justice, conceived as a practice and as a moral framework, could do more than just divert potential defendants from prisons and jails: it could constitute a monumental departure from punishment as justice-making.

The stakes of such a departure, however, are conditioned on the extent to which restorative justice can resist replicating that which it seeks to replace. George Pavlich describes this problem as the “imitator paradox”: the worry that restorative justice is trying to articulate itself as an alternative to the status quo, while simultaneously working to assimilate itself into existing theories and institutions.¹³

Corroborating Pavlich’s concerns, restorative and retributive justice advocates frequently use identical language to describe their respective goals, different interpretations of “accountability” centered around repair and punishment. The proximity runs deep: even the term “restorative justice” was likely coined to refer to punitive restitution payments.¹⁴ Although restorative justice

¹² Angela Y. Davis, *Are Prisons Obsolete?*, 107.

¹³ Pavlich, 110.

¹⁴ Daniel W. Van Ness and Karen Heetderks Strong, *Restoring Justice* (Cincinnati, OH: Anderson Pub, 1997), 6.

claims repairing harm as a central aspiration, retributivists also invoke the goal of making victims whole again. Jeanine Pirro, former District Attorney for Westchester County, New York,¹⁵ wrote in her memoir that “anyone can fill the jails” — instead, she sought to facilitate the healing of victims and their families by involving them directly in the aggressive prosecution of the people who harmed them.¹⁶ Other retributive theorists claim to eschew “just deserts” logic entirely, instead framing the sole aim of punishment as restorative.¹⁷

Within the restorative justice movement, the role of punishment is a subject of significant contention. While some restorative justice proponents advocate that the party responsible for harm suffer in some way (often in the form of guilt and shame),¹⁸ others deny that suffering is a necessary or helpful component of the accountability process. Indeed, even if the ultimate goal of restorative justice is not to inflict pain, some argue that suffering is a necessary precursor to transformation and redemption.¹⁹ As Howard Zehr frames it, “The real question, then, is not whether persons will experience some elements of the restorative justice process as punishment, but whether punishment intended as punishment has a place.”²⁰ Zehr concludes that the place of punishment in a restorative justice approach, if any, ought not be central.²¹ Still, he cautions that “possibilities for destructive punishment are much more plentiful.”²²

In practice, moreover, some restorative justice processes border on the punitive. Danielle Sered, Executive Director of Common Justice and a prominent restorative justice advocate, recounts a process where a woman, Ana, was attacked on the subway. In the traumatic aftermath of the incident, Ana lost all of her hair and was unable to ride trains. Ana wanted the person responsible,

¹⁵ “Former District Attorneys,” *Westchester County, New York Office of the District Attorney*, <https://www.westchesterda.net/about-the-office/former-district-attorneys>.

¹⁶ Jeanine Pirro, *To Punish and Protect*, 19.

¹⁷ R.A. Duff, “Restorative Punishment and Punitive Restoration” in *Restorative Justice and the Law* (Devon, UK: Willan Publishing, 2002), 82-100.

¹⁸ Zehr, 209-210.

¹⁹ Sered, *Until We Reckon: Violence, Mass Incarceration, and A Road to Repair* (New York: The New Press, 2019), 93, 124.

²⁰ Zehr, 209-210.

²¹ *Ibid.*

²² *Ibid.*

Trish, to shave her head so Trish could understand what Ana had to go through. Sered intervened against Ana's request, prohibiting this provision from entering the contract: restorative justice was not "in the business of replicating the suffering caused by violent crime."²³ Instead, they decided that Trish, who lived outside of New York, would not be allowed to ride the subway for a year, making it difficult for her to get to work and school.²⁴

Ana and Trish's case is telling, and I revisit it in more detail in the section on restorative debts. For now, the case shows that despite a rejection of specific technologies like incarceration and execution, restorative justice may still provide a harbor for punitive tendencies. Abolitionists should be concerned by this convergence if we want to take seriously the need to avoid reproducing punishment's violence.

This problem motivates the investigation that follows. If abolitionists hope that restorative justice can depart from the moral logics of punishment, we must also think critically about what would constitute a genuine departure. Certainly, the projects are different, but what assumptions might the moral logics of punishment and restorative justice share, accounting for problematic similarities?

In this thesis, I investigate the nature of convergences between restorative justice and retributive punishment. I develop an argument that debt morality—which I later refine as "moral accounting"—is at the center of both retributive and restorative logics. Even when an approach to addressing interpersonal harm strives to be non-punitive, underlying logics, and in this case, the logic of moral accounting, can cause it to take on a similar form.

Moral accounting presumes that obligations are essentially quantifiable (*i.e.*, finite and payable through equivalencies), and that the normative force of reciprocity demands they be paid. In

²³ Sered, 116.

²⁴ *Ibid.*

retributive justice, suffering is the currency. In restorative justice, accountability demands a laundry list of specialized obligations to be met: some of which seem salutary, and others which seem punitive.

As I will argue, punishment and restorative justice rely on debt morality with extraordinary transparency, often making open comparisons between those responsible for harm and financial debtors, as well as between that which is owed and a monetary debt. The troubling implications of this economization are in some ways obvious and in other ways illusive. Just as imagining a world without prisons is difficult, so, too, is imagining a morality without debt. By problematizing the assumptions that underlie retribution and its ostensibly anti-punitive alternatives, we might gain greater insight into what must be reclaimed and what must be left behind.

On another note, I wish to be transparent about my motivations for writing this paper. Acknowledging them now frees me from pressure to feign objectivity, or to strive for an authentically dispassionate disposition. The most significant assumption I make in this paper is that of an abolitionist perspective: one defined broadly, but also straightforwardly committed to ending imprisonment and other forms of racialized social control.

I do not begin from an abolitionist standpoint because I view the normative demands of abolition as self-evident. Instead, my decision to write from a presumed abolitionist perspective is partly one of humility: the scholars and organizers who have transformed my views on prisons and punishment—in particular, Angela Davis, Ruthie Wilson Gilmore, and Mariame Kaba—make the case far better than I can. But more importantly, I presume an abolitionist ethos because I wish to intervene in an intra-movement debate, a broader question framed as the conditional: if we reject punishment, then what do we make of tendencies in restorative justice that resemble the punitive? Focusing on the consequent clause and bracketing a full justification for the antecedent allows for greater focus throughout this paper.

I resist reducing the critique of punishment to a single logically valid argument, partly because there is no single abolitionist critique of punishment.²⁵ Although I cite the work of Davis, Gilmore, and others, particularly in their analysis of punishment's material and ideological functions, I attempt to write with the critique as a set of principles: a resistance to human disposability, to relationships of subjugation and domination, and to all forms of violence and harm. Ruthie Wilson Gilmore articulates abolition positively as a commitment to flourishing: "Where life is precious, life is precious."²⁶ Even if readers are suspicious of prison abolition, perhaps they are sympathetic to these principles.²⁷

In what follows, I address the role of debt in everyday morality as an instance of hegemony. Through the framework of hegemony, I show that applying a framework of debt to social life is imperfect but efficient, creating contradictions that produce disavowal. I also establish the core features of debt as quantifiability and reciprocity. Then, in the third section, I turn to the affinity between debt and retribution, sketching the relationship between penal systems, ideology, financial debt, and moral debtors. I highlight two accounts of retribution that rely on conceptions of moral debt: those of Daniel McDermott and Friedrich Nietzsche.

Addressing restorative justice in the fourth section, I argue that the central idiom of accountability is fundamentally reliant on the core features of debt morality. Further, a reliance on

²⁵ For an operating definition of punishment, we can use the following criteria from H.L.A. Hart defining the standard case: "It must involve pain or other consequences normally considered unpleasant; (ii) It must be for an offence against legal rules; (iii) It must be of an actual or supposed offender for his offence; (iv) It must be intentionally administered by human beings other than the offender; (v) It must be imposed and administered by an authority constituted by a legal system against which the offence is committed." Problematically, however, there is no single agreed-upon logic, or normative-hermeneutic account of punishment. As Nietzsche argues, "To at least give an impression of how uncertain, belated and haphazard the 'meaning' of punishment is, and how one and the same procedure can be used, interpreted and adapted for fundamentally different projects...Punishment as a means of rendering harmless, of preventing further harm. Punishment as a payment of a debt to the creditor in any form (even one of emotional compensation)...Punishment as a sort of counter-balance to the privileges which the criminal has enjoyed up till now (for example, by using him as a slave in the mines)...Punishment as an *aide memoire*, either for the person suffering the punishment — so called 'reform', or for those who see it carried out. Punishment as a payment of a fee stipulated by the power which protects the wrongdoer from the excesses of revenge...The list is certainly not complete; punishment can clearly be seen to be richly laden with benefits of all kinds." See H.L.A. Hart, *Prolegomenon to the Principles of Punishment*, 4; and Friedrich Nietzsche, *On The Genealogy of Morality* (Cambridge: Cambridge University Press, 2017), 55.

²⁶ Rachel Kushner, "Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind," *The New York Times*, April 17, 2019.

²⁷ This principle-based framework has limits, however. Gesturing only broadly at an abolitionist critique of punishment inherently constrains the rigor with which it is possible to critique restorative justice on the same grounds. Still, this approach feels most consistent with the driving concerns of those in the movement, and particularly the concerns of organizers and practitioners struggling against punishment and experimenting with new forms of justice.

“payment” to achieve repair is bound to replicate retribution. In the fifth and final section, I ask what it might mean to reclaim accountability from moral accounting.

II. Debt Morality and Hegemony

Before attempting to grasp the consequences of moralized accounting when applied to harm, it serves us to first consider debt as a broader phenomenon in moral culture. Indeed, we must begin to ask why debt is the dominant language in which we think and talk about what we owe one another, and how it impacts human relationships. In what follows, I explore the prevalence of debt language in everyday morality and turn to two concepts in ideology theory, hegemony and ideology-as-form.²⁸ Using these lenses, I argue that moral accounting is at once the horizon of the thinkable and simultaneously recognized constantly as inadequate, despite shaping the terms in which we act and speak. I also introduce a theoretical sketch of debt morality as grounded in quantifiability and reciprocity, with direct implications for (in)equality.

David Graeber's book in *Debt: The First 5,000 Years* is driven by the mystery of debt's taken-for-granted moral force. On one level, this manifests as the presumed self-evidence of the principle that debts must be repaid, as well as the conversely presumed unreasonableness of suggesting that paying one's debts *isn't* a moral obligation.²⁹ But even more insidiously, as Graeber identifies, debt has become a way of talking about obligation itself. The language of debt absorbs and quantifies what we owe one another, subjecting everyday favors and grievous harms alike to moral balancing sheets. Especially when the logic of debt is applied to the incalculable, contradictions and anxieties emerge alongside fantasy investments. This interplay invites a reflection on the relationship between

²⁸ The notion of *ideology as form* is an alternative paradigm to the "false consciousness" treatment of ideology in which people are "duped" out of seeing their own interests and sociopolitical realities. Instead, the ideology-as-form framework reflects a view that ideology's manipulation is more sophisticated than the false consciousness paradigm assumes, as well as the insight that ideology's subjects are not simply naive. Rather than preventing people from seeing reality wholesale; ideology facilitates the containment, disavowal, and displacement of fantasies, contradictions, and anxieties, respectively. As containment, ideology makes "essentially social and historical anxieties seem natural and inevitable," only indulging fantasies only insofar as they are checked. As displacement, ideology projects impossible-to-bear fears onto "fantasy Others." Finally, as disavowal, ideology takes the form of the statement "I know very well that X, yet nevertheless, Y," thus allowing "realities that can no longer be denied [to] still be dismissed." In disavowal, the contradiction at stake is consciously posed, unlike in the case of mere denial. See Lisa Wedeen, *Authoritarian Apprehensions* (Chicago: The University of Chicago Press, 2019), 7, 163-165.

²⁹ David Graeber, *Debt: The First 5,000 Years* (New York: Melville, 2011), 4.

hegemony—the invisible, naturalized, and taken-for-granted—and affects like confusion and ambivalence that surface in attempts to challenge and think beyond debt-based obligation.

The subjection of all social obligation to the logic of debt manifests almost everywhere in social ritual. *Obrigado* (Portuguese for “thank you”), for example, translates to “I am in your debt.”³⁰ *De nada*, or “it’s nothing” in Spanish, is assurance that you are not counting a favor on your balance sheet, and as a result, you do not expect any repayment.³¹ Exchanges of “I owe you one,” “No, you don’t owe me anything,” “Actually, if anything, it’s me who owes you,” involve debates over which party is the one to emerge from the moral calculations with a surplus.³² If morality involves fulfilling our obligations to other people, “we have a stubborn tendency to imagine those obligations as debts.”³³ Describing the legacy of slavery and the case for reparations, Ta-Nehisi Coates writes that “It is as though we have run up a credit-card bill and, having pledged to charge no more, remain befuddled that the balance does not disappear.”³⁴ It’s exceptionally telling that Coates, deploying this simile in *The Atlantic*, predicts that a credit card bill is the most straightforward form of moral obligation his white audience will appreciate.

The stakes of reducing moral obligation to debt are difficult to overstate. Indeed, even as all obligations are seemingly reduced to debts, the concept of debt remains irreducible to mere obligation. For Graeber, debt’s specificity arises from its connection to quantification, reciprocity, and inequality. Graeber explains that “a debt, unlike any other form of obligation, can be precisely quantified.”³⁵ Whether this quantification is explicitly financial or not, a debt is defined by measurable magnitude.

³⁰ Graeber, 123.

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*, 13.

³⁴ Ta-Nehisi Coates, “The Case for Reparations,” *The Atlantic*, June 2014, <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>.

³⁵ Graeber, 13.

This quantifiability of obligation is what makes *equivalencies* possible, and with equivalency, transferability.³⁶ Debts become “simple, cold, and impersonal.”³⁷ The logic of debt rejects incalculable obligations, either reducing them to finite quantifies or rendering them invisible. Moreover, as Graeber argues, “money’s capacity to turn morality into a matter of impersonal arithmetic...justif[ies] things that would otherwise seem outrageous or obscene.”³⁸ Graeber explains that if a debtor is forced into brutal working conditions because of their debts, what they must endure is ultimately “incidental to the creditor,” because “a deal’s a deal.”³⁹ Indeed, what distinguishes a debt from any other kind of moral obligation “is simply that a creditor has the means to specify, numerically, exactly how much the debtor owes.”⁴⁰ Graeber makes explicit that these issues are connected: “The factor of violence...may appear secondary [but]...when one looks a little closer, one discovers that these two elements—the violence and the quantification—are intimately linked.”⁴¹

The logic of reciprocity is also critical. According to reciprocity, a debt’s magnitude—or quantity—is not determined arbitrarily. While debts can be the result of giving or of taking, they tend to be in equal magnitude and opposite direction of the initial flow, plus or minus interest. If you lend me the use of your farm, I owe you something at least equal in value to square our

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*, 14.

³⁹ Here, it is critical to note, as Graeber does, that “different sorts of debt and certain sorts of debtor, have always been treated differently than others” (6-7). 1720s debtors’ prisons, for example, were experienced extremely differently by aristocratic debtors than by poor ones: “Aristocratic inmates, who often thought of a brief stay in Fleet or Marshalsea as something of a fashion statement, were wined and dined by liveried servants and allowed to receive regular visits from prostitutes. On the ‘common side,’ impoverished debtors were shackled together in tiny cells, ‘covered with filth and vermin,’ as one report put it, ‘and suffered to die, without pity, of hunger and jail fever’” (6-7). Likewise, Wall Street bankers whose malfeasance caused the 2008 financial crisis, the recession, and global economic ruin were never held liable for their “debt to society,” criminally or otherwise. Capitalism conditions subjects to view the grotesquely wealthy as *producers*, even when their wealth comes from the extracted labor of others. For an explicit rendering of this perverse gratitude, see Jaboukie Young-White’s tweet: “Call me old fashioned, but I was raised to serve my billionaires. I was taught to tweet in their honor, work til i’m sick, be ready for any task they will assign me, & be grateful that I am exploited. If I die of poverty, It’s all on me. They caught me slipping & I will apologise.” Indeed, persistent constructions of the “deserving” and “undeserving” poor stigmatize those who seek public benefits, and define entire classes of people as always-already morally indebted. In the punitive context especially, these racialized and classed conceptions of who already owes what to whom influence public imaginations of the debtor-criminal. If bankers and CEOs are considered economic producers in general, even their transgressions might remain impervious to the undeserving-debtor frame into which so many others are automatically cast. In fact, a kind of reversal might occur. In an epigraph at the start of the book, Graeber quotes the American proverb: “If you owe the bank a hundred thousand dollars, the bank owns you. If you owe the bank a hundred million dollars, you own the bank.” See Graeber, 13-14; Jaboukie Young-White (@jaboukie) tweet on April 3, 2020, <https://twitter.com/jaboukie/status/1246106498876530688> (Accessed April 21, 2020).

