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Let Justice Roll on Like a River . . .

It is April 5, 1984. The lights dim as three clicks echo around a sterile room. The eerie rhythm makes the few witnesses seated on plastic folding chairs jump and then quickly avert their eyes. Patrick Sonnier's dead hands are curled up in frozen pain as the witnesses numbly shuffle paperwork and scrawl down their signatures on death certificates. Sister Helen Prejean, a nun and spiritual counselor for Sonnier reflects that: this death . . . with witnesses behind a square of Plexiglas like that, it was like a framed scene, death in the movies, death in celluloid, death under glass. There he was, saying his last words. There he was, walking to the chair. There he was, being strapped in. Three clangs of a switch. No smell of burning flesh . . . No sight of his face . . . And with his jaw strapped shut like that, he could not cry out. Who killed this man? (101).

And what gave that institution the authority to kill? A few claim that power to kill resides with the state alone; others say it should not be granted to anyone or anything. Finding justice in a naturally unjust world is a challenge for governments, individuals and communities. Justice for one person may seem an injustice to another.

But whoever you are and whatever you believe, one fact is clear: today's justice system needs reform. This reform is not only needed in punishment and tactics of the state to see justice done, but in the mindsets of citizens who cry out for their neighbors to die without thinking of grace. There are two forms of possible justice systems. The first is retributive justice. Retributive justice is giving the exact offense of the perpetrator to them and letting state and governing institutions rule on how law should be handled and enforced. The second is restorative justice: focusing on restoring the relationships or standings in society for the victim, offender, and community. It emphasizes respect and redemption above the "eye for an eye" approach. Though both systems may be deemed biblical, neither alone can be the ultimate solution. Retributive justice serves as a good first response to enforce the law and safety, but restorative justice must be implemented to heal the relationships later.

The current model of the United States is both effective and flawed. At both State and Federal levels, crimes are divided into criminal and civil crimes. Criminal crimes are defined as threats to the security and well-being of a society or individual—like murder, rape, or theft—and are prosecuted by the government. Civil crimes are disputes between

two parties—like lawsuits, taxes, or bribes—that are not as serious in nature (Morley 1). A major defect in the model of justice in the United States today is that both civil and criminal crimes may be punishable on the same scale. Also, both violent and non-violent crimes can receive the same punishment, despite their incomparable differences as threats to society. The November Coalition, a grassroots organization to end drug war injustices, states that 62% of American public want laws to be changed so fewer non-violent offenders are punishable by prison (Callahan 1). They believe that there are more beneficial uses for our convicted labor power. Unfortunately, the U.S. and Russia have the highest incarceration rates in the world with the U.S. having over 2 million men and women behind bars, 1 million of them for non-violent, drug-related offenses (Van Wormer 1-2). If 1 million people were added to the work force of our country on parole or serving life sentences, we could accomplish much more in our cities, parks, public services and communities. Retribution cannot be the only answer.

Besides being flawed in the ways that crimes and offenders are treated, the current model is unable to eliminate discrimination or adequately support victims. C. Paul Phelps, head of Louisiana Department of Corrections, says:

If you kill an LSU professor or a priest or any other highly respectable citizen, you'll probably go to trial and they'll push for the death penalty, but not if the person you kill is a nobody. By its nature the criminal justice system will always be somewhat arbitrary" (Prejean 102).

Equality and lack of partiality is not attainable unless there are enough law enforcers and enough money to insure safety for every person living in a mansion and every person living in the slums, and to pay every rate of the best lawyers in the country. The U.S.A. Today Magazine concluded that 29% of black males (mainly underprivileged children) born in 1991 will spend time in prison during their lifetime while the percentage of white males (in wealthier homes) is much less (Van Wormer 2). The sad fact of our justice system is that generally whoever can land the best lawyer or live in the safest neighborhood is the one who wins. This stretches to the victims of crime as well as the perpetrators. "The legal definition of crime . . . does not include victims. Crime is defined as against the state, so the state takes the place of the victims . . ." (Zehr 14). Victims are neglected in receiving real information, having a place to tell their stories, empowerment and restitution or vindication (15). When our system forgets the victims, it only solves the immediate problems of safety for the victim, community and offender. It does not do anything to appease the deeper hurts of the community and victim. Our

justice system needs the healing of restorative justice to tend for these more personal needs. But as it stands today, it mainly stresses retributive justice.

