

Crime, Punishment and Redemption

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November 13, 1994

The ugliest political campaign in recent memory is over, and we are now in the process of trying to assess what, if anything it means for the future, and for our understanding of ourselves as a people. As I look back over these past few months, I recognize that I have seldom felt quite as disengaged from the political process as I have been during this particular campaign. Centering around personalities, fueled by a kind of free-floating anger, this campaign seemed to offer few fundamental issues which engaged the candidates or the electorate. The images which circulate in my mind are of television ads in which a candidate is accused of lying, cheating, deceiving the public, and then, as a clincher, of being soft on crime and weak in his or her support of the death penalty. Indeed, if there was a central theme in this election campaign it may have been a focus upon crime and what constitutes an appropriate response to what is perceived to be growing violence in our national life.

It is ironic that several weeks ago, in the midst of the campaign, National Public Radio carried a report that for the first time in our national history, there were more than one million citizens of the United States incarcerated in the nation's prisons, and that nearly half a million more were being held in jails, awaiting trial, or serving lesser sentences. These figures make the United States second only to South Africa among industrialized nations for the percentage of its citizens imprisoned. Despite this fact, no one in the United States seems to feel safer, yet few people have begun to question whether the jailing of people is an effective response to the kinds of crime which worry and frighten us.

At the same time, reports were circulating concerning the sudden explosion of crime in the former Soviet Union. With the introduction of the so-called free market economy, large numbers of people seemed to have stepped outside the law in an effort to profit from the new opportunities, creating a virtual crime wave in that part of the world. No one in this country seemed prepared to ask the obvious question of whether there is an underlying connection between the entrepreneurial society and a flourishing criminal sub-culture. Instead, we seem focused totally upon reactive measures, and refuse to think clearly about what might prove to be effective preventive measures.

All of this came to focus for me in a chance conversation I had several weeks ago with a young man who is, among other things, an auxiliary policeman in one of our neighboring communities. I had driven a friend to the airport to catch a plane. On the way I had noticed that my car was overheating. I dropped my friend at the terminal, and then found a place where I could park the car while I figured out how serious the problem was. It was serious. I ended up calling a tow-truck and having the vehicle towed back to Summit,

where it underwent an immediate emergency radiator-transplant. Riding back from the airport in the cab of the tow-truck, we happened to pass a police-car parked by the side of the road. It was obvious that the officer in the car had been detailed to guard a single prisoner who was busy picking up litter along the roadside. Suddenly, the tow-truck driver became furious. "Look at that waste of my tax money," he exploded.

I thought he was angry that people had been littering the roads and that a policeman's time was being devoted to watching this prisoner doing a job that would not be necessary if people were just a little more responsible. I was wrong. He went on to denounce the coddling of criminals. "He should be locked up in a cell and kept there until his time is served," he insisted. "Instead, we build prisons that are more comfortable than hotels and feed them fine food, we give them television and college classes, weight-lifting equipment and games, and on nice days like this, we let them out to pick up trash along the highways. Hell, who wouldn't want a life like that?"

For a moment I was stunned. Then I asked him, "Would you really trade your life for that prisoner's life? The times I have had occasion to visit the State Prison in Rahway, it never struck me as luxurious. In fact it seemed to me that it would take television and radio, books and classes, weight-lifting and sports just to keep one from going insane in a place like that." The tow-truck driver grunted and muttered, "Maybe, but were are still just too soft on crime in this country."

This is the attitude which fueled the rhetoric on crime and punishment in the recent campaign, and it is to the anger and outrage expressed by the tow-truck driver that politicians of all stripes have been pandering. It is this attitude which has led so-called liberal candidates to brag about the numbers of prisons they have been responsible for building, and so-called conservative candidates to insist that we need to build still more prisons. It is this attitude which has led so-called liberal candidates at every level to call for increased the use of the death penalty, and so-called conservative candidates to call for measures which will limit the judicial appeals of those facing execution, and all of this despite the fact that every study indicates that capital punishment does not deter crimes of violence and every execution is more costly to the public than life imprisonment. It is this attitude which calls for corporal punishment--caning and the like--as a solution to violence, which calls for "people's prisons," modeled on the penal practices of preindustrial societies. It is this attitude which has made prison construction, maintenance and operation such growth industries that small towns all over the country now vie with one another for the siting of such a facility. And, of course, it is this attitude which fuels the demand for mandatory sentencing, the so-called "three strikes and you're out" proposals, and other devices which would strip judges of any latitude in sentencing of convicted offenders.