⁴⁰ Graeber, 14.

⁴¹ *Ibid.*

relationship again. This explains anxiety over choosing the right-sized gift for a bilateral exchange: it's not just one gift for another, but one gift—the value of which, based on many factors, is reducible to a certain finite *magnitude*—for another appropriately-scaled present in return. To accidentally mismatch the value —though doing so is often inevitable—is to leave a remainder on the balance sheet. Through quantification, obligations become sums, and “the mere sense of owing someone else a favor can eventually turn into a system of accounting in which one is able to calculate exactly how many sheep or fish or chunks of silver it would take to repay the debt.”⁴² As Graeber argues, if all human interaction is exchange, then debt really is all morality: “debt is what happens when some balance has not yet been restored.”⁴³

Reciprocity operates as the underlying imperative in debt relations. For the sake of reciprocity, loans must be returned, debts must be paid in full, those missing that which they lent must be made whole again. Without a moral imperative of reciprocity, debt is asymmetry without any moral force. But with the imperative of reciprocity in place, the asymmetry becomes immediately unstable. It demands repair, which must at least be conceivable because of quantifiability. According to Graeber, “a debt is by definition something we could at least imagine paying back.”⁴⁴

Reciprocity prizes—and indeed, assumes the possibility of—a certain kind of equality. This assumption is necessary because only potential equals could ever be even. A debt, then, is a relationship between two potential equals where the balance sheet has yet to balance. The potential equals are not currently in a state of equality (and because of reciprocity's equalizing imperative, their temporary inequality is untenable), but there exists a pathway to balance the scales, a “conceivable

⁴² *Ibid.*, 59.

⁴³ *Ibid.*, 91.

⁴⁴ *Ibid.*, 62.

way to salvage the situation.”⁴⁵ Otherwise, Graeber argues, “we wouldn’t be calling it a ‘debt.’”⁴⁶ Thus, for Graeber, “there is no such thing as a genuinely unpayable debt.”⁴⁷

Despite a telos of equality made impatient by the reciprocal imperative, debt relations relish in the logic of hierarchy. For the duration of the time that a debt remains unpaid, “debtor and creditor confront each other like a peasant before a feudal lord.”⁴⁸ For example, a debtor might bring their creditor vegetables from their garden, and the creditor might even expect them to do it again, but the vegetables in no way operate as substitute for settling the debt at stake.

The problem of simply incalculable obligations, as well as obligations one does not wish to quantify, is reflected in frequent performances of disavowal around moral accounting. As Fred Moten recounts in an interview, his grandfather would give people lengthy car rides between towns.⁴⁹ The rides always involved a ritual, in which the person Moten’s grandfather had driven would ask “how much do I owe you?” and Moten’s grandfather would say “nothing,” and sometimes even feign that the asker was mistaken to inquire: “it’s nothing, why would you even ask that?”⁵⁰ But to get out of the car without acknowledging the debt was unacceptable.⁵¹ “The other part of it,” Moten explains, “was every once in awhile, if you’re giving somebody a ride or if they just gave you a ride, instead of asking how ‘much do I owe you?’, you would just take some money out of your pocket and say, ‘put some gas in the car,’ and get out of the car.”⁵² The very reason for asking how much you owed was to engage in the ritual performance of “disavowing the very idea of ‘owe.’”⁵³

⁴⁵ *Ibid.*, 120-121.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ Fred Moten and Stefano Harney, *The Undercommons: Fugitive Planning and Black Study* (New York: Minor Compositions, 2013), 156.

⁵⁰ Moten and Harney, 156.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*

Practices of disavowal (*e.g.*, “I know very well that obligations are irreducible to simple quantifiable debts, yet nevertheless I act like they are by relying on the discourse of moral accounting”) reveal ambivalence and sometimes outright dissatisfaction with debt’s monopoly on moral discourse. Still, “reciprocity is our main way of imagining justice.”⁵⁴ In other words, recourse to discourses of debt is primarily the result of not being able to imagine justice otherwise.

Understanding recourse to debt as a problem of moral imagination, rather than a problem primarily of naïveté, invites us to consider the role of hegemony. Stuart Hall rejects the false consciousness paradigm for ideology, explaining that “ruling or dominant conceptions of the world do not directly prescribe the mental content of the illusions that supposedly fill the heads of the dominated classes.”⁵⁵ Instead, Hall explains, “the circle of dominant ideas *does* accumulate the symbolic power to map or classify the world for others,” which is then perpetuated by the “inertial authority of habit and instinct.”⁵⁶ Hegemony challenges us to investigate historical inertias and path-dependencies around otherwise natural-seeming and invisible phenomena. As Graeber recounts, saying “please” and “thank you” only became widespread habits during the commercial revolution of the sixteenth and seventeenth centuries, representing “merely one token” of a larger moral shift.⁵⁷ As this example illustrates, taken-for-granted assumptions about what humans owe one another are often fundamentally contingent.

Importantly, though, debt discourse sticks around for reasons more than just inertia. Žižek teaches us that ideology is often pleasurable, and to step outside of it—were such a thing possible—requires confronting potentially painful realities.⁵⁸ There certainly exist quasi-utopian (or at the very

⁵⁴ Graeber, 114.

⁵⁵ Stuart Hall, “The Toad in the Garden: Thatcherism among the Theorists” in *Marxism and the Interpretation of Culture*, ed. Cary Nelson and Lawrence Grossberg (Urbana, IL: University of Illinois Press), 44.

⁵⁶ *Ibid.*

⁵⁷ “The English ‘please’ is short for ‘if you please’...Its literal meaning is ‘you are under no obligation to do this’...In English, ‘thank you’ derives from ‘think,’ it originally meant, ‘I will remember what you did for me’...but in other languages the standard term follows the form of the English ‘much obliged’—it actually does mean ‘I am in your debt.’” See Graeber, 123-124.

⁵⁸ See Slavoj Žižek’s discussion of the film *They Live* (1988) in *The Pervert’s Guide to Ideology* (2012).

least, satisfying) features of thinking about obligations as debts: for example, the promise that all things can theoretically be settled and repaired with mathematical precision. Bourdieu explains why the application of economic schemes to seemingly inappropriate “different logical universes” passes under the radar, writing that they are “practical, in the sense of convenient, that is, easy to master and use.”⁵⁹ Even further, Bourdieu argues that the sheer frequency of practices “oriented towards non-material stakes that are not easily quantified” yet still “never ceas[ing] to comply with an economic logic” demand an abandonment of the “economic/non-economic dichotomy.”⁶⁰ What this dichotomy obscures, for Bourdieu, is that economic logic is capable of subsuming *all* practices, “including those that are experienced as disinterested or gratuitous” (like the gift) “as economic practices aimed at maximizing material or symbolic profit.”⁶¹ The gift is gratuitous, but at the same time, one might use it to accrue a debt of gratitude which can then be entered on the balance sheet. In other words, economic logic’s capacity to absorb immaterial and symbolic forms of capital should at once expose the profound theoretical flexibility of economic accounting, as well the importance of ease in determining which practices emerge as dominant, rendering secondary any internal logical contradictions.⁶²

Moral frameworks designed specifically for responding to interpersonal harm are crucial sites for understanding the hold of debt logic. Debt involves accounting, precision, and a mandate for reciprocity, all while conflict and violence frequently defy mathematical simplicity as well as the guarantee of full repair. But as Graeber reminds us, interpersonal harm “is precisely the context where people are most likely to become petty and legalistic” if they feel wronged, making “exact mathematical specificity” the desired result.⁶³ Thus, when faced with the problem of interpersonal

⁵⁹ Pierre Bourdieu, *The Logic of Practice* (Palo Alto, CA: Stanford University Press, 1992), 86.

⁶⁰ Bourdieu, 122.

⁶¹ *Ibid.*

⁶² *Ibid.*, 86.

⁶³ Graeber, 61.

harm, the logic of debt sets out to settle conflicts and facilitate redemption, conceived near-explicitly as the settling of accounts.⁶⁴

⁶⁴ As David Graeber writes, “The primary meaning of ‘redemption’ is to buy something back, or to recover something that had been given up in security for a loan; to acquire something by paying off a debt.” See Graeber, 80.

III. Retributive Debts

“I ask again: to what extent can suffering be a compensation for ‘debts’?”

- Friedrich Nietzsche⁶⁵

“My job—and the very essence of who I am—is to make sure the victimizers in our society pay the price for hurting others. What I’m about is settling scores.”

- Judge Jeanine Pirro⁶⁶

The colloquialism “paying [one’s] debt to society” to describe a period of time spent incarcerated is a telling indicator of punishment’s transparent relationship to logics of debt. Metaphors in this vein are numerous: “settling scores,” for example, reflects a discrepancy in accounting that only revenge can redeem. In what follows, I argue that debt is the central metaphor of punishment. Its ubiquity in common parlance often forecloses the obvious questions: what is the nature of the debt at stake, and through what mechanisms does punishment facilitate payment?

Work programs in some prisons offer a stark actualization of the debt metaphor. The Prison Industry Enhancement Certification Program (PIECP) is a program created by Congress to incentivize private corporations to use prison labor, and briefs from the Department of Justice explain that PIECP’s goal is to “enabl[e] prisoners to repay their debt to society” by helping them “offset the cost of their incarceration.”⁶⁷ The program claims to benefit crimes victim by providing “partial repayment for harm sustained” in the form of deducted wages.⁶⁸ In addition, PIECP uses the revenue generated (again, through wages deducted up to 80 percent) to reduce the taxpayer cost of incarceration.⁶⁹ That garnished prison wages are earmarked for victims’ compensation reflects a belief that incarcerated people owe victims a monetary debt. That the extraction of prisoners’ labor

⁶⁵ Nietzsche, *The Genealogy of Morality*, 43.

⁶⁶ Pirro, 22.

⁶⁷ Thomas W. Petersik, Tapan K. Nayak and M. Katie Foerman, “Identifying Beneficiaries of PIE Inmate Incomes,” July 31, 2003; “PIECP Program Brief,” *Bureau of Justice Assistance*, <https://www.ncjrs.gov/html/bja/piecp/bja-prison-industr.html>; “Prison Industry Enhancement Certification Program Brief 2018,” *Bureau of Justice Assistance*, https://bjaojp.gov/sites/g/files/xyckuh186/files/Publications/PIECP-Program-Brief_2018.pdf.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

is also used for taxpayer relief reflects a belief that society itself is also owed, though explicit reference to a “debt to society” in program materials also offers evidence enough.⁷⁰

Outside of prison walls, fines and fees at all levels of the criminal legal system reinforce the idea that the person being punished should also cover the costs of their own punishment. Courts frequently force defendants on electronic GPS monitoring to “pay for the privilege” of being surveilled in the form of fees ranging from \$5 to \$25 a day.⁷¹ Often, this amounts to more than a month’s rent.⁷² Commissary accounts, mail, phone calls, and other necessities in prison are another site of extraction and source of financial stress. Every year, families with incarcerated loved ones spend \$2.9 billion on commissary accounts and phone calls alone.⁷³ Court fines and fees, whether nominally intentioned as punishment, restitution, public cost-recoupment, or some combination, cost the average family with an incarcerated loved one approximately \$13,000 annually.⁷⁴

Furthermore, costs associated with criminal punishment frequently drive families into predatory debt relationships and broader economies of extraction.⁷⁵ For example, amid the spread of COVID-19, Louisiana state prisons have capitalized on families’ worries about vulnerable loved ones inside. Necessities from commissary are inaccessible on a typical 2-cents-an-hour salary, and without outside support, survival is made extraordinarily difficult.⁷⁶ In response, a for-profit division of the Department of Corrections introduced “food and hygiene” packages that families could order for loved ones inside, costing a minimum of \$20.00 each.⁷⁷

⁷⁰ This principle also manifests in the phenomenon of “criminal justice debt,” and in particular, through fines and fees levied with a “public cost-recovery” purpose. See Wang, 131; Emily Katzenstein, “RA Debt,” (working paper, Race and Capitalism, March 2, 2016): 8-9. Criminal justice debt is one of many ideologically-normalized mechanisms for public cost recoupment through the targeting of poor people. See, e.g., pass through child support recoupment policies: <https://www.ncsl.org/research/human-services/state-policy-pass-through-disregard-child-support.aspx>.

⁷¹ James Kilgore and Emmett Sanders, “Ankle Monitors Aren’t Humane. They’re Another Kind of Jail,” in *Wired*, August 4, 2018, <https://www.wired.com/story/opinion-ankle-monitors-are-another-kind-of-jail/>.

⁷² *Ibid.*

⁷³ Peter Wagner and Bernadette Rauby, “Following the Money of Mass Incarceration,” *Prison Policy Initiative*, January 25, 2017, <https://www.prisonpolicy.org/reports/money.html>. Also see Nicole Lewis and Beatrix Lockwood, “The Hidden Cost of Incarceration,” *The Marshall Project*, December 17, 2019, <https://www.themarshallproject.org/2019/12/17/the-hidden-cost-of-incarceration>.

⁷⁴ Saneta deVuono-powell, Chris Schweidler, Alicia Walters, and Azadeh Zohrabi, “Who Pays? The True Cost of Incarceration on Families,” (Oakland, CA: Ella Baker Center, Forward Together, Research Action Design, 2015), 9.

⁷⁵ Jackie Wang, *Carceral Capitalism*, 131; Emily Katzenstein, “RA Debt,” (working paper, Race and Capitalism, March 2, 2016): 8-9.

⁷⁶ Tana Kaneva, “Report from Inside Angola Prison Paints a Troubling Picture as Coronavirus Grips Louisiana,” *The Appeal*, April 10, 2020, <https://theappeal.org/report-from-inside-angola-prison-paints-a-troubling-picture-as-coronavirus-grips-louisiana/>.

⁷⁷ *Ibid.*

Bail bonds are another instance of this phenomenon. Families hoping to bring loved ones home from jail can often do so, but only by paying exorbitant premiums, entering into predatory contracts with bondsmen, and taking on the position of debtor themselves. As Page, Piehowski, and Soss explain, the bail industry's financial solvency is dependent on the willingness of defendants' loved ones to pay bail premiums and cosign bonds.⁷⁸ Provisions in bail bond contracts often subject the cosigner (usually a friend, family member, or romantic partner) to additional surveillance, as well as financial liability should the defendant fail to appear in court.⁷⁹ Even further, bail bonds enact a transformation of relationships, making cosigners enforcers of social control vis-a-vis the defendant as well as objects of control vis-a-vis the bondsmen and court.⁸⁰ This often leads relationships to assume the idiom of debt, "insert[ing] new financial terms into existing relations of care."⁸¹ As a result, Jackie Wang argues, criminal justice debts join an array of other extractive relations including payday lending and subprime mortgage and auto lending.⁸² These projects all "exploit marginalized communities as captive markets, creatively converting their disadvantaged social positions into revenue streams."⁸³

These contemporary technologies of debt also exist in relation to a longer history of racial dispossession, from antebellum chattel slavery through the postbellum institutions of debt peonage, sharecropping, and convict leasing, which form a contiguous historical trajectory with the American

⁷⁸ Joshua Page, Victoria Piehowski, and Joe Soss, "A Debt of Care: Commercial Bail and the Gendered Logic of Criminal Justice Predation," *RSF: The Russell Sage Foundation Journal of the Social Sciences* 5(1), 2019: 157.

