Retributivism is the notion that punishment is justified because, and only because, the wrongdoer deserves it. Proportionality is central to retributivism. A proportional punishment is one in which the severity of a punishment is proportional to the seriousness of the offense (for example, its wrongness or harmfulness). Michael Tonry’s collection is must reading for punishment theorists. The articles are well-chosen and the reflections of theorists such as Andreas von Hirsch, R. A. Duff, and Douglas Husak who have shaped punishment theory and who now consider the future of the principles that have governed their work, makes for interesting reading. The tie-in between retributivism and the practice of punishment is enlightening and sometime too often absent in the philosophical literature.

In Tonry’s introduction (“Can Twenty-first Century Punishment Policies Be Justified in Principle?”), he notes that in the 1970’s and 1980’s, retributivism seemed as if it was going to replace consequentialism as the justification of institutional punishment, both in the academic and legal world. By the 1990’s, a number of practices in the U.S., and to a lesser degree other English-speaking countries, signaled that governments were moving away from retributivism. Examples of such practices include indeterminate sentences such as sexual-predator laws (setting out indeterminate sentences for child molesters), harsh recidivist sentences such as mandatory minimum sentences and “three strikes” laws, and rehabilitative programs found in drug courts.

Tonry’s book has three sections. In the first section, the authors discuss the evolution and influences of retributivism over the past two centuries. Matt Matravers (“Is Twenty-first Century Punishment Post-desert?”) argues that the best theories of punishment are independent of desert. At the end of the twentieth century the seeming spread of retributive theories, he argues, were not about desert. Rather, they were about sweeping away practices that resulted in actual injustice. This sweeping occurred in part by the introduction of an important proportionality principle. He argues that this principle does not rest on desert playing an independent justificatory role. Matravers argues that neither the desert thesis nor the demands of proportionality necessarily dictate the shape of a legitimate and just criminal justice system. His underlying argument is the Rawlsian one that whether or not individuals are responsible for their talents, there is no legitimate way of translating differences in actions or characters into distributive shares, whether of goods or of hard treatment. He argues that retributivist theories in which desert plays an independent role...
are implausible. Retributivist theories where desert is not central are more plausible.

Essays by John Kleinig (“What Does Wrongdoing Deserve?”) and Antony Duff (“Responsibility, Restoration, and Retribution”) review the notion of blame and condemnation that underlie retributivism. Kleinig argues that the appropriate response to wrongdoing should embody the expression of blame. He argues that hard treatment in the form of punishment proportionately expresses blame (condemnation). It also demands of the perpetrator that he or she recognize that the burden is appropriate. He argues that this is consistent with restorative punishment to the degree that the latter includes punishment-related hard treatment.

Duff argues that punishment communicates censure to the offender. He argues that the communication flows from the polity to the offender as well as from the offender to the polity and victim. The latter strand of communication involves an apology from the offender to the victim and community that he wronged. This second strand must be accomplished through the burdensome feature of punishment. Restorative justice involves offenders restoring or repairing relationships between offenders, victims, and communities. It typically involves offenders meeting with the victim and other interested parties and can be done as a supplement to punishment or as a replacement for it. Duff argues that these strands of communication allow punishment to serve as an appropriate, public, and formal reparation for crime. Thus, he concludes, retributivism is compatible with restorative and reparative ideas.

Jesper Ryberg (“Punishment and Desert-adjusted Utilitarianism”) looks at how punishment is justified under desert-adjusted utilitarianism. He points out that the application of this theory to the practice of punishment depends on solutions to problems that are difficult in theory, let alone in practice. First, proponents of desert-adjusted utilitarianism must set out the degree of goodness or badness (charge) of deserved suffering. Second, they must set out the magnitude of deserved suffering relative to other states of affairs (for example, pleasure and pain). Third, they must set out how much pleasure and pain a person deserves. Ryberg argues that this theory generates the counterintuitive result that someone can be obligated to commit a crime against someone else who has committed a crime and not been punished for it.

In the second and third sections, authors discuss contemporary punishment policies and practices that have been insufficiently examined from a retributivist perspective. Richard Frase (“Can Above-desert Penalties Be Justified by Competing Deontological Theories?”) looks into the practice in a number of jurisdictions of expanding sentences beyond an offender’s deserved terms. He uses two non-consequentialist frameworks, John Rawls'