If there were any evidence that these kinds of proposals were actually effective in reducing crime and violence, or resulted in a greater sense of security among our citizens, perhaps they might be justified. In point of fact, however, the more of our citizens we incarcerate, and the longer we keep them jailed, the less secure we feel, and the more violent society seems. Indeed, there is a body of evidence which suggests that long-term

prison sentences work to make society less safe in the long run. Petty criminals who have served out their full terms are released onto the streets with no greater ability to earn an honest living than when they went in, and often with their criminal skills significantly enhanced. Having been brutalized in prison and cut off from society for long periods, they now have no community of support and encouragement. With few exceptions, they have honed skills and abilities which make them an even more serious threat to society, and they are offered little reason not to exercise those skills. Long prison terms seem to increase the danger to society. And yet, our only response appears to be a stubborn and irrational insistence that we must do more and more of what has not worked and is not working.

The same arguments could be made concerning the death penalty. Those states where executions are most likely to occur do not have a lowered incidence of capital crimes. Indeed, there is a body of evidence which suggests that where people are most likely to be executed as punishment there are more capital crimes. And yet, the response of the public seems to be a determined effort to ignore the evidence and insist that we do more and more of what not only fails to be effective but may be counter-productive.

I find myself wondering what it is that fuels this kind of irrational response to a social problem. On one level, it seems to me, the problem is rooted in a fundamental misunderstanding of what the role of a judicial system ought to be. Increasingly we have insisted that the judicial system, and especially the criminal justice system should function as a sure and effective mechanism for exacting vengeance. A mother straps her young sons into the back seat of the family automobile and then sends it into the waters of a lake, deliberately killing the children. The community is shocked and stunned and feels betrayed and instinctively calls for her life in exchange for the lives of her children--the ancient law of "an eye for an eye and a tooth for a tooth". No one seems able to step back and to hear in the public's howls of frustration and anger and desperation some of the same motives which may have driven the young woman to her terrible action. The role of the justice system is to dampen this primal demand for vengeance and to distance the decision from the primal rage, to give time for thought as to motive and circumstance and intent and thus arrive at a decision which reflects the greatest good possible. The role of the justice system is not to satisfy the victim or the community or the perpetrator, but to understand and to make a reasoned and effective response which serves to protect society. But because we think of law as a vehicle by which we may exact vengeance, we are angered by any process which seems to deprive us of the means for satisfying our outrage and our primal lust for revenge.

At another level, we fail to respond to violence and crime rationally because we are confused about its nature. In her book, *A RAGE TO PUNISH*, Lois G. Forer, a former judge in the Pennsylvania judicial system, suggests that to a large extent, we still think of crime as sin--not a breach of the human contract, but a violation of cosmic right. If crime is a sin, then we have no choice but to exact punishment, regardless of the consequences to the individual or the society. An echo of this attitude can be heard in the more extreme expressions of the religious right, which advocate the institution of Biblical penalties for crimes. In this view, crime is a sin against God, and therefore must be treated with

appropriate punishment, for failure to do so would, itself, constitute a sin. The only question which must be addressed when crime is seen as sin is "what is the prescribed penalty." Any mechanism which prevents the exaction of that penalty is itself evil.

Forer insists that such a blind focus on prescribed penalty inevitably results in a society which is less safe, and a penal system which is less effective. She argues that prison should be seen as the sentence of last resort, rather than the penalty of choice, as it now is. In sentencing a convicted offender, she insists, the penalty should aim at achieving four goals. The first of these is the safety of the community; the second is restitution to the victim or the victims; the third is support for the family of the offender; and the fourth is help for the offender. In sentencing, courts should attempt to discover whether the offender represents a serious threat to the community. If so then the sentence must separate the offender from the community and jail may be an appropriate response. If not, the conditions of parole should involve some work of restitution, to the victim or the community or both, ideally work which has the chance of rooting the offender in the community. And, wherever possible the court should seek a sentence which will allow the offender some chance at a normal life and renewed participation in the life of the community.

This, she argues, is a necessary set of priorities, not because the offender deserves such treatment, but because it is this kind of treatment which will increase security in society at large, and break the cycle of recidivism which brings petty offenders back into court over and over again, charged with ever more serious crimes. It is not just out of a concern for the offender, but out of a concern for society that we need to rethink our rage to punish which leads us to building more prisons, incarcerating more and more people for longer and longer periods of time, and in the process creating a society which is ever less secure, ever more violent, ever more filled with rage and frustration.