⁷⁹ In the report, they write "Still, decisions to cosign are rarely free from ambivalence. Many cosigners feel conflicted about helping the accused and find the bail process a highly emotional experience. Pressure to sign on the dotted line can raise hard questions about what one person owes another, who has done favors for whom in the past, which betrayals can be forgiven, and how much is too much to ask." See Page, Piehowski, and Soss, "A Debt of Care: Commercial Bail and the Gendered Logic of Criminal Justice Predation," 160.

⁸⁰ *Ibid.*, 157. Also see Reuben Jonathan Miller and Forrest Stuart, "Carceral Citizenship: Race, Rights and Responsibility in the Age of Mass Supervision," *Theoretical Criminology* 21, no. 4 (November 2017): 540.

⁸¹ Page, Piehowski, and Soss add that "In this regard, bail-centered predation can be seen as productive—not only in its incorporation of cosigners into criminal justice processes and its reconstruction of women's civic and economic positions, but also in its reordering of gendered social relations and associated ethics of care." See Page, Piehowski, and Soss, "A Debt of Care: Commercial Bail and the Gendered Logic of Criminal Justice Predation," 160. Also see Genevieve LeBaron and Adrienne Roberts, "Toward a Feminist Political Economy of Capitalism and Carcerality," *Signs: Journal of Women in Culture and Society* 36, no. 1 (2010): 29-33.

⁸² Wang explains that "as Black sharecroppers left the agricultural sector in the South to join the industrial workforce, debt migrated from the point of production to the point of consumption." See Wang, *Carceral Capitalism*, 126-127; Michael C. Dawson and Megan Ming Francis, "Black Politics and the Neoliberal Racial Order," *Public Culture* 28, no. 1 (2015): 41.

⁸³ Page, Piehowski, and Soss, 152.

prison system.”⁸⁴ After Reconstruction, formerly enslaved people became indebted to planters under sharecropping, and because of the exploitative nature of sharecropping arrangements, were unable to repay debts or net any income. When police arrested sharecroppers on petty charges and courts leveled unpayable fines, the convict-leasing system and the prison awaited.⁸⁵ Moreover, paperwork documenting debts was frequently lost, effectively eliminating the possibility of escaping permanent debt.

Just as the American punishment system has always been racialized, so, too, has debt.⁸⁶ As Jackie Wang notes, during the antebellum period, whites used slaves as collateral on loans.⁸⁷ And as Du Bois emphasizes, debt itself became the post-slavery regime of racial control; the tenant farming system merely enabled it.⁸⁸ Today, debt-based labor extraction occurs at a number of prisons that previously operated as slave plantations, including Louisiana State Penitentiary (also known as Angola) as well as Mississippi State Penitentiary (also known as Parchman).

The logic of debts-to-society, combined with latent presuppositions about which debtors must pay back the state for the costs of their own punishment, normalizes otherwise unjustifiable labor conditions in prisons. This regime of unfree work is only legal through a carve-out in the Thirteenth Amendment’s outlawing of slavery, “except as punishment for crime.”⁸⁹ Still, when people refer to a “[criminal] paying for what they did,” the state’s theft of the incarcerated person’s labor is rarely what’s meant.

Instead, the primary ‘currency’ is suffering. To put this more clearly, retributive punishment defines itself vis-a-vis debt in the following general form:

⁸⁴ *Ibid.*; Sered, 57.

⁸⁵ *Ibid.*

⁸⁶ Wang, 126.

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*, 126; W.E.B. Du Bois, *The Souls of Black Folk* (Oxford; New York: Oxford University Press 2007), 116.

⁸⁹ Whitney Bennis, “American Slavery, Reinvented,” *The Atlantic*, September 21, 2015, <https://www.theatlantic.com/business/archive/2015/09/prison-labor-in-america/406177/>.

- (1) When someone commits a crime, they incur a debt.
- (2) This debt can be settled by the suffering of the person who committed the crime.
- (3) Punishment involves the deliberate infliction of pain on another person.
- (4) Thus, punishment is capable of resolving the debt.

Nietzsche explains that the relationship between creditor and debtor first established the “equivalence between injury and pain,” wherein “every injury has its *equivalent* and can be paid in compensation, if only through the *pain* of the person who injures.”⁹⁰ The fundamental strangeness of this equivalency is not lost on Nietzsche, who explains that instead of direct restitution, the compensation for the creditor’s loss is pleasure: “the enjoyment of violating.”⁹¹ This is entirely consistent with a conception of payment as pacification or appeasement, an interpretation corroborated by the etymology of the English “to pay.”⁹² And when the state eventually monopolized the authority to exact legitimate punishment, the creditor instead acquired pleasure from “*seeing* the debtor despised and maltreated.”⁹³

Still, the “to society” predicate of “debt to society” remains critical for understanding retribution’s relationship to logics of debt, especially since state punishment tends to decenter the victims of a crime. Prosecutors claim to speak for victims, but in practice, often reduce survivors to mere witnesses in service of an ultimate conviction.⁹⁴ The truly injured party is ultimately the state (and as a result, those who the state claims to legitimately represent — “society”).⁹⁵ Nietzsche argues

⁹⁰ Nietzsche, 41.

⁹¹ *Ibid.*, 42.

⁹² English “pay” comes from French *payer*, which comes from Latin *pacare*, “to pacify” or “to make peace with.” *Pacere*, a cousin of *pacare*, means “to come to terms with an injured party.” Graeber’s example of payment-as-appeasement is “to give someone something precious, for instance, to express just how badly you feel about having just killed his brother in a drunken brawl, and how much you would really like to avoid this becoming the basis for an ongoing blood-feud.” See Graeber, 60; Phillip Grierson, *The Origins of Money* (London: Athlone Press, 1977), 20. I would like to thank Daniel Harris for helpfully pointing out that the “pacify” translation of the Latin *pacare* has an important connotation of subduing, not merely appeasing.

⁹³ Nietzsche, 42.

⁹⁴ Zehr, 82.

⁹⁵ This flows from the same distinction between public and private wrong that ultimately separates civil and criminal legal systems. In civil suits, plaintiffs need “standing,” or claim to private injury, to sue. In criminal legal proceedings, it is assumed that by virtue of the nature of the criminalized act, the public has a stake in preventing the wrong. Thus, there exists no requirement for a party to have “standing” in a criminal legal case; allowing for the prosecution of ‘victimless’ crimes where society claims victimhood. As Hobbes writes, using ‘debts’ literally to mean interpersonal financial obligations, “And so also in Commonwealths, private men may remit to one another their debts; but not robberies or other violences, whereby they are endamaged; because the detaining of Debt, is an injury to themselves; but Robbery and Violence are injuries to the Person of the Commonwealth.” See Thomas Hobbes, *Leviathan*, ed. C.B. MacPherson (London: Penguin Books, 1982), 207. For further explication of the basic public-private distinction at stake, see, e.g., John Dewey, *The Public and Its Problems*, ed. Melvin L. Rogers (Athens, Ohio: Ohio University Press, 2016), 66-67.

that “the immediate damage [to another person] done by the offender is what we are talking about least” in punishment.⁹⁶ Instead, the state is the creditor—a guarantor of rights and protection in the traditional social contract formulation, in exchange for obedience—and “the lawbreaker is a debtor who not only fails to repay the benefits and advances granted to him, but also actually assaults the creditor” by transgressing the law.⁹⁷

Other theorists of retribution, however, consider the state merely the mediator of a debt relation between the injured party and the party that caused harm. Daniel McDermott attempts to construct a normative justification for retribution, appreciating the strangeness of the aporia Nietzsche poses. Also centering the role of suffering in retribution, McDermott frames the theoretical problem roughly as follows:⁹⁸

1. Retribution necessitates inflicting suffering.
2. Inflicting suffering is impermissible unless justified.
3. It's not obvious why inflicting suffering as retribution is any more justified than arbitrarily inflicting suffering.

Moreover, McDermott argues, retribution is backward-looking and reliant on some past “evil act” to justify punishment.⁹⁹ If we believe that inflicting suffering on another person is an evil act, it remains unclear why inflicting suffering as punishment is justified by another act of harm.¹⁰⁰ McDermott notes that for those not already bought into retributivism, punishment would only seem to compound the initial wrong.¹⁰¹ In order to be justified, then, punishment must establish a legitimate connection between the wrongdoing and its punitive consequence. The debt relation

⁹⁶ Nietzsche, 47.

⁹⁷ The social contract itself is classically constructed as a debt relation. In *Leviathan*, Hobbes writes, “To Equall Justice, appertaineth also the Equall imposition of Taxes; the Equality whereof dependeth not on the Equality of riches, but on the Equality of the debt that every man oweth to the Common-wealth for his defence.” Nietzsche also references this social contract arrangement, writing that “the community has the same basic relationship to its members as the creditor to the debtor. You live in a community, you enjoy the benefits of a community (oh, what benefits! sometimes we underestimate them today), you live a sheltered, protected life in peace and trust, without any worry of suffering certain kinds of harm and hostility to whom the human being *outside*, the ‘one without peace’, is exposed.” See Hobbes, *Leviathan*, 386; Nietzsche, 47–48.

⁹⁸ Daniel McDermott, “The Permissibility of Punishment,” in *Law and Philosophy* 20, no. 4 (2001): 403.

⁹⁹ As Angela Davis points out, “evil acts” and their corresponding doers are racialized fantasy others used to justify punishment. She writes that “We thus think about imprisonment as a fate reserved for others, a fate reserved for the ‘evildoers,’ to use a term recently popularized by George W. Bush,” and that “Because of the persistent power of racism, ‘criminals’ and ‘evildoers’ are, in the collective imagination, fantasized as people of color.” See Davis, 16; McDermott, “The Permissibility of Punishment,” 403–404.

¹⁰⁰ McDermott, 403–404.

¹⁰¹ *Ibid.*

between the perpetrator and victim of harm does this moral work, establishing a connection between wrongdoing and retribution.

However, McDermott's account of punishment is ultimately grounded in a rejection of restitution, or the most obvious alternative means of debt-settling. For McDermott, those who do harm rob their victims of "moral goods," *i.e.*, the entitlement to certain forms of treatment, in addition to any material goods taken in the commission of a wrongdoing.¹⁰²

McDermott employs the filial relationship—that between parent and child—as an example of debt that cannot be commodified. Even further, McDermott characterizes any attempt to transfer money in response to the deprivation of moral goods as akin to "a father who had a duty to provide his child with a certain amount of love attempting to satisfy his duty by handing the child \$100."¹⁰³ This mismatch between the \$100 and the rightfully owed treatment occurs because love and money are valuable in fundamentally different ways: "giving the child money would simply miss the point."¹⁰⁴ In the same sense, money is not valuable in the same way as the treatment that the wrongdoer failed to provide the person they harmed.

But why would it not be possible for the wrongdoer to pay the person they harmed back in moral goods? McDermott responds that moral goods, unlike material goods, are simply non-transferable by virtue of their status as forms of treatment we provide to other members of our moral communities.¹⁰⁵ For McDermott, this non-transferability is what ultimately triggers the necessity of punishment. "The non-transferability of moral goods thus places a sharp limit on the ability of restitution to settle the debts of wrongdoing," and thus, the necessary response becomes *denying* goods to wrongdoers instead of attempting the impossible: to restore them to the wronged.¹⁰⁶

¹⁰² *Ibid.*, 409.

¹⁰³ *Ibid.*, 414.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*, 419.

¹⁰⁶ *Ibid.*

In other words, McDermott's punishment is a tactic of last resort in response to outstanding moral debts.

Even so, it is worth pausing to note the subtle disavowal in McDermott's account. If debts are resolved by debtor-to-creditor transfers of the equivalent of the owed amount, it seems strange to call punishment "payment." Punishment is better understood as a *replacement* for payment, necessitated by the sheer impossibility of restitution in the appropriate (*i.e.*, moral, rather than material) register. To consider the debtor's suffering a payment of the debt would require establishing an equivalency between the value of the moral goods the creditor was denied and the suffering of the debtor, an operation that McDermott would certainly reject. McDermott's conclusion that "the connection between crime and punishment will, of necessity, be a rough one, and in many ways unsatisfying" reflects an admission that a substitute-of-necessity for payment is not tantamount to an equivalent (insofar as a true equivalent would not be a last-choice replacement).¹⁰⁷ The disavowal here could take the form: "I know very well that the idea of 'paying' a debt through suffering is incoherent, insofar as there is no *transferrable equivalent* for the harm done, yet nevertheless retribution is justified as the payment of a moral debt."

In McDermott's view, then, punishment ultimately falls short of doing anything salutary for the victim. By contrast, in Nietzsche's view, punishment is instrumentally successful (even if only by allowing the creditor the pleasure of exercising power over his debtor; not an in-kind repayment of the debt owed, but a fine substitute). But R.A. Duff offers a third account, "restorative punishment" or alternatively "punitive restoration," wherein retributive punishment is required in the name of genuine repair.¹⁰⁸ In this account, those responsible for harm should not suffer for the sake of suffering alone; rather, their suffering is meaningful insofar as it is intrinsically related to repentant

¹⁰⁷ *Ibid.*, 426.

¹⁰⁸ This sentiment echoes discourses in the influential and highly punitive victims' rights movement, of which Judge Jeanine Pirro was a prominent advocate. Also see R.A. Duff.

recognition of wrongdoing and reparation.¹⁰⁹ For Duff, apologies, repentance, and restitution are essential components of repair, but they must be demanding and burdensome in order to be meaningful.¹¹⁰ These sorts of border cases, or accounts that straddle the increasingly unstable binary between restorative and retributive justice, help illuminate the continuum of punitivities made possible by a shared reliance on debt, albeit with different interpretations of each component.

¹⁰⁹ Duff, 97.

¹¹⁰ *Ibid.*, 94.

IV. Restorative Debts

Restorative justice is a framework for addressing harm that notoriously eludes a single definition. Still, it generally focuses on the questions “Who has been hurt? What are their needs? Who has the obligation to address the needs, put right the harms, and restore relationships?”¹¹¹ Many restorative justice encounters are structured as dialogue processes, often called “circles,” including the party responsible for harm, the survivor of harm, and support people for each party.¹¹² In the circles, parties can identify the harms at stake and construct a “pathway to repair.”¹¹³ In the words of Common Justice’s Executive Director, Danielle Sered, “This emphasis on repair reflects restorative justice’s primary concern with harm rather than with broken rules...If the core concern is that people have been harmed, the priority is to repair that harm.”¹¹⁴ The demands of repair, however, often include more than just restitution. Indeed, the moral transformation of the responsible party is often a core component of restorative processes.¹¹⁵

The analysis that follows is focused on Common Justice, a nonprofit alternative-to-incarceration and victim services program in Brooklyn, New York and guided by restorative justice principles.¹¹⁶ Their participants are sixteen to twenty-six year-olds charged with serious and violent felonies, including gunpoint robberies, serious assaults, shootings, and other acts of street violence.¹¹⁷ The process is survivor-centered, meaning that people directly impacted by the relevant acts of harm determine what repair requires, and responsible parties who complete a fifteen-month

¹¹¹ Sered, 140.

¹¹² *Ibid.*, 135.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*, 138.

¹¹⁵ In certain ways, restorative justice as alternative-to-incarceration is a “new” phenomenon. However, restorative justice practices trace back to indigenous communities in North America, New Zealand, and Africa. Moreover, the moral focus on the individual in restorative justice is deeply consonant with penal theory that preceded the “actuarial turn” of the 1970s and 1980s. In “The New Penology,” Malcom Feeley and Jonathan Simon argue that pre-1970s penal discourses relied more heavily on intention and guilt, alongside interventions focused on individual diagnosis and treatment. By contrast, penal policy in the seventies and eighties involved an increased discursive focus on population-level risk management. See Sered, 133; Malcolm M. Feeley and Jonathan Simon, “The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications,” *Criminology* 30, no. 4 (1992): 449-474.