While retributive justice has many faults, it is a good system to use as a first response to law breaking. Primarily, it insures safety and provides basic guidelines for punishment and amends. Once the safety of the victim, offender and community is guaranteed, punishment of some kind can be established. Father Matthew Kirby, a Catholic priest, defends punishment by stating,

Those who doubt that retributive justice is still valid should answer the following questions. Do mass murderers deserve to be punished? If they do, how can we consistently say, as a matter of principle that lesser sins do not? If negative consequences only exist to prevent further infractions or to repair damage, why do we not support exactly the same consequences for unintentional as for willful acts?" (Kirby 3)

To maintain a sense of order and stability, we must enforce retributive justice to a degree. Felonies and crimes deserve punishment to bring them to repentance and restoration. The law is the law and it is there for our benefit and to maintain the peace of the land. It is a good general guide to handling those who break it.

But if it is used alone, retributive justice can become too powerful. Retribution overreaches itself and is not practical for all situations. Many different forms of crimes and misdemeanors do not fit into retributive criteria. The U.S.A. Today magazine reported,

Retributive justice weighs the crime and the severity of the crime above all else, including the motive and age of the perpetrator. Thus, the negligent driver who kills a family in a car crash may be punished harshly for manslaughter or worse. The child who shoots a classmate with his father's gun in a fit of anger may receive a life sentence without parole. The drug user who sells part of his supply to a friend may end up with a life sentence for drug dealing" (Van Wormer 2).

Has justice been done? If our country becomes too dependent on retribution, it leaves no room for mistakes, no room for mercy, and no room for grace. Retributive justice serves as a good first response and guide for justice, but it should not have monopolized power of the system.

The dangerous potential power of retribution is best displayed in its ultimate example: the death penalty. In "Reflections on the Guillotine," Albert Camus reflects,

society proceeds sovereignly to eliminate the evil ones from her midst as if she were virtue itself. Like an honorable man killing his wayward son and remarking: ‘Really, I didn’t know what to do with him’ . . . To assert, in any case, that a man must be absolutely cut off from society because he is absolutely evil amounts to saying that society is absolutely good, and no one in his right mind will believe that today” (Prejean 21-22).

We are imperfect people. To acknowledge that we all make mistakes is human. When Jesus was questioned with the death penalty—in the case of an adulterous woman—his response was that “If any of you are without sin, let him be the first to throw a stone” (John 8:7). No stone was cast. Jesus accepted a controlled level of retribution, but he condemned the ultimate and irreversible retribution of death. There are much better uses for our money and manpower than death. It costs four times as much money to kill a man as to imprison him for life. And as Christians we are taught to believe that no one is beyond the reach of the grace of God. Retribution serves as a good first response to enforce justice, but then something more redeeming must be implemented.

At this point, restorative justice is a good second response to law breaking. After initial safety is established, relationships between the community, offender and the victim should be healed if possible. Restorative Justice

aims to repair the torn fabric of community, and wholeness to all those affected by crime, to remedy the harm done to the victim and community, and make offenders accountable to both. Restorative justice condemns the criminal act, but not the actor, holds offenders accountable, involves all participants, and encourages repentant offenders to earn their way back into good standing in society (Van Wormer 3).

It is based on the idea that crime is a violation of people and relationships instead of offenses against a governing body (Zehr 19). Emerging in many different forms depending on the needs of those involved, the basic principles of respect and reconciliation serve as only a compass to find the way. There is no perfect model of restorative justice (10). The most common system of restorative justice today is victim-offender mediation programs. There are over 650 victim-offender mediation programs in the country (Van Wormer 3). Other plans include prison ministries, counseling institutions, service programs, advocacy and support groups, women’s shelters, skills training courses for inmates, community dialogue teams and many others. These types of programs work for healing and wholeness for community, victim and offender through tending for the people as wholes instead of only treating the offense.