In reading Judge Forer's book, I heard an echo from our own religious tradition. Our Universalist ancestors, almost from the very beginning, found themselves deeply involved in controversy concerning crime and punishment. They understood that traditional responses to crime were a reflection of traditional religious attitudes, that the rage to punish was a reflection of the Calvinist conviction that God demanded vengeance for transgressions of his law. Believing that God is defined not by vengeance, but by love and that the only purpose of punishment is the reformation of the offender, Universalists crusaded for a more humanitarian response to crime. Indeed, as early as 1791, Dr. Benjamin Rush, the great Universalist physician and signer of the Declaration of Independence, put the matter in these words:

A belief in God's universal love to all his creatures, and that he will finally restore all those of them that are miserable to happiness, is a *polar* truth. It leads to truths upon all subjects, more especially upon the subject of government. It establishes the equality of mankind--it abolishes the punishment for death for any crime--and converts jails into houses of repentance and reformation.

From a letter to Jeremy Belknap, quoted in AMERICAN UNIVERSALISM, George H. Williams, p. 59.

For most of the last century, and well into this century, Universalists struggled to reform prisons, so that they offered a chance for renewal and redemption. They insisted that as God never gave up on anyone, so human beings were called to witness to the ever-present possibility of redemption in every human life. They opposed the death penalty because they saw it as the ultimate failure of faith in renewal and redemption. It has been said that no denomination ever produced more "gallows reformers" than the Universalists. And, in time, the Unitarians joined the Universalists in this crusade for a criminal justice system which would provide for greater security for the community by offering the chance for renewal and redemption to those whose actions had set them outside the bounds of community.

Indeed, in the 1970's, the Unitarian Universalist Service Committee mounted a major campaign aimed at a moratorium on prison construction, and a sustained effort to find alternatives to prison. With clear prescience, the Service Committee warned of the consequences of a legal system which aimed at incarcerating ever larger numbers of people. The committee warned that over-crowding would make prospect of reformation impossible, that recidivism rates among released offenders would sky-rocket, that society as a whole would be less secure and would respond to that insecurity by becoming more brutal, that eventually the cost of imprisonment would result in the release of prisoners who did, in fact, represent a danger to society simply because they had met some minimum period of incarceration.

Needless to say, despite the clarity of vision, the Service Committee failed to convince the majority of Americans of the counter-intuitive truth that they would be safer and more secure with fewer prisons and shorter sentences for offenders, just as Judge Forer seems to have been unable to convince us that jail should be the penalty of last resort rather than first option.

In the climate of meanness and anger and rage which defines these closing days of the twentieth century, we seem determined to use the criminal justice system to exact vengeance and to express our outrage. In the climate of meanness and anger and rage which defines the closing days of the twentieth century, we seem determined to build more and more prisons, to immure more and more of our citizens behind their walls for longer and longer periods of time, despite the fact that this policy promises us no security, and may well increase our insecurity. Our rage to punish, rooted in an ancient and dangerous theology, seems proof against any claims of logic or reason. And, sadly enough, our political leaders understand that it would be suicidal to speak the truth to an angry, outraged, vindictive and vengeful electorate.

I do not know where this path will take us. I am quite certain that in time the rage will burn itself out. The time will come when we will recognize that punishment answers no questions and that ultimately what we must have is answers to fundamental questions--questions about the shadows which lurk in the human heart, about the despair which

drives a mother to murder her sons, about the rage which drives a husband to beat his wife to death, about the alienation which drives a man to spray the White House with bullets. about the sense of unreality which leads children to murder children. These are not acts which can be deterred by threat of vengeance. These are not behaviors which can be changed by our rage to punish. These are manifestations of terrors deep in the human soul. Somehow we must understand them; somehow we must heal them. For in the understanding and the healing, we understand and heal ourselves.

Until that moment comes, I will resist the temptation to be swept along by the rage to punish; I will resist the blood-lust and the cry for vengeance. I will witness to the Universalist conviction that we are all of us children of the same great love and that there is no evil so great that it cannot be transformed. I will seek to understand behavior I cannot condone, and I will insist that the primary function of the justice system is not punishment but protection of society, restoration of the injured and reformation of the offender. I will support those efforts which aim at protecting the rights of the accused, and treating humanely those convicted of offenses. I know that this makes me a member of an endangered species. I know that makes me one of those damned bleeding-heart liberals, but someone must keep the dream alive, and fortunately, I do not have to run for public office.