¹¹⁶ Sered, 133.

¹¹⁷ *Ibid.*

intervention curriculum and fulfill their commitments—part of the restorative justice process—are eligible to have the felony charges against them removed from their records.¹¹⁸

Commitments at Common Justice are decided by all parties in the circle, and are primarily intended to “hold the responsible party accountable in ways meaningful to the person harmed.”¹¹⁹ These commitments could involve job training, paid employment, community service, education, reading assignments, addiction treatment, parenting classes, restitution payments, apologies, “or any number of other creative commitments particular to each case and the needs of the people affected by it.”¹²⁰

This commitment to centering survivors is deeply intertwined with Common Justice’s telos of accountability, the ultimate object of restorative justice. The imperative of accountability, moreover, grounds Sered’s critique of punishment. As she argues, punishment is antithetical to accountability despite their frequent conflation. Sered writes that when a person is punished, they are punished “*for* something...Nothing about the person to whom something is owed.”¹²¹ Accountability, on the other hand, is about the relationship between the person responsible for harm and the survivor.¹²² Prison, the modal technology of punishment, is based on separating the responsible person from society (and with society, those they have harmed).¹²³ Thus, prison is “antithetical to relationship,” and consequently, antithetical to accountability.¹²⁴

Sered argues that even beyond the separation of the prison, punishment itself inhibits accountability. This is because being punished is inherently passive, requiring only that those punished endure suffering: “It requires neither agency nor dignity, nor does it require work,” in

¹¹⁸ *Ibid.*, 133-4.

¹¹⁹ *Ibid.*, 136-7.

¹²⁰ *Ibid.*, 115, 136-7.

¹²¹ *Ibid.*, 114.

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ *Ibid.*

Sered's view.¹²⁵ For Sered, because a work-intensive "reckoning" is required for accountability, "prison lets people off the hook."¹²⁶ This harms survivors, who "deserve to have the people who harmed them held accountable to them."¹²⁷

Accountability, here, operates in the idiom of debt. Sered writes that "when we hurt people, we owe [them] something," and that those who have committed wrongdoing must "pay [these] debt[s]" to those they hurt.¹²⁸ Accountability, or meaningful payment of the debt, would require responsible parties to face those they harmed, field questions, undergo personal moral transformation, and engage in a demanding process of repair.¹²⁹ In the way of payment, according to Sered, punishment "offers survivors almost nothing."¹³⁰

Here, too, it is worth contrasting Sered's use of debt with that of retributive punishment. As in McDermott's account, Sered identifies the primary moral debt at stake as between the person responsible for harm and the party they have harmed. But while McDermott argues that mere restitution is inadequate for repair (thus necessitating punishment), Sered implicitly embraces the possibility of transferring what McDermott calls "moral goods," or forms of ethical treatment.¹³¹

Sered's articulation of restorative justice principles ultimately constitutes an embrace of the debt relation. Whereas punishment fails to facilitate accountability, for reasons above, the fulfillment of a highly specific contract of obligations *can* settle moral accounts after an act of violence. To do this, Sered's concept of accountability reifies the principles of moral debt: quantifiability and strict reciprocity.

¹²⁵ *Ibid.*, 91.

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*, 104.

¹²⁸ *Ibid.*, 91-92.

¹²⁹ Sered outlines accountability as a formula consisting of five steps: (1) appreciating one's responsibility for one's actions, (2) appreciating the impact of one's actions on others, (3) experiencing genuine remorse, (4) taking actions to repair the harm at stake to the extent possible, and (5) no longer committing similar harm. (1), (2), and (3) are most straightforwardly forms of recognition, while (4) is reparation and (5) reflects a longer-term moral transformation. Still, recognition, reparation, and transformation are all ultimately absorbed under the larger heading of repair, and used synonymously with accountability. See Sered, 96.

¹³⁰ Sered, 128.

¹³¹ McDermott argues that restitution is impossible because moral goods, unlike financial ones, cannot be transferred. (McDermott uses "moral goods" to encompass what was taken from the victim in an act of wrongdoing.) As a result, punishment is necessary as a denial of moral goods to the wrongdoer, in the stead of what would be an impossible transfer. See also the discussion of McDermott in the previous section.

First, accountability is quantifiable and derived from principles of reciprocity. Commitments that appear on an eventual Common Justice contract constitute a finite itemized breakdown of what is owed. Moreover, by fulfilling the line items of the contract, the person responsible for harm can repay the survivor proportionately and in-kind for the harm, where proportionality operates as a magnitude-determining factor to ensure reciprocity. The requirements for accountability are, in a crucial sense, mathematically derivable: “true accountability is...as equal and opposite as possible to the wrongful actions committed by the person who caused harm.”¹³² And finally, the reciprocity is poetic: “Someone who did something wrong is also someone who stands to make something right—because those actions draw from the same source.”¹³³

Precise mathematical reciprocity in the bill of repair allows the survivor’s healing to mutually constitute a rebalancing of moral accounts. As Sered writes, because accountability “is the active exercise of power in the opposite direction of harm,” “it is a force for healing.”¹³⁴ Harmed parties are made whole again precisely because of this reciprocal set of actions designed to repair the harm, and the wholeness of survivors is made directly contingent upon the responsible party’s fulfillment of their commitments.

Thus far, the survivor’s healing is dependent on the responsible party’s completion of their terms in the contract. This is because the contract emerging from the dialogue process can be considered a kind of bill, with line items that all must be paid for repair to be complete. But importantly, dependency runs in the other direction, too. The responsible party must complete their commitments—pay their debt, settle the bill, balance accounts—in order to reclaim their dignity and deservedness of respect.¹³⁵

¹³² Sered, 95; Pavlich, 124-125.

¹³³ Sered, 98.

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*, 127.

Inequality reigns, as Graeber explains, for the period during which the debt remains unpaid.¹³⁶ Accountability is not just one avenue to dignity: for Sered, it is the only avenue out of shame.¹³⁷ Until the contract is fulfilled, responsible parties endure subjugation in hierarchical relationships, denied full moral standing. The possibility of escaping this dynamic is unclear. If indeed doable, full payment is deeply demanding. But if repair is ultimately elusive,¹³⁸ this pre-payment relation of subjugation is cruel.¹³⁹

Indeed, the latter scenario seems likely. One responsible party featured in Sered's book said that his moral debts to the person he harmed would "take [his] lifetime to repay," implying that even the fulfillment of his commitments in the contract would be insufficient to settle accounts.¹⁴⁰ To her interviewee's quote, Sered adds that "there is dignity in paying those debts," and that "the lifetime it takes to pay them stands to be longer and more fulfilling as a result."¹⁴¹ But if debts take lifetimes to repay and the process of accountability is only an *avenue* to dignity (implying debts must be paid prior to full restoration of equal status), those in serious moral debt stand to endure a permanent diminished status, with no path to achieving genuine redemption.¹⁴²

¹³⁶ Graeber, 121.

¹³⁷ Sered, 124, 126.

¹³⁸ Whether Sered believes repair is possible in some or all cases is unclear. In one instance, Sered remarks that "Mystery or disagreement regarding what happened can make it impossible to fully mend the tear caused by violence," implying the converse: that by eliminating mystery or disagreement, the tear caused by violence can be fully mended. In another moment, she argues that "Acts of violence require resolution," where "resolution" implies a state of finitude, of settled balances, more than a mere response. Either way, fantasy investments around the karmic simplicity and ultimate possibility of repair are apparent in using economic logic to address violence. As Jameson explains, ideological interventions "cannot manipulate [without offering] some genuine shred of content as a fantasy bribe to the public about to be so manipulated." There exists something genuinely utopian about the possibility of repair—the survivor made whole again by an "equal and opposite" exercise of power by the person who harmed them—just as there exists something painful about the fact that violence and harm cannot be truly undone with the same simplicity as transferring a balance between bank accounts. For the survivor, then, "anxiety and hope are two faces of the same collective consciousness." See Fredrick Jameson, "Reification and Utopia in Mass Culture," 144; Sered, 100.

¹³⁹ These "fraying fantasies" and "dissolving assurances," in Lauren Berlant's terms, do not just apply to the debtor seeking impossible redemption. They also affect the survivor, for whom healing and wholeness have been fixed to the accountability of the person who harmed them. This intimate linking of the survivor's healing and the responsible party's accountability lies at the center of Sered's critique of punishment, premised on the proposition that any response to harm should focus on the survivor's healing and repair. Berlant describes cruel optimism as a relation wherein "something you desire is actually an obstacle to your flourishing," or when a desire ceases to do "affirming work." When survivors of violence are encouraged to understand the possibility of their healing as inseparable from—and indeed, contingent upon—another person's complete moral accounting and transformation, dissatisfaction seems inevitable. In the iteration of this unmet desire, over and over, lies the cruelty. "If prison worked," Sered argues, "survivors would feel better as a result of the incarceration of the person who hurt them." Instead, punishment runs counter to the goals of accountability and repair, precisely because prison is so dehumanizing. Sered uses the metaphor of a "bank account from which [one might] pay restitution," but the currency is "human dignity." Instead of facilitating accountability, the experience of imprisonment "depletes" the bank account, making restitution impossible. See Sered, 114. Also see Adam H. Johnson, "The Appeal Podcast: Imagining a Post-Incarceration World with Danielle Sered of Common Justice," *The Appeal*, November 21, 2019, <https://theappeal.org/the-appeal-podcast-imagining-a-post-incarceration-world/>; Lauren Berlant, *Cruel Optimism*, 3, 1.

¹⁴⁰ Sered, 147.

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*, 124, 126.

While troubling on their own terms, these worries about the subjugating consequences of debt-based repair fail to fully illustrate the potential for convergence between restorative justice and retributive punishment. For a clearer example of how this convergence might form, we return to another example from Sered's book: a case that came to Common Justice after an antisemitic attack on the NYC subway.¹⁴³ During Hannukah, Ana and her friends were riding the subway handing out candy, when a group approached them and began to claim that the Jews had killed Jesus. The attack became physical, and Ana and her friends were badly hurt.¹⁴⁴ Trish was one of the people involved in attacking Ana, "punching her, kicking her, and pulling out her hair," and Ana experienced serious trauma as a result.¹⁴⁵ Specifically, Ana stopped riding the trains and began to lose more of her hair, eventually shaving her head when the loss became too severe to maintain.¹⁴⁶

During the dialogue process with Common Justice, the group that included Ana, Trish, and their respective support people made progress on a set of commitments Trish would make—"including work, education, apologies, reading assignments, and community service"—to address the harm she had done to Ana.¹⁴⁷ Then, the group reached an impasse in negotiations: Ana had asked Trish to shave her head.¹⁴⁸ Sered enforced a line: Common Justice prohibited the inclusion of contract provisions that would be "harmful" or "degrading" to the person responsible.¹⁴⁹ Ana emphasized that she sought this commitment from Trish because she wanted to see Trish suffer "the way [she] suffered."¹⁵⁰ But, Sered replied, restorative justice—unlike traditional punishment—"cannot be in the business of replicating the suffering caused by violent crime."¹⁵¹ Ana then

¹⁴³ *Ibid.*, 117.

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*

¹⁴⁷ Importantly, it's not clear how much leverage, if any, responsible parties have in determining the commitments they must make. From this anecdote, it seems as though the harmed party makes requests and the program intervenes if requests are deemed inappropriate. See Sered, 115-117.

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*

reframed her request in terms of her trauma: “She’s everywhere for me,” Ana explained.¹⁵² So, “I want to be everywhere for her. *I want to be on top of her head.*”¹⁵³

Instead of the head-shaving, the group determined that Trish would not be allowed to ride New York’s trains for the subsequent year.¹⁵⁴ This would prove to be a demanding requirement: Trish lived outside Brooklyn, dependent on public transportation to attend school, required programs, and the job she needed to maintain.¹⁵⁵ Even worse, if Trish boarded a train, she risked termination from Common Justice, and as a result, potential imprisonment.¹⁵⁶

But, Sered emphasizes, this requirement was permissible and indeed valuable because of its *reciprocal* nature. Because of Trish’s actions, Ana had been unable to ride the trains. To counterbalance this, Trish would be prohibited from riding the trains. Moreover, tied to the reciprocity of the requirement was a crucial pedagogical value for Trish. As Trish stayed off the trains, taking two or three times as long to get to her destinations, she became angry but also began to understand the extent to which Ana’s own trauma-induced train avoidance following the attack was a serious inconvenience.¹⁵⁷ Sered concludes by highlighting the success of this intervention with respect to Ana’s healing process: as a direct result of the Common Justice process, “her symptoms subsided and she regained her ability to move through her life and to feel joy.”¹⁵⁸

Ana and Trish’s story should be troubling to those who hope restorative justice will displace punishment. In fact, it demands we ask how prohibiting Trish from riding the trains does not

¹⁵² *Ibid.*

¹⁵³ *Ibid.*

¹⁵⁴ *Ibid.*

¹⁵⁵ In Sered’s telling, it’s unclear whether the programs Trish had to attend and job she had to maintain were mandatory because they were also agreements in the contract. Still, any work-or-jail requirement is critical to interrogate with respect to carceral social control. As LeBaron and Roberts write, such structures convert moral debt into a force that compels individuals “into dependence on the market, often under highly inequitable terms.” They explain further that “as with the institutional prison, debt can be conceived as a carceral space that limits life choices and possibilities and constraints physical and social mobility.” Though they refer here to financial debt, we see moral debts generating a similar impact—constraining physical and social mobility—through mediating institutions of quasi-carceral control (*i.e.*, Common Justice). See Genevieve LeBaron and Adrienne Roberts, “Toward a Feminist Political Economy of Capitalism and Carcerality,” in *Signs: Journal of Women in Culture and Society* 36, no. 1 (2010): 29-33; Karl Marx, “Crime and Primitive Accumulation,” in *Crime and Capitalism: Readings in Marxist Criminology*, ed. David E. Greenberg (Philadelphia, PA: Temple University Press, 1993), 45-48; Mark Neocleous, *The Fabrication of Social Order* (London: Pluto Press, 2000); Sered, 115-117.

¹⁵⁶ Sered, 115-117.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

constitute retribution.¹⁵⁹ The logic of the sanction is remarkably consistent with McDermott's debt-based explanation of how punishment works: because directly restoring what Trish took from Ana in the attack is impossible (*sans* time machine), the next best option is simply to deny Trish the moral goods she denied Ana. Because Ana was unable to ride the subway, so, too, was Trish. This is the basic logic of retribution.

The train sanction in this case is also consistent with Nietzschean logics of punishment. Ana sought relief, and she found it in pleasure at Trish's reciprocal pain; a form of *schadenfreude*. Framed another way, Ana sought psychic power over Trish: she wanted to be "on top of her head."¹⁶⁰ By forcing Trish to endure a demanding inconvenience at risk of imprisonment for noncompliance, making Trish think of Ana constantly, Ana reversed their respective power.¹⁶¹ Sered suggests, moreover, that this is exactly the point of Common Justice's processes: "true accountability...is the active exercise of power in the opposite direction of harm."¹⁶²

To this critique, Sered could reply that conflating Trish's commitment to avoid trains for a year with the normative alternative—prison—is a deeply uncharitable mistake. But my argument is not that an inability to ride trains for a year is equivalent to incarceration, in magnitude or in form.¹⁶³ I only hope to demonstrate that the fundamental logics of retribution are latent in what Trish endured, and that while degradation and humiliation might be off-limits characteristics of

¹⁵⁹ This is also an interesting and useful question to raise in a variety of other contexts, where laundry lists of tedious requirements (often backed by the threat of incarceration and other serious sanctions) frequently include extremely demanding and invasive provisions. While Common Justice might maintain that the commitments its responsible parties take on are intended for their own eventual benefit (*e.g.*, addiction treatment, education, job training or securing employment), the same could be said of requirements imposed by a parole or probation officer, or a child welfare caseworker. There remains a substantial gap between receiving *support* for finding work and being told that one must work (at risk of re-incarceration). Furthermore, the nominal distinction between "punitive" and "non-punitive" is highly consequential in due process jurisprudence: specifically, due process protections are far weaker when the risk at stake is "non-punitive." See *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981), where the court determined that indigent parents facing charges of child abuse and neglect with termination of parental rights at stake were not entitled to legal representation because terminating their parental rights was "not punitive." Likewise, see *Allen v. Illinois*, 478 U.S. 364 (1986), where the court ruled that proceedings to civilly commit sex offenders (a fate "at least as serious as a guilty verdict in a typical criminal trial") did not merit procedural safeguards against self-incrimination because civil commitment was intended to be therapeutic, not punitive.