However, a valid possibility is lack of remorse or repentance in the offender. In these cases, restorative justice may not work as well. The only way that offenders can be healed through restoration is through repentance, truth-telling, care for the community, and covenant and shalom (Neufeld 6). If the offender refuses to show any regret for his/her actions, restorative justice is ineffective for them. It may still be implemented for the community and victim, but retributive justice must control the offender from doing further harm. Restorative justice alone only works when community, victim and offender desire reconciliation and forgiveness enough to restore the broken relationships.

When trying to choose between retributive and restorative justice, the Bible can defend and show a cohesive integration of both. The Old Testament serves as an example of God successfully using retributive and restorative justice as a parent does for a child. The cycle of God's justice in the Old Testament is that of God blessing his chosen people, they follow him happily, stray away from him and sin, God punishes them, they cry out to him, he hears their call and brings them out of their tribulation and the cycle starts all over again. This is demonstrated in the stories of Adam and Eve in the garden, Noah and the Flood, the Tower of Babel, Joseph, the Israelites enslaved in Egypt, wandering in the desert for 40 years, Moses, the judges and prophets, the Exile, return to Jerusalem, and the ultimate act of restoration in the New Testament where God sends Jesus to Earth. God punishes his people to bring them back to himself. Discipline is part of a cycle of love. A Catholic priest Father Matthew Kirby states,

Of course Christians must love all people, even those who offend against them, but this does not preclude punishing the guilty, as punishments need not be motivated by or associated with hate. And it is not loving to lie to people by implying that their actions have nothing to do with their characters" (Kirby 3).

The New Testament offers a continuation of this integration through Jesus, his life, teachings, death, and belief that no one is beyond the grace and forgiveness of God. In a speech at a Mennonite convention, Tom Yoder Neufeld spoke that

Jesus is presented as one in whom faithful king and faithful commoner combine, most especially in attentiveness to victims, to the vulnerable, and to offenders. We might think here of his care for the sick, the hungry, those afflicted and oppressed by forces beyond their control. We should think no less of his habit of eating with those pushed to the edges of society" (Neufeld 3).

Jesus came for the people but he didn't come to say that there should be no retributive justice. Matthew 5:17 states: "I have not come to abolish the law, but to complete it."

Jesus knew the power and necessity of governing figures and laws, but he also embraced humanity. He died out of compassion and love—we have been praising him ever since.

As a Mennonite, I have grown up learning about restorative justice. From its first founders in the late 1500's to today the Mennonite Church has been rooted in love over violence and retribution. We are raised on the stories like that of Dirk Willems, turning back to save his captor and ending up martyred when he could have escaped and saved himself. We are tempted to condemn retributive justice entirely and to hope for the good in all people. But this is impractical in our world today. Mennonites must learn to accept that the governing institutions give healthy boundaries for justice, but it is our job to show compassion and love beyond the boundaries and fear.

The solution to problems in our justice system today is an integration of retributive and restorative justice. We both need the order and security of retributive justice as well as the caring and humanity of restorative justice. To keep a balance, both must work together and complement each other instead of fighting for power. The government should plant more restorative justice seeds in communities with federal funds as a section of the judicial branch. And with 2 million people behind bars today, more community service and prison programs should be implemented in safe environments. With the help of inmates we could accomplish much more in our national parks, city cleanup, garbage and recycling centers, general civic services and construction agencies. Instead of putting more money towards building jails and incarcerating more of our citizens, we should invest in the education of all people. Instead of using the death penalty to control crime, we should work with the poor neighborhoods that many criminals come from. The retributive justice system should remain intact to oversee dangerous offenders as well as to insure the safety and general messy work of the politics of crime but it should never have the final say over a person's very life and reconciliation, restorative justice is there for that.

A successful justice system performs as a good parent. It encourages and reprimands in love, always leaving the possibility of redemption available. When you look into the eyes of your disobedient child, do you see the punishment they deserve, or their yearning to make things right? We all strive for acceptance and forgiveness, are we as willing to give it to others? To remain faithful, we need to judge and hold each other accountable for our thoughts and actions. This does not mean that it is our job to inflict the same pain of the victim on the offender. But rather in the words of a famous nonviolent peacemaker, Mahatma Gandhi, "An eye for an eye and the whole world is blind." Through retribution, we can come to restoration. And through restoration, the hurt is healed.

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