¹⁶⁰ Sered, 115-117.

¹⁶¹ *Ibid.*

¹⁶² *Ibid.*, 95.

¹⁶³ We still have good reason to be concerned about restorative justice programs' license to embrace creative sanctions. While incarceration is standardized (to the extent that it punishes a wide variety of crimes that have little explicitly to do with what imprisonment involves), this resistance to reciprocity-in-form may, in some instances, prevent worse punishment.

commitments made in restorative processes, suffering is not. In fact, the suffering might be integral. As Sered tells it, the pedagogical value of Trish's ban from the subway was entirely the result of the anger, frustration, and inconvenience Trish felt, which then allowed her to empathize with what Ana endured.

R.A. Duff defends a view of “restoration through retribution” wherein retribution is the mode of achieving repair. The actions taken by the responsible party to repair the harm are only meaningful as payment for the moral debt incurred insofar as they are costly and burdensome to perform.¹⁶⁴ Crucially, “restoration through retribution” articulates explicitly what may ultimately be implicit in Sered's framework. Like Sered, Duff holds the view that suffering for its own sake is useless and cruel; instead, suffering is made salutary when part of repentance.¹⁶⁵ What I hope to show, in addition, is that various modalities for responding harm-as-debt exist on a continuum. The debt relation structures each of their approaches, contextualizing each of their differences and innovations as merely distinct interpretations of the same underlying logic. *For an illustration of this claim, see the table that follows.*

In the concluding chapter of *Are Prisons Obsolete*, Angela Davis uplifts the emancipatory possibility of repair as a non-punitive framework for addressing harm. Davis quotes Herman Bianchi, who proposes a tort-based “reparative justice” system wherein “[The lawbreaker] is thus no longer an evil-minded man or woman, but simply a debtor, a liable person whose human duty is to take responsibility for his or her acts, and to assume the duty of repair.”¹⁶⁶ What the above excavation of restorative justice demonstrates, I hope, is that fantasies of repair and fantasies of punishment are joined through their reliance on debt.¹⁶⁷ As a result, they are not so far apart.

¹⁶⁴ Duff, 93-94.

¹⁶⁵ *Ibid.*, 97.

¹⁶⁶ Davis, 113-114.

¹⁶⁷ Zehr writes that “Crime creates a moral debt which must be repaid and justice is a process of righting the balance. It is as if there is a metaphysical balance in the universe that has been upset and that must be corrected. This concept of justice tends to focus on abstractions rather than the harm done. It assumes that what is needed to settle the score in each case is knowable and attainable. And it assumes that what is needed to right the balance, to pay the debt, is punishment. Criminal justice officials see their job as meting out appropriate levels of punishment. Offenders are

	Victim-centered criminal prosecution (Pirro)	Retributive punishment (McDermott)	Restoration through retribution (Duff)	Reparative justice (Bianchi)	Restorative justice (Sered)
Animating concern	"Criminals" as a class of "victimizers" who must be punished in order to protect citizens (13)	Crimes, insofar as they violate the rights of their victims and thus moral rules (406, 411); and not harms because not all harms are morally wrong (408)	Crimes, insofar as they involve moral wrongs as well as harms to their victims (92)	Harm, conceived with concepts such as debt, liability, and responsibility rather than guilt and culpability (52)	Crimes, insofar as they cause harm to people — the primary concern is the harm "rather than broken rules" (138)
Ultimate aim	Ensure "accountability" for "criminals" (213); "punish evil" (23); "make the victims whole again" (19)	Respond justly to an antecedent act of wrongdoing through retribution (403-404)	Restore "the offender's normative relationship with his victim as fellow citizen, and with his fellow citizens more generally" (93)	Repair the harm (52), achieve reconciliation (53) thus overcoming the "regrettable event" (58)	"Transform behavior and heal harm" through accountability (59)
Debt relationship	"Victimizers" must "pay the price" to victims, victims' families, and society (22)	Person who has violated the rights of another person ("wrongdoer") (410) owes a debt to their victims	Person who has wronged another ("wrongdoer") owes a debt to their victims (85-86)	Person who is liable for harming another person owes a debt to person they have harmed (52)	Person responsible for harm owes a debt to the survivor of the harm (124)
How the debt is incurred, what is owed, and means by which the debt is paid	"Victimizers" incur a debt when they traumatize and alter the lives of their victims (24); they pay this debt to society through their punishment (which constitutes accountability (213); but victims are also owed healing by the state (9) and punishing the abuser does not guarantee healing (25)	Wrongdoers incur debts when they violate their victims' rights for the "value of the treatment they withhold from their victims" (405); wrongdoers may be denied certain moral goods as punishment because the debt cannot be settled by restitution, insofar as moral goods are not transferable from wrongdoer to victim (405-406); punishment is proportioned by demonstrating that the good denied to the wrongdoer is valuable in the same way as the treatment they denied their victim (426)	Apology is owed, including: recognition of the wrong via society's condemnation of the offender (93), the offender's recognition of their own culpability and remorseful repentance (94), and moral reparation for the wrong (94); payment as moral reparation (which might take the form of material reparation for the harm) is defined by its burdensome nature for the offender (94)	Victim is owed reparation, penitence, and reconciliation (58); the debt is paid as restitution according to existing principles of tort law (51)	"Acts of violence require resolution" (100) and the harmed party is entitled to repair (139) wherein the responsible person is held accountable by "taking actions to repair the harm to the degree possible...guided when feasible by the people harmed" (96)
Role of the responsible party's suffering (through incarceration or otherwise)	Incarceration is necessary for "criminals" to "pay the price" for their actions (22) but it remains insufficient (213); society should "bring the same level of attention and resources that we use to rehabilitate, educate, house, and feed criminals to the task of healing the victims and their families" (213)	Punishment almost always causes human suffering, and this fact is what makes punishment an object of moral concern (403); however, punishment is justified because the wrongdoer must be denied moral goods (goods which they have forfeited as a result of their wrongdoing) in order to pay the moral debt (424); torture is not justified as punishment (427) but imprisonment is justified, insofar as imprisonment seeks to exclude from the moral community (428)	Offenders should not suffer for the sake of suffering alone; rather, their suffering is meaningful because it is intrinsically related to repentant recognition of wrongdoing and reparation (97)	Incarceration is only permitted if the responsible party refuses to negotiate about the injury they have caused and the ensuring debts; they must be released as soon as they are willing to reopen negotiations (54); deliberately inflicting suffering on the 'criminal' is "destructive to the soul of the victim" (58)	Mere suffering does not require agency, dignity, nor work, and is thus non-conducive to accountability (91-92); and "people who commit, harm do not belong in cages" (93); moreover, "when our aim is simply to inflict pain, we end up hurting people our society failed to protect from victimization and harm in the first place" (89); however, "if we hurt someone, we have an obligation to...sit in [their] fire" (93); and people who commit harm "deserve the difficulty of...reckoning, and even the fear and pain it may cause" (124)

encouraged to believe that by taking their punishment, they are paying their debt to society." See Zehr, 74-75. In addition, the debtor was always-already a criminal: "schuld," the German word for debt, is also the word for guilt. Separating debt from guilt is impossible.

V. Reclaiming Accountability

“To have received from one, to whom we think ourselves equal, greater benefits than there is hope to requite, disposeth to counterfeit love, but really secret hatred, and puts a man into the estate of a desperate debtor that, in declining the sight of his creditor, tacitly wishes him there where he might never see him more. For benefits oblige; and obligation is thralldome; and unrequited obligation, perpetuall thralldome.”

- Thomas Hobbes¹⁶⁸

“It ends with love, exchange, fellowship. It ends as it begins, in motion, in between various modes of being and belonging, and on the way to new economies of giving, taking, being with and for and it ends with a ride in a Buick Skylark on the way to another place altogether. Surprising, perhaps, after we have engaged dispossession, debt, dislocation, and violence. But not surprising when you have understood that the projects of ‘fugitive planning and black study’ are mostly about reaching out to find connection; they are about making common cause with the brokenness of being [that] will, despite all, remain broken because this book is not a prescription for repair.”

-Jack Halberstam¹⁶⁹

The logic of debt quantifies what we owe one another, rendering obligations into equivalencies. These equivalencies make transfer, exchange, and payment possible. In the background of these activities is the logic of reciprocity: first as a mathematical principle determining the appropriate size of payments, then as a strict moral imperative, equating justice with balanced accounts.

In the face of interpersonal harm, reciprocity strives to make survivors whole again. Indeed, the survivor’s healing is conditioned on repayment.¹⁷⁰ The responsible party’s own moral status is also at stake. They must *redeem themselves*, taking literally the meaning of “redemption” as a buying back.¹⁷¹ Paying their debt is the debtor’s only avenue to restore themselves to equal dignity. Until they do, they are denied reciprocity and subjected to their creditor’s power.¹⁷²

But the application of moral accounting to interpersonal harm is uneven and imperfect, generating violence in spaces of friction. At two moments in particular, the logic of debt grates against the problem at hand. This happens first at the moment of payment, with the recognition that

¹⁶⁸ Hobbes, 162.

¹⁶⁹ Moten and Harney, 5.

¹⁷⁰ The words “health” and “heal” derive from words like “whole” and “undamaged.” As Pavlich explains, “In pursuit of restoring a ‘healthy’ equilibrium, measures to heal the breaches of crime are brought into play with the intention of restoring relational balances.” See Pavlich, 31, 33.

¹⁷¹ To “redeem,” or to achieve redemption, means to “buy something back.” See Graeber, 8.

¹⁷² Graeber, 121.

“payment” and “transfer” are, on some level, nonsensical operations in response to harm. What would be “transferred,” and what form would “payment” take? In Nietzsche’s retributive account, the debtor’s suffering is the creditor’s pleasure, which, although not the creditor’s first-choice form of payment, will satisfy him anyway. McDermott, on the other hand, explicitly denies the possibility of “transferring” what was lost in the act of harm. In this sense, retributive punishment (or denying non-transferable goods from the wrongdoer) is a next-best substitute for payment, rather than a genuine equivalent.

Suffering is central to the resolution of debt relationships. Restorative accounts, despite not explicitly subscribing to the retributive account, rely on the debtor’s suffering to ensure that their apologies are “costly,” and thus weighty and meaningful.¹⁷³ Mediated through logics of moral pedagogy, empathy-building, and, most significantly, reciprocity in service of the survivor’s healing, restorative justice replicates the role of retributive sanction. Its innovation is only to make the sanctions more “survivor-centered”: to give creditors the power to decide the restructuring terms of the debts they are owed, and thus, to make “payments” more efficacious in service of repair.

The second moment of discomfort comes with repair, which evokes a return to a state before harm occurred. Setting aside the viability of the pre-incident status quo and the desirability of return, total repair is almost always impossible.¹⁷⁴ Violence changes relationships irreparably and trauma exacts a lasting impact. Even if healing can be found, reversal and return are not as easily accessible. If total repair is a fantasy, then harmed and responsible parties both suffer. In particular, attachments to fully payable moral debt can place the person responsible for harm in a cruel limbo. As Graeber explains, “During the time that the debt remains unpaid, the logic of hierarchy takes hold” and the debtor is subject to the will of their creditor.¹⁷⁵ If a debt is “an exchange that has not

¹⁷³ Duff, 94.

¹⁷⁴ Zehr, 199.

¹⁷⁵ Graeber, 121.

been brought to completion,” and the “exchange” finally settling accounts can never truly be brought to completion, then the logic of hierarchy risks semi-permanence.¹⁷⁶ Indeed, the debtor may never be able to restore themselves to equality. Sered writes that those who commit harm “deserve a process that will allow them a way out of shame...not just an obligation, but also an avenue to dignity.”¹⁷⁷ Should this avenue to dignity prove unviable, the debtor may be left in the cold. Reciprocity demands that the debt be paid, but as Graeber explains, the impatient unnaturalness of this interim period, extended indefinitely, “is what makes situations of effectively unpayable debt so difficult and painful.”¹⁷⁸

Permanent hierarchies generated by debt appear in retributive accounts as well, demonstrated by the fact that “debts to society” are rarely considered paid when the once-condemned are released from imprisonment. The label “felon” instead confers an all-but-permanent status. Collateral consequences reflect both second-class citizenship, where the state fails to guarantee certain rights, and carceral citizenship, where those with criminal records are subjected to additional sanctioning institutions.¹⁷⁹ Graeber maintains that these debts to society “*can* be paid [and] equality *can* be restored, even if the cost may be death by lethal injection,” but this reading should not satisfy a concern about effective unpayability. If the debts “can be paid” but equal moral status, restored at the moment of payment, will never reach the debtor during their lifetime, then the restoration is ultimately trivial. The cruelty lies in conditioning moral status on payment rather than asserting it unconditionally.

The inadequacies of moral accounting are no less troubling than debt’s ideological function reproducing systems of social control, validating extreme inequality, and assigning blame to debtors.

¹⁷⁶ *Ibid.*

¹⁷⁷ Sered, 124.

¹⁷⁸ Graeber. 121.

¹⁷⁹ Reuben Jonathan Miller and Forrest Stuart, “Carceral Citizenship: Race, Rights and Responsibility in the Age of Mass Supervision,” *Theoretical Criminology* 21, no. 4 (November 2017): 532–48.

Webs of debt ensnare loved ones, kin, and communities, transforming relationships and “insert[ing] new financial terms into existing relations of care.”¹⁸⁰ The wide-reaching effects of debt have transformed it into an animating political force, mobilizing movements across the globe to challenge its power.¹⁸¹ Indeed, strategies like debt strikes and debt revolts have ample historical precedent.¹⁸² Peasant revolts began with the smashing of tablets that recorded debts, and the first known word for “freedom” refers to the liberation of debt peons from servitude.¹⁸³ From the ancient to the contemporary, these projects share a fundamental recognition that debt serves to maintain and reinforce grossly unequal class relations and that release from debt amounts to nothing less than freedom.

To refuse moral debt in the same way, though, becomes quickly complicated. “Accountability” promises justice in the aftermath of harm, and exists, when not itself reduced to punishment, as punishment’s main alternative. To reject accountability on the grounds of excessive resemblance of the punitivity from which we wished it would depart leaves ambiguous what tools we would have left in the face of harm. Dispensing entirely with accountability threatens to leave us with nothing. Moreover, it risks abandoning the intuitive value in the components of accountability that Sered outlines: acknowledging responsibility, acknowledging the impact of one’s actions on others, expressing remorse, repairing the harm to the extent possible, and no longer committing similar harm.¹⁸⁴

Debt is also the primary medium in which we conceive of our obligations to one another. Dismissing debt outright jeopardizes the multitude of interpersonal debts that comprise it and threatens to leave us owing each other nothing at all. For all its harmful qualities, debt has

¹⁸⁰ LeBaron and Roberts, 2010; Page, Piehowski, and Soss, “A Debt of Care: Commercial Bail and the Gendered Logic of Criminal Justice Predation,” 153.

¹⁸¹ See the Jubilee Debt Campaign to cancel poor countries’ debts (<https://jubileedebt.org.uk/>) and the contemporary debt strike movement in the US and UK (<https://debtcollective.org/>).

¹⁸² “In the ancient world, all revolutionary movements had a single program: ‘Cancel the debts and redistribute the land.’” See Graeber, 8.

¹⁸³ Graeber, 8.

¹⁸⁴ Sered, 96.

nonetheless included crucial prosocial elements. Socialists, for example, mobilized around “social debt” (*i.e.*, what all of us owe other members of our political communities) as a basis of social solidarity.¹⁸⁵ Graeber implicates this further: “It’s not that we owe ‘society’.”¹⁸⁶ Rather, “society *is* our debts.”¹⁸⁷ Debt binds us to one another, and as a result of our entwined obligations, none of us may walk away.¹⁸⁸

On the other hand, intense debt relations produce social havoc: they hint at the possibility of equality, but deny its fruition on the basis of the debt.¹⁸⁹ This is because when debt binds, it does so hierarchically, following the principles laid out above. Moreover, as soon as debt is paid, parties need no longer need to have anything to do with one another.¹⁹⁰ Ideally, it would be possible to construct a politics of mutual responsibility where the alternative to eternal indebtedness does not entail social atomization. Of course, such a thing is not obviously impossible either. The barrier is merely the grammars in which we think, and the function of debt morality as fundamentally hegemonic: the horizon of the taken-for-granted.

This problem, difficult but not irresolvable, is an invitation to examine debt more deeply: to pry apart its oppressive features from its salutary ones, and envision what it might look like to rescue something like social accountability from the logics of accounting.¹⁹¹ To understand why debt produces inequality and violence, and whether these outcomes are necessary given the inputs, we return to debt’s constituent features: quantifiability and reciprocity. Quantifiability enables payment, and reciprocity demands it. Where quantifiability enables a mathematical resolution, reciprocity

¹⁸⁵ Graeber, 66.

¹⁸⁶ *Ibid.*, 136.

¹⁸⁷ *Ibid.*

¹⁸⁸ *Ibid.*, 92.

¹⁸⁹ *Ibid.*, 65.

¹⁹⁰ In a social morality based on exchange, the resolution of debt is what allows two people to walk away from one another. See Graeber, 92.

¹⁹¹ When the authors of the “Abolition University” project employ Moten and Harney’s idea of bad debt, they ask: “How might such a counterintuitive approach to the question of accumulation help us scavenge the parts of the university we want to hold on to and make use of?” Borrowing the structure of their question, we might ask the following instead: How might such a counterintuitive approach to the question of debt help us scavenge the trappings of debt we want to hold on to and make use of? See Abigail Boggs, Eli Meyerhoff, Nick Mitchell, and Zach Schwartz-Weinstein, “Abolitionist University Studies: An Invitation,” <https://abolition.university/invitation/>.

grows increasingly impatient with imbalanced accounts. In this sense, debt's cocktail of assumptions is inseparable from the theoretical structure it produces. The concluding moral apparatus—of a demand for payment, and suspended equality until the payment is made—follows with validity and necessity from the premises.

Unsuccessful in detaching quantification and strict reciprocity from their co-implications, we turn to examine the debt-formulated obligations themselves. Is it true that all debts are strictly debts? In other words, does it hold that all obligations are quantifiable, that all demand reciprocity, that all must be paid? Do these criteria hold true for obligations that are particularly salutary? If not, perhaps we can refine the concept of debt further, preserving what exists in common among the debts we wish to keep.

What is the nature, for example, of one's obligation to their parents? Graeber introduces this relation as the paradigmatic non-debt debt, writing that "there are relationships that seem clearly moral but appear to have nothing to do with reciprocity."¹⁹² Reproducing the beginning of a novel by Margaret Atwood, Graeber poses the following:¹⁹³

Nature writer Ernest Thompson Seton had an odd bill presented to him on his twenty-first birthday. It was a record kept by his father of all the expenses connected with young Ernest's childhood and youth, including the fee charged by the doctor for delivering him. Even more oddly, Ernest is said to have paid it.

When Seton paid the bill but never spoke to his father again, the debt was settled, and the two parties could walk away from each other, as they did.¹⁹⁴ The reason the bill was so scandalous was precisely because of the termination of their relationship it implied: indeed, by drawing up the bill, Seton's father insinuated he'd prefer that that they part ways.¹⁹⁵ "While most of us can imagine what we owe to our parents as a kind of debt," Graeber writes, few of us would agree that "such a debt ever *should* be paid."

¹⁹² Graeber, 91.

¹⁹³ *Ibid.*, 92.

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*

While Graeber describes parents presenting children with bills for their upbringings, Fred Moten recounts another troubling instance of filial debt.¹⁹⁶

[T]here was this old lady. She and her husband, they built [the house] how they wanted it to be. She was like, 'I don't want to sell,' but she's 91 and it's this kind of big old place, she can't keep up with it. People were telling us, 'she owes her son a hundred thousand dollars.' And me and Laura, driving back, we were like, 'how you gonna owe your son a hundred thousand dollars?' That's some crazy, barbaric shit. You have to be a barbaric monster to even be able to think of some shit like that.

These debts—absurd in various degrees because of their invocations of quantification and reciprocity in relationships we consider exceptional in their non-reciprocal nature—reveal a fissure in the meaning of “debt” itself.¹⁹⁷ For Graeber, debts are strictly quantifiable and must be at least theoretically payable.¹⁹⁸ We may imagine our obligations to our parents as debts, but most people have no desire to pay them.¹⁹⁹ Because of relaxed demands of reciprocity in already deeply unequal parent-child relationships, “wish[ing] to be square with one’s parents...implies that one does not wish to think of them as parents anymore.”²⁰⁰ Along similar lines, if we could imagine owing a debt to our ancestors, it “could only be infinite.”²⁰¹ For Graeber, it doesn’t make sense to imagine these infinite debts as debts at all.²⁰² Real debts, in other words, are quantifiable and grounded in the imperative of reciprocity, making them payable as a matter of practicality and desirability.

But what to make, as Graeber asks, of obligations that are unquantifiable? Debts, in other words, that we don’t ever want to pay?²⁰³ Here, Fred Moten and Stefano Harney stage their intervention. They introduce “bad debt, which is to say real debt,” by which they mean good (*i.e.*, politically salutary) debt.²⁰⁴ Crucially, ‘bad’ debt cannot be quantified and cannot ever be settled or

¹⁹⁶ Moten and Harney, 155.

¹⁹⁷ Exceptional non-reciprocity undermines the conditions of theoretical possible equality required to produce debt relations in the first place. As Graeber writes, “Debt is a very specific thing, and it arises from a very specific situation. It first requires a relationship between two people who do not consider each other fundamentally different sorts of being, who are at least potential equals, who *are* equals in those ways that are really important, and who are not currently in a state of equality—but for whom there is some way to set matters straight.” See Graeber, 120.

¹⁹⁸ Graeber, 62.

¹⁹⁹ *Ibid.*, 92.

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ *Ibid.*

²⁰⁴ Moten and Harney, 61.

paid.²⁰⁵ “To talk about the unpayability of real debt is not to fail to acknowledge the debt,” Moten clarifies.²⁰⁶ Instead, it is to acknowledge the mistake of attempting to calculate just what people owe one another.²⁰⁷ “[Y]ou can’t count how much we owe one another,” Moten explains: “It’s not countable. It doesn’t even work that way.”²⁰⁸ Indeed, although Graeber appears to be at odds with Moten and Harney, defining debt exclusively in the domain of the calculable while Moten and Harney insist debt is only that which resists quantification, they agree in principle if not in terminology. “What is a debt anyway?” Graeber asks, then answers: “A debt is just the perversion of a promise...corrupted by both math and violence.”²⁰⁹

The impulse against quantification is most obvious in the case of asymmetrical care relationships: “I owe everything to my mother, I owe everything to my mentor,” Harney offers.²¹⁰ But even McDermott resists commodifying any kind of human relationship in his justification of punishment. Indeed, McDermott’s ultimate case for punishment emerges from his argument that what was taken in an act of harm *cannot* be restored through restitution (necessitating punishment, in his view, as a last resort). He writes that the argument for restitution “is based on a misunderstanding of the *nature* of the debt the wrongdoer incurs by failing to treat his victim as a rights-holder.”²¹¹ A monetary payment, no matter how large, “would not be the *right kind* of payment [because] money may be valuable...but it is not valuable in the *same way*.”²¹² For a wrongdoer to pay restitution to their victim after an act of harm would not settle the debt in the same way that a father who sought to hand his son \$100 instead of offering him love also misses the point: “money is valuable in a fundamentally different way from love.”²¹³

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.*, 151-152.

²⁰⁷ *Ibid.*, 154-155.

²⁰⁸ *Ibid.*

²⁰⁹ Graeber, 391.

²¹⁰ Moten and Harney, 149-150.

²¹¹ McDermott, 414.

²¹² *Ibid.*

²¹³ *Ibid.*

While McDermott speaks exclusively to reductions of infinite and uncountable obligations (in this case, love) to monetary sums—the crudest form of reduction—his example implies the same as the story of Atwood’s protagonist, or that of Moten and Harney’s widow. Namely, it implies that quantification ought to be rejected wholesale, at least insofar as it would be just as absurd to reduce love to any other finite unit.²¹⁴ The bribe is fundamentally misguided because it seeks to quantify an affect.

This insistence on counting, on quantification, on equivalency, and therefore extraction, for Moten and Harney, is a feature of the system of accounting, which they call credit.²¹⁵ If debt is mutual and promotes socialization, credit is a means of privatization.²¹⁶ Unlike debt, credit calculates, and where debt forgets, “credit keeps track.”²¹⁷ Creditors pursue debtors until the debtors are fugitives, and when the phone rings, creditors are on the other line and debtors must pretend they’re not home.²¹⁸ In search of refuge, the debtor finds other debtors, becomes indebted to them, and offers them debt in return.²¹⁹ Creditors know about the place of refuge, but instead of seeing bad debt they see bad debtors.²²⁰ Creditors seek to demolish the place of refuge in the name of those who live there, in order to “save them from themselves and their lives.”²²¹

Reliance on accounting makes restorative justice an agent of credit. “Restorative justice is always the renewed reign of credit,” Moten and Harney write: “a reign of terror, a hail of obligations to be met, measured, meted, endured.”²²² Indeed, restorative justice processes can be incredibly demanding. Sered recounts the commitments of one Common Justice participant, Donnell:²²³

²¹⁴ While Sered does not exclusively ask responsible parties to pay cash restitution to repair their harms, the debts are restructured into finite contracts with set provisions; for example, 80 hours of community service, 50 hours of classes, 100 hours of treatment.

²¹⁵ Moten and Harney, 154-155.

²¹⁶ *Ibid.*, 62.

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*, 62.

²¹⁹ *Ibid.*

²²⁰ *Ibid.*

²²¹ *Ibid.*

²²² *Ibid.*, 63

²²³ Sered, 144-145.

He had to keep a weekly journal, take the GED exam, complete a medical assistant certificate training program, complete his résumé, and seek employment. He had to conduct community service, share reflections about his experience with a group of his peers, and plan one activity every month to take part in with his children. He had to get all of his necessary documentation, identification, and paperwork in order; dress professionally for court when he completed his public speaking engagement; and go to the doctor and receive a full physical exam to gain an understanding of the current status of his physical well-being. Donnell had to read and watch a combination of ten books, sets of articles, and films that gave him insight into himself, his community and his history, and share his reflections on what he read and watched; write reflections about his experience with the police and at the hospital when he needed medical attention; write a letter to himself that he read when he was losing focus, to help him regain his momentum and commitment; write a letter of apology to Elwin and his family, expressing his responsibility and remorse for the harm caused and his reflections about how the circle affected him; write a letter to his children telling the story of what happened; write an anti-violence pledge, share it with the other responsible parties at a community meeting, and invite them to take the pledge, too; write a journal entry with images that represent how he saw himself and his community; and learn about what is required to publish a book and investigate options for self-publishing and recommendations to new writers. He had to spend time listening to other harmed parties to learn about their experience and share his own as appropriate; write an essay about the impact of violence on individuals, families, and communities, and about how young men of color behave when they are afraid; participate in a group session quarterly with his brother and the harmed party so that they could get to know each other as men and mend the harm among them; attend at least three counseling sessions so that he could talk about and heal through the pain and trauma of what happened; meditate six times for at least fifteen minutes each time; and help create a memorial or message to be placed at the bus stop where the incident occurred. Finally, he had to attend the MOVE (Men Opposing Violence Everywhere) groups at Common Justice, which focus on the development of healthy masculinity.

But most tellingly, Sered's critique of imprisonment is reminiscent of a creditor's critique.

"Survivors deserve to have the people who harmed them held accountable to them," she explains.²²⁴

In this view, prison impedes accountability because "no one in prison is required to face the human impacts of what they have done, to come face to face with the people whose lives are changed as a result of their decisions, to own their responsibility for those decisions and the pain they have caused, and to do the extraordinarily hard work of answering for that pain and becoming someone who will not commit that harm again."²²⁵

In particular, Sered frames prison as a *refuge* from paying debt.²²⁶ She writes that accountability requires facing the pain of those we have hurt, answering their questions, and "sitting

²²⁴ *Ibid.*, 124.

²²⁵ *Ibid.*, 91.

²²⁶ Of course, prison is only a "refuge" if your perspective is that of the creditor, unable to facilitate repayment while your debtor is incarcerated.

in that fire.”²²⁷ And while Sered acknowledges that prisons are sites of brutality, beatings, sexual assault, separation from loved ones, and more, she argues that where accountability is concerned, “prison lets people off the hook.”²²⁸ While incarcerated, she continues, people are “systematically protected and excused” from accountability, and that if the concern is “demanding that those who have committed wrongdoing pay that debt, there is nowhere softer on crime than prison.”²²⁹ This evokes Moten and Harney’s critique with alarming parallel: *Creditors know about the place of refuge*, they write, *but instead of seeing bad debt they see bad debtors.*²³⁰ In response, *Creditors seek to demolish the place of refuge in the name of those who live there, in order to “save them from themselves and their lives.”*²³¹

Sered’s critique of contemporary prison is a creditor’s critique in yet another way: it parallels the arguments made by British creditors against the debtor’s prison.²³² In the 1650s, debt imprisonment faced a crisis of justification: though it sought to rehabilitate and facilitate work-oriented moral reform, debt imprisonment served as a refuge from creditors.²³³ Worse, imprisonment inadvertently made it more difficult, and less urgent, for debtors to repay their creditors.²³⁴ As a result of their debtors’ insolvency, creditors grew quickly frustrated.²³⁵ Eventually,

²²⁷ Sered, 93.

²²⁸ *Ibid.*, 91.

²²⁹ *Ibid.*, 92.

²³⁰ Moten and Harney, 62.

²³¹ *Ibid.*

²³² The historical debate around debt imprisonment is instructive for thinking about debt, punishment, and incarceration as capitalism developed in Britain. Among the most interesting takeaways is the use of early surety structures (now mirrored in bail bond cosigning, discussed more extensively in the section on retributive debts). In 1653, jail-keepers or “gaolers” were made fully liable for the debts of any debt prisoners who escaped, implicating them as “replacement debtors.” Legal scholar Bruce Mann explains that each suretyship constituted “a potential creditor-debtor relationship, both between the original creditor and the surety, and between the surety and the original debtor.” This was meant to guarantee repayment for creditors, but in 1654, Cromwell was forced to issue a retraction of the earlier ordinance because judges were seizing the estates of sureties, not the original debtors, to satisfy the creditors of debt prisoners. This created a moral crisis, wherein British citizens recognized as problematic the disciplining of those who might have failed to convince their friends to repay their debts, but themselves owed nothing. The surety system thus muddled the moral economy of debt-credit relations, prioritizing repayment of the creditor at all costs, but in doing so, arbitrarily reassigning the costs of debt. See Bruce H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge: Harvard University Press, 2009), 15-16; Cromwell, “An Ordinance for the Relief of Creditors and Poor Prisoners” (June 1654), 374; Cromwell, “An Additional Ordinance for the Relief of Creditors and Poor Prisoners” (August 1654), 481.

²³³ Gustav Peebles, “Washing Away the Sins of Debt: The Nineteenth-Century Eradication of the Debtors’ Prison,” in *Comparative Studies in Society and History* 55, no. 3 (2013): 701-24.

²³⁴ As a result, Cromwell was forced to implement a regime of release on bail. In an ordinance, Cromwell ordered that judges “permit the said Prisoners to go out of Prison for some convenient time, the better to enable such Prisoners to assist in Sale of their Estates, or take other course for payment of their said Debts.” See Oliver Cromwell, “An Ordinance for the Relief of Creditors and Poor Prisoners” (June 1654), 381.

²³⁵ In 1654 England, Cromwell introduced release on bail as a mechanism to encourage repayment. See Oliver Cromwell, “An Ordinance for the Relief of Creditors and Poor Prisoners” (June 1654), 381.

Cromwell conceded that imprisonment, while punishing, indeed ran counter to the satisfaction of creditors.²³⁶

This is significant as a rebuke to Nietzsche's claim that creditors' satisfaction at their debtors' suffering constituted a substitute payment for the debt itself. In fact, seventeenth century British creditors demonstrate that recovering their debts was indeed a priority, for which their debtors' imprisonment was meager consolation. Sered's argument corroborates this argument, implying that despite the best debt-recovery intentions, a debtor's punishment is ultimately no substitute for repayment.

Sered argues further that beyond preventing an encounter between creditor and debtor that could facilitate accountability, prison depletes the debtor's capacity to pay their debts. She recalls speaking with incarcerated men, none of whom she said "exhibited real agency."²³⁷ She attributes this assessment to the adversarial, denial-incentivizing criminal legal structure, but also to the dehumanization of incarceration.²³⁸ In an interview, Sered argues that accountability demands one's whole humanity and sense of dignity, and that prison is built to diminish it.²³⁹ But even further, Sered says that "prison depletes exactly the things you need from your own human dignity to a bank account from which you could pay restitution."²⁴⁰ She clarifies after that "the things that are needed for repair are very hard to access in the context of incarceration," but it's difficult to forget the metaphor of a bank account of human dignity, out of which a creditor must be paid restitution.²⁴¹ More than that, the bank account has been depleted by the violence of incarceration. Critically, the

²³⁶ If release on bail was the carrot incentive for debt-paying, the 1654 British government seemed incapable of generating a corresponding stick. While Cromwell could order imprisonment of those not yet imprisoned, it remained unclear what could further incentivize recalcitrant prisoners to offer valuable information about their estates. If those who refused to obey judicial orders were already in prison, Cromwell ordered punishment "by fine," merely growing the prisoners' existing debt, and "straighter and closer Imprisonment," a vague gesture at modifying the internal margin of incarcerated life. See Cromwell, "An Additional Ordinance for the Relief of Creditors and Poor Prisoners" (August 1654), 482.

²³⁷ Sered, 92.

²³⁸ *Ibid.*, 92-93.

²³⁹ Adam H. Johnson, "The Appeal Podcast: Imagining a Post-Incarceration World with Danielle Sered of Common Justice," *The Appeal*, November 21, 2019, <https://theappeal.org/the-appeal-podcast-imagining-a-post-incarceration-world/>.

²⁴⁰ *Ibid.*

²⁴¹ *Ibid.*

bank account matters not primarily for the sake of the incarcerated person. Instead, it matters because the creditor has a hold on the contents of the account and is awaiting their transfer.

To escape this austere vision of accountability, Moten and Harney argue it is necessary to depart from credit entirely. Further, an abolition of credit requires an abolition of accounting.²⁴² This conclusion has inescapable material implications: “when we start to talk about our common resources, when we talk about what Marx means by wealth — the division of it, the accumulation of it, the privatization of it, and the accounting of it—all of that shit should be abolished.”²⁴³ But it also has ideological implications, involving a refusal to count and a need to conceive obligations differently altogether.

Moten explains that when people think about abolishing debt, what they mean is abolishing credit, not the ‘bad’ and mutual debt.²⁴⁴ Even then, what they probably mean is forgiveness.²⁴⁵ But forgiveness, within the system of accounting, will always be insufficient. First, forgiveness (or mercy, or any equivalent act of generosity) only generates more debt. Sered quotes a Common Justice participant, describing what he owes to the person he harmed for allowing him to participate in Common Justice rather than face prison: “‘The way I think about it, I owe him twice: once for what I did, and once for him giving me this chance.’”²⁴⁶ The logic of accounting is extraordinarily absorptive: even creditors’ merciful refusals to collect on particular debts generate additional cycles of debt to be repaid. When parties keep score, this kind of forgiveness can only reproduce debt, not end it.

But even if incurring a compounded debt of gratitude can somehow be avoided, Moten explains that loan forgiveness typically takes the form “‘we’ll forgive this loan. Now, if you get in

²⁴² Moten and Harney, 154-155.

²⁴³ *Ibid.*

²⁴⁴ *Ibid.*

²⁴⁵ *Ibid.*

²⁴⁶ Sered, 147.

debt again, we're gonna want to get paid, goddammit.”²⁴⁷ This exception-to-the-rule merely reifies the logic of accounting, offering exceptions only as needed to keep the rule in place.

But a third, more potentially emancipatory form of forgiveness exists in the form of the biblical jubilee. Ilsup Ahn explains:²⁴⁸

According to the Old Testament law, every creditor shall remit the claim that is held against a neighbor in the year of jubilee. In the ancient world (as well as in modern society, particularly in South East Asia), high interest rates on loans often forced people into debt slavery (bonded slavery). When debtors could not repay their loans, they and their families would be sold into slavery. The debt release in jubilee legislation, thus, meant to reform the system of society in which the rich were getting richer and the poor poorer. The significance of the jubilee legislation is that...The forgiven debt is not converted or transformed into a form of psychological liability or balance.

This case brackets the problem of compounding debts of gratitude expressed in the first case insofar as the forgiven debt is not ‘accounted for’ as psychological or other liability. Even further, it occurs society-wide, and potentially even reoccurs to reset the debts of all back to *tabula rasa*. Still, this is insufficient. Even wiping the tablets clean in the year of jubilee or by one-time legislative fiat is an exception that keeps the system running. Meant to soften the compounding wealth of the rich and the compounding poverty of the poor, it temporarily manages class tensions but does not stop accounting from resuming immediately thereafter.

Instead, abolishing credit and the system of accounting demands rejecting quantifiability outright. Without credit, Moten and Harney explain, “debt is infinitely complex,” and “it does not resolve in profit, seize assets, or balance in payment.”²⁴⁹ Without credit, we owe each other everything; we owe each other the infinite; the debts we are about are not countable. So we stop counting and stop keeping track.

Abolishing the system of accounting also demands relaxing the imperative of reciprocity. This means refusing the logic that infinite debts ought to be reduced to finitude and ought to be

²⁴⁷ Moten and Harney, 154-155.

²⁴⁸ Ilsup Ahn, “The Genealogy of Debt and the Phenomenology of Forgiveness: Nietzsche, Marion and Derrida on the Meaning of the Peculiar Phenomenon,” in *Heythrop Journal* LI (2010), pp. 454–470.

²⁴⁹ Moten and Harney, 64-65.

paid, understanding that debt is never something that can be paid off.²⁵⁰ Ahn explains that this move follows easily from the refusal to quantify: “the logic of [strict] reciprocity is meaningless,” and indeed useless, “without the backdrop of the equivalence.”²⁵¹ What becomes of ‘bad’ debt, that is real debt, that is debt we seek to preserve, without reciprocity? Halberstam explains that debt “presumes a kind of individualized relation to a naturalized economy that is predicated upon exploitation.”²⁵² Instead, Halberstam asks, paraphrasing Harney, “Can we have...another sense of what is owed that does not presume a nexus of activities like recognition and acknowledgement, payment, and gratitude?”²⁵³ Can debt instead become a “principle of elaboration?”²⁵⁴ Through this ethos, reciprocity becomes a way of being with one another, not a demand to settle accounts.

As a principle of elaboration, debt is an affect like love. “It’s not that...you wouldn’t owe your mother,” explains Harney, “but that the word ‘owe’ would disappear and it would become some other word, it would be a more generative word.”²⁵⁵ Debt, for Harney, “doesn’t need to be forgiven, but needs to become activated as a principle of social life,” activated as something that refuses to resolve into creditor and debtor, which allows us to say “I don’t really know where I start and when I end.”²⁵⁶ Moten frames this radical form of sociality as a consequence of the uncountability of how much we owe one another: “it’s so radical,” he writes, “that it probably destabilizes the very social form or idea of ‘one another.’”²⁵⁷ Blurred boundaries are exactly what’s at stake in filial relationships: Harney argues that if it’s a ‘real’ debt, as in a ‘bad’ debt, “it’s not just for you, it passes through you, but it was a generative form of affect between two beings that is precisely valuable because it continues in certain kinds of ways.”²⁵⁸ Moten explains that what is ultimately at

²⁵⁰ *Ibid.*, 5.

²⁵¹ Ahn, 465.

²⁵² Moten and Harney, 5.

²⁵³ *Ibid.*

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*, 150.

²⁵⁶ *Ibid.*, 154.

²⁵⁷ *Ibid.*, 154-155.

²⁵⁸ *Ibid.*, 154.

stake is “the possibility of a general socialization of the maternal.”²⁵⁹ In everyday performance, this looks like improvisation and everyday performance of the abundance of mutual debt in which we already find ourselves, “ow[ing] each other the indeterminate” and “ow[ing] each other everything.”²⁶⁰

Forgiveness looks different against a backdrop without accounting, and indeed, it seems absurd. But as Ahn explains, drawing on Derrida, pure forgiveness only appears to be absurd “because it cannot be fused onto the ‘horizon of the economy,’ the “fundamental law of [which] is none other than the logic of reciprocity.”²⁶¹ Instead, we might exist in a “continual state of ‘being forgiven’ [where] we are also continually called to unfold ‘being forgiven’ unto others,” thus “going beyond the logic of reciprocity.”²⁶² The absurdity here does not mean impossibility, meaninglessness, nor contradiction; instead, it implies the value in forgiveness as a generative affect beyond the “economy of forgiveness” otherwise produced by moral accounting.²⁶³

Refusing to account also involves refusing to repair. “We were already good in the mutual debt that can never be made good,” Halberstam writes.²⁶⁴ Moreover, the object of repair is irreparable: “The only thing we can do is tear this shit down completely and build something new.”²⁶⁵

Survivors must realize that the logics of repair are bad for us, too. On opposing racism, Moten says:²⁶⁶

The coalition emerges out of your recognition that it’s fucked up for you, in the same way that we’ve already realized that it’s fucked up for us. I don’t need your help. I just need you to recognize that this shit is killing you, too, however much more softly...you know?

²⁵⁹ *Ibid.*, 154-155.

²⁶⁰ *Ibid.*, 20, 157-158.

²⁶¹ Ahn, 463-4.

²⁶² *Ibid.*

²⁶³ *Ibid.*, 463.

²⁶⁴ Moten and Harney, 20.

²⁶⁵ *Ibid.*, 6.

²⁶⁶ *Ibid.*, 10.

We might think about responding to harm in the same way. Moten argues that given irreparability, given brokenness, we must abolish accounting “without any kind of sense of a return to some originary state of grace, but instead carrying all of what that history has imposed upon us.”²⁶⁷ Harney explains that in the face of harm, we must rehearse—not in the sense of performance, but in the sense of practice and experimentation.²⁶⁸ Being in debt together “doesn’t mean we don’t want anything, that it just sits there and everything’s fine.”²⁶⁹ Instead, “There’s something to be done, but it’s not performative, it’s not managerial.”²⁷⁰ Donna Haraway advances a critique of reconciliation or restoration in a similar key, writing that she is not interested in either but is instead “deeply committed to the more modest possibilities of partial recuperation and getting on together.”²⁷¹ What this requires, in her words, is “‘getting on together’ with less denial and more experimental justice.”²⁷²

As a fundamentally experimental project, restorative justice stands in a relationship of potentiality to the discourses it must overcome. On one hand, as I have argued in this paper, restorative justice is likely to replicate retribution so long as it continues to articulate itself in the language of accounting. Moreover, certain structural features of restorative justice create degrees of attachment to this logic: facilitating an encounter between someone who has done harm and the person they have hurt to discuss the flow of resultant obligations will almost necessarily resolve into debtor and creditor. On the other hand, restorative justice can indeed work to relax its insistence on accounting. Like the project of abolition itself, transcending moral accounting will ultimately require the building of a new society altogether. Yet, glimmers of this new society are everywhere, in pockets of resistance and imaginative grammars of relationship.

²⁶⁷ *Ibid.*, 155.

²⁶⁸ *Ibid.*

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid.*

²⁷¹ Donna J. Haraway, *Staying with the Trouble* (Durham, NC: Duke University Press, 2016), 10.

²⁷² Haraway, *Staying with the Trouble*, 27-28.

Indeed, wisdom that already exists within restorative justice hints at what it might look like to refuse moral accounting as a metaphor and strategy for addressing harm. Though there exist a multitude of interventions challenging the monopoly of accounting on mutual obligation, two in particular stand out. The first of these is a recognition that a responsible party meeting their commitments is insufficient—and even unnecessary—for the harmed party’s healing. In a conversation with Danielle Sered, Howard Zehr poses the following question:²⁷³

How do you respond when a survivor who believes they’ve found closure during a process changes their mind after a restorative justice process when the offender has met the terms of accountability [given the fact that] healing and trauma aren’t linear [and] sometimes we miscalculate our needs down the line? Needs change after someone has reached a new level of healing.

The stakes of this question are unmistakable, given moral accounting’s presumption that the debtor’s payment and the creditor’s wholeness are synonymous: in other words, that the responsible party’s fulfillment of their commitments is both necessary and sufficient to secure the healing of the person harmed. But because this is so frequently untrue, the terms of settlement become muddled: despite having completed their commitments, must a debtor wait until their creditor heals for their moral standing to finally be redeemed? Often, such finality is impossible: harm and trauma are not easily completely reversed, giving way to the threat of the debtor’s permanent moral subjugation. In the other direction, must survivors artificially attach their sense of wholeness to the acts of the person who harmed them, which (while related to feelings of healing and closure) are ultimately independent?

In response to Zehr’s provocation, Sered concedes that a responsible party’s fulfillment of their commitments is insufficient for the harmed party’s healing:²⁷⁴

I don’t know that we’ve had anyone tell us they felt full closure... We think about the moment they’re with us, so the restorative justice process, as a stage in the healing, and hope that it contributes the most it can to that stage with a full awareness that you’re exactly right, that healing is as non-linear as anything comes and that things change over time and we continue to hold space for that change... But I think it’s super important not to overstate to survivors what the restorative justice process will do for them, or to assume they’ll leave it healed or

²⁷³ Danielle Sered and Howard Zehr, “Transforming Violence: Restorative Justice, Violent Crime and an End to Mass Incarceration,” December 12, 2018, <https://www.youtube.com/watch?v=UCvylaiUFU0> (1:18:56-1:19:18).

²⁷⁴ *Ibid.*, (1:19:18-1:20:15).

with anything closed.

Sered's recognition is a powerful intervention against the conflation of moral accounting. As transformative and disability justice organizer Mia Mingus addresses survivors of harm, "your healing cannot depend on their accountability."²⁷⁵

Secondly, we might look to another intervention from Mingus, who writes that we must move away from "holding people accountable," and instead, towards supporting people to take accountability themselves.²⁷⁶ Interpreted against moral accounting, accountability reflects not mandate to settle accounts, but instead, an invitation to foster practices like empathy, recognition, and kindness. Indeed, an understanding of accountability as a skill to be cultivated implicitly resists the possibility of operations like extraction and transfer. Other formulations of this maxim challenge the cogency, not merely the desirability, of "holding someone accountable" altogether. Understanding accountability as a skill that develops through practice, like a muscle, encourages an embrace of growth and transformation independent of "payment."

In many ways, however, resisting the dominance of moral accounting merely involves refusal. As Moten points out, a rejection of quantifiability is just that: a maintained insistence that what we owe each other cannot be counted.²⁷⁷ As Graeber tells it, *Debt: The First 5,000 Years* was inspired by a conversation he had with an otherwise politically liberal lawyer, who insisted that the predations of the International Monetary Fund in poor countries were nonetheless justified because the countries had "borrowed the money!"²⁷⁸ And "surely one has to pay one's debts," as a matter of straightforward moral obligation.²⁷⁹ But under further scrutiny, the self-evidence of debt payment as moral imperative falters. In his concluding remarks, Graeber says that "the principle has been

²⁷⁵ Mia Mingus (@miamingus) tweet on February 28, 2020, <https://twitter.com/miamingus/status/1233487902241411081>.

²⁷⁶ Mia Mingus, "Leaving Evidence," <https://leavingevidence.wordpress.com/> (Accessed April 20, 2020).

²⁷⁷ Moten and Harney, 154-155.

²⁷⁸ Graeber, 2.

²⁷⁹ *Ibid.*

exposed as a flagrant lie.”²⁸⁰

The same goes for punishment. When McDermott turns to address objections in his defense of retribution, he identifies the most powerful objection as “a flat denial of the legitimacy of retribution.”²⁸¹ With respect to these critics, “if they are willing to stick with their anti-retributive intuitions all the way down,” McDermott admits “there is little we can do to dislodge them from this position.”²⁸² In other words, punitive logics are extremely vulnerable to demands for justification.

Although the logics of moral accounting admit severe weakness, we must still actively reclaim justice from beyond them. As Pavlich explains, “It is not that justice is calculated either as restorative restitution or criminal retribution, but rather that together these interlocking paradigms form one pole of what potentially could be opposed to a new horizon of justice with very different concepts and ideas.”²⁸³ Justice instead “might evoke ethical precepts to grapple with the undetermined, infinite and never fully present moments in which the name of justice is called upon to deliver subjects from one sort of being to another....for justice always extends beyond a specific reckoning.”²⁸⁴

²⁸⁰ *Ibid.*, 391.

²⁸¹ McDermott, 420.

²⁸² *Ibid.*, 421.

²⁸³ Pavlich, 108.

²⁸⁴ *Ibid.*, 110-111.

VI. Conclusion

I was brought into the abolitionist movement, like many others, through frustration and despair around sexual violence and harm. At a lecture in 2016,²⁸⁵ Angela Davis offered what would later become my developing political commitments: an understanding that gender justice also must be anti-racist, and thus anti-carceral. Critical study of the carceral feminist project and relationships with those impacted by the criminal legal system have broadened the rage and sadness I initially felt into anger at all forms of violence—including and especially that which is done by the state in the name of people who have been harmed. Sometimes, this violence is obvious: imprisonment, forced labor, beating. Other times, the violence is subtle and mundane, transmitted through the strictures of social control: the checklists of a parole officer or social worker, invasions of privacy and time, strained relationships with loved ones after asking them co-sign a bail bond.

Over time, it became clear to me that this system could produce no justice. Meanwhile, it became difficult for me to conceptualize what justice even meant. *Not this*, was all I could imagine. Like other abolitionists, I understood the need to end all forms of violence, including the interpersonal and that perpetrated by the state. But it was still unclear: once harm had happened, what was to be done?

This paper emerged from my interest in how abolitionists are reclaiming justice and accountability from discourses that have synonomized them with retribution. Restorative justice has offered a tremendous amount to this end, helping to articulate conceptions of justice and accountability that also reject all forms of violence. Common Justice is undoubtedly doing work at the very frontier of these concerns.

But when I read Danielle Sered's *Until We Reckon*, I became troubled all over again. Sered's critique of the criminal punishment system was deeply resonant: as an abolitionist herself, she spoke

²⁸⁵ Angela Davis, Keynote Lecture, *Gender, Violence and Anti-Violence Conference*, Princeton, NJ, March 31, 2016.

about the violence and austerity of punishment in clear relief.²⁸⁶ Reading about relationships repaired through restorative justice was also deeply heartening. But something about the stories felt off. Doing restorative justice as diversion from traditional criminal prosecution felt like a form of apology-at-gunpoint: if defendants failed to fulfill their agreed-upon commitments, they faced prison or jail.

Even beyond this structural concession effectively required of diversion programs, the sample commitments of responsible parties in Common Justice's program seemed profoundly demanding, and not just emotionally so. Mandatory meetings, work, classes, volunteer shifts, appointments, and sometimes symbolic burdens on daily life, like avoiding the subway for a year; all backed by the threat of a fate much worse. These requirements were thoughtfully selected, yes; and arrived at through a mediated consensus between the harmed party and responsible party, however imbalanced; but how else did they differ in impact from the requirements of a parole or probation officer, which could also be justified in paternalistic and non-punitive terms?

When I began to notice Sered claim victory for solutions that seemed non-punitive in name only, I started to interrogate my own understanding of punishment. I wanted to understand why these convergences were occurring, but not just from a structural perspective (one concerned primarily with institutional constraints that nonprofits face and the contradictions of a diversion program operating as part of the system it rejects). Instead, I sought to engage with the discourse in Sered's book, *Until We Reckon*, taking its rhetorical appeals seriously as expressions of normative political theory. The goal of this investigation was to better understand the assumptions that restorative justice, articulated by Sered, shares with the retributive logics that it hopes to overcome.²⁸⁷

²⁸⁶ "Danielle Sered: To End Mass Incarceration, We Must Radically Change How We Approach Violence," *Democracy Now*, March 15, 2019, https://www.democracynow.org/2019/3/15/danielle_sered_to_end_mass_incarceration.

²⁸⁷ This approach has serious limits. Instead of conducting an independent account of Common Justice's practices, I take Sered's word, focusing on their philosophy as she articulates it and the example cases she discusses. This leaves out potential discrepancies and gaps between discourse and

The argument that I ultimately advance is the result of my wrestling with this question, and in particular, two major interventions that shaped my thinking. David Graeber's extraordinary argument in *Debt: The First 5,000 Years* made it clear to me that debt is at the center of ordinary morality, and that its moral force ought to be critically interrogated. I had understood debt as connected with punishment before, through Nietzsche, but Graeber's problematization of ordinary discourses and their implications (in particular, "accountability" as a settling of accounts) helped me understand the reliance of restorative justice on these moral logics as well. Using ideology critique as a lens contextualized this problem with the language of hegemony, disavowal and fantasy investments, and it became increasingly clear why restorative justice could not seem to break free from the language of debt.²⁸⁸

At the same time, Graeber left me profoundly troubled about what the role of debt ought to be. Debt was at once a technology of commodification, domination, and violence, *and* a bond of sociality. Indeed, debt was the way that we owe one another anything at all. In the case of restorative justice, moving beyond debt to reject its hierarchical implications seemed to require dispensing with the idea of accountability entirely, a deeply unsatisfying prospect. I was further troubled by what

practice, a crucial and valuable site for analysis. Further, ambiguities remain over key details, including: the degree of power a responsible party has in rejecting commitments that are theoretically permissible and that their harmed party asks them to fulfill, the degrees of support and flexibility that exist around the fulfillment of commitments after they are agreed to initially, and the exact conditions under which someone could be terminated from Common Justice's programs. Given these limitations, I take the moral framework Sered has provided and ask what we might make of it.

²⁸⁸ The enabling conditions for a prison nation are both material and ideological, and inseparably so. As Angela Davis explains, by disappearing human beings in response to social problems, prison "relieves us of the responsibility of seriously engaging with the problems of our society, especially those produced by racism and, increasingly, global capitalism" (16). Neoliberal austerity and penal expansion are tightly linked: as Loïc Wacquant argues, the widespread criminalization of poverty was the state's response to social problems that emerged from widespread privatization, deregulation, and welfare-to-workfare shifts. Still, punishment is naturalized as the inevitable and just consequence or crime. As Davis writes, if we can "give up our usual way of thinking about punishment as an inevitable consequence of crime," a "neat and logical sequence offered by discourses that insist on the justice of imprisonment," we would recognize 'crime' as a fickle category and punishment as linked to profit and political agendas (112). Although the moralization of punishment is difficult to dismantle, doing so is ultimately necessary. Alongside "demilitarization of schools, revitalization of education at all levels, [and] a health system that provides free physical and mental care to all," Angela Davis argues that abolitionists must demand a justice system based on "reparation and reconciliation" instead of "retribution and vengeance" (107). The impulse to replace the prison system with a single alternative is thus misguided, she continues: if the prison's function is to mask social problems by disposing of people deemed inconvenient, a strategy to promote the flourishing of all people must marshal a full spectrum of alternative institutional configurations, emphasizing free, high-quality and universal education as well as physical and mental healthcare (106-107). And as Ruthie Gilmore argues, our task ultimately involves transforming the conditions under which prison became the presumptive solution to problems, rather than merely "abolishing the buildings we call prisons." One reason this is so difficult is because of the ideological work done by the prison, and carceral hegemony writ large: it is difficult to imagine life without prisons, yet we are also "afraid to face the realities they produce." See Davis, 16, 112, 107; Loïc Wacquant, *Punishing the Poor* (Durham; London: Duke University Press, 2009); Ruth Wilson Gilmore, "Ruth Wilson Gilmore on Covid-19, Decarceration, and Abolition" in conversation with Naomi Murakawa, April 16, 2020, *Haymarket Books* <https://www.haymarketbooks.org/blogs/128-ruth-wilson-gilmore-on-covid-19-decarceration-and-abolition>.

seemed like the total theoretical reach of debt morality, particularly through its capacity to absorb mercy and debt forgiveness into the scheme of accounting (if I'm in debt to my creditor but they forgive me, I owe them twice; once for the principal, and again for their generosity). After explicating in more detail why punishment and restorative justice shared a reliance on debt morality, explaining their problematic convergences, I was prepared to end the argument by posing the resulting aporia: what is the alternative to debt morality?²⁸⁹ Is escape possible at all?

Through an encounter with Fred Moten and Stefano Harney, I found a provisional answer. Moten and Harney extricate debt, which is social, infinite, and unpayable, from credit; which is synonymous with the system of accounting. With Moten and Harney, I begin to sketch an ethos of embracing unpayable debts and refusing to keep track. In other words, a reclamation of accountability from the logic of accounting. What might it mean to find different ways of being with, and for, one another?

So long as we critique punishment on the grounds that it is “inadequately demanding;” so long as we condition a survivor’s wholeness on the person who harmed them “paying a debt;” so long as we continue to traffic in the language of credit and insist on strict reciprocity; we will not be able to resist reproducing punishment and calling it accountability. In relying on moral accounting, restorative justice severely restricts its emancipatory potential.

This reliance is understandable, given debt’s profound hegemony. Hegemony operates as the “horizon of the taken-for-granted,” limiting what counts as “rational, reasonable, credible, indeed sayable or thinkable,” within the terms available.²⁹⁰ Indeed, the grammars in which we operate delimit the boundaries of our imagination. Compounding the difficulty of the task faced by

²⁸⁹ I realize that this may sound as if I am dismissing the fact that the vast majority of moral philosophy does not explicitly rely on debt—I do not wish to contest this. Instead, what I seek to uplift is that debt seems inescapable in ordinary, everyday morality. Debt's power to govern common sense around interpersonal obligations seems inescapable; thus, it is less a question of debt's theoretical force alone, and more a problem of hegemony and inertia constructing a problem of everyday imagination.

²⁹⁰ Hall, 44.

restorative justice, retributive logics possess a hegemony of their own. Restorative justice has set out to replace punishment in a society that has not yet decided to end it. As Pavlich emphasizes, “Remaining relevant and calculating justice anew is an impossible trade-off, but it may also suggest the possibility of recalibrating justice in a rather different way — as always a promise yet to come.”²⁹¹ Pavlich’s suggestion that we move beyond punishment by “calculat[ing] justice anew” further suggests the interplay between hegemonies of retribution and accounting.

In *Until We Reckon*, Sered implores that we “reckon” on a number of levels: with the inadequacies of the criminal justice system for survivors, with racial injustice, with America’s addiction to caging, and more. While the metaphor of reckoning—a synonym for calculating—hints at the role of moral accounting in her view of restorative justice, she ultimately implies that what stands before us is a struggle. That could not be more true.

²⁹¹ Pavlich, 109.

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Selected Bibliography

- Ahn, Ilsup. "The Genealogy of Debt and the Phenomenology of Forgiveness: Nietzsche, Marion and Derrida on the Meaning of the Peculiar Phenomenon." *Heythrop Journal* (2010): 454-470.
- Bourdieu, Pierre. *The Logic of Practice*. Palo Alto, CA: Stanford University Press, 1992.
- Davis, Angela Y. *Are Prisons Obsolete?* New York, NY: Seven Stories Press, 2003.
- Du Bois, W.E.B. *The Souls of Black Folk*. Oxford; New York, NY: Oxford University Press, 2007.
- Duff, R.A. "Restorative Punishment and Punitive Restoration." *Restorative Justice and the Law*. Devon, UK: Willan Publishing, 2002.
- Feeley, Malcolm M. and Jonathan Simon. "The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications." *Criminology* 30, no. 4 (1992): 449-474.
- Gottschalk, Marie. "Split Verdict: The Non, Non, Nons and the 'Worst of the Worst.'" *Caught: The Prison State and the Lockdown of American Politics*. Princeton, NJ; Oxford: Princeton University Press, 2015.
- Graeber, David. *Debt: The First 5,000 Years*. New York: Melville, 2011.
- Grierson, Phillip. *The Origins of Money*. London: Athlone Press, 1977.
- Hall, Stuart. "'The Toad in the Garden': Thatcherism among the Theorists." *Marxism and the Interpretation of Culture*, ed. Cary Nelson and Lawrence Grossberg. Urbana, IL: University of Illinois Press, 1988.
- Hobbes, Thomas. *Leviathan*. Ed. C.B. MacPherson. London: Penguin Books, 1982.
- LeBaron, Genevieve and Adrienne Roberts. "Toward a Feminist Political Economy of Capitalism and Carcerality." *Signs: Journal of Women in Culture and Society* 36, no. 1 (2010): 19-44.
- Marx, Karl. "Crime and Primitive Accumulation." *Crime and Capitalism: Readings in Marxist Criminology*, ed. David E. Greenberg. Philadelphia, PA: Temple University Press, 1993.
- McDermott, Daniel. "The Permissibility of Punishment." *Law and Philosophy* 20, no. 4 (2001): 403-432.
- Miller, Reuben Jonathan and Forrest Stuart. "Carceral Citizenship: Race, Rights and Responsibility in the Age of Mass Supervision." *Theoretical Criminology* 21, no. 4 (November 2017): 532-48.
- Moten, Fred, and Stefano Harney. *The Undercommons: Fugitive Planning and Black Study*. London, UK: Minor Compositions, 2013.
- Neocleous, Mark. *The Fabrication of Social Order*. London: Pluto Press, 2000.

- Nietzsche, Friedrich. *On The Genealogy of Morality*. Cambridge: Cambridge University Press, 2017.
- Page, Joshua, and Victoria Piehowski, and Joe Soss. "A Debt of Care: Commercial Bail and the Gendered Logic of Criminal Justice Predation." *RSF: The Russell Sage Foundation Journal of the Social Sciences* 5(1) (2019): 150–72.
- Pavlich, George. *Governing Paradoxes of Restorative Justice*. London: Routledge, 2005.
- Peebles, Gustav. "Washing Away the Sins of Debt: The Nineteenth-Century Eradication of the Debtors' Prison." *Comparative Studies in Society and History* 55, no. 3 (2013): 701-24.
- Pirro, Jeanine. *To Punish and Protect*. New York, NY: Touchstone, 2003.
- Sawyer, Wendy, and Peter Wagner. "Mass Incarceration: The Whole Pie 2020." *Prison Policy Initiative*, March 24, 2020.
- Sered, Danielle. *Until We Reckon: Violence, Mass Incarceration, and A Road to Repair*. New York: The New Press, 2019.
- Van Ness, Daniel, and Karen Heetderks Strong. *Restoring Justice*. Cincinnati, OH: Anderson Pub, 1997.
- Wacquant, Loïc. *Punishing the Poor*. Durham; London: Duke University Press, 2009.
- Wang, Jackie. *Carceral Capitalism*. South Pasadena, CA: Semiotext(e), 2018.
- Zehr, Howard. *Changing Lenses*. Scottsdale, PA: Herald Press, 1990.