

Restorative Justice

When Jane Creba was murdered in Toronto on Boxing Day 2005, politicians reacted with their predictable "get tough policy." Politicians feed on the rise of violence in Canada's big cities. They promise to ban all guns, to lockup criminals, slam the prison doors shut, and throw away the key. Aside from kissing babies, visiting kindergartens, bribing the electorate with expensive programs, talking tough on crime is the most popular political pastime. Unfortunately, politicians often offer simple answers to complex problems - and the public is eager to accept them. The crisis in Canadian criminal justice system is serious. Tough talk alone won't solve it. But many Christians have also joined in the chorus calling for severe punitive treatment of all offenders. In *The Fall of the Prison: Biblical Perspectives on Prison Abolition* Lee Griffith argues that many Christians seem to believe that justice is denied unless all lawbreakers receive retaliatory punishment. Griffith says, "Many Christians today remain convinced that the gospel message for prisoners is one of condemnation rather than liberation." Perspectives on crime have indeed changed. Rather than focussing on the victims, criminal justice now focuses on offenders, why they break the law, and how they should be punished so that they won't commit a crime again.

Is a tough no-bars-hold attitude to crime the answer? Does the law-and-order approach of more prisons and longer sentences work in the real world of victims, offenders, and communities? I don't believe so. The problem is that this approach is merely an outgrowth of our postmodern philosophy of criminal justice. As a result it contributes to the problem and also encourages the crime rate to increase. Instead of calling for tougher sentences and more prison space, will it not be better to change our perspective on, and in some case, our approach to criminal justice? Should Christians not advocate just laws and just sentences? When we read about sentences we often wonder whether they are just and fair. Good law and good law enforcement should be appropriate to the crime committed. Some sentences are too great or too small to be just. While there are many people languishing in prison for excessive amounts of time in proportion to their criminal deeds, many other people found guilty of serious crimes are under-punished in proportion to their crime. At times murderers are let out on bail and are given extremely light sentences because the judges "feel" the offenders will not repeat their crimes. We need to change our view of criminal justice. Why can't sentencing be changed to allow nonviolent offenders to pay back society?

Victims

When a crime is committed, victims suffer from emotional trauma, a physical injury, or material losses. Yet they are the forgotten parties in the criminal justice system. Too often victims are excluded from any meaningful participation in the criminal justice process; they typically receive no payment for their losses and have no say in the plea-bargaining. Victims only serve as witnesses. For some victims it is a real shock to see the system not working for them. Who is the system for? The justice system seems less

concerned about the victim's losses and emotional pain than with processing the case of the offender. C.S. Lewis comments in *God in the Dock. Essays on Theology and Ethics* that in our age criminal law increasingly protects the criminal and ceases to protect his victim. "One might fear that we are moving towards a Dictatorship of the Criminals or (what is perhaps the same thing) mere anarchy."

Crime

We talk about criminals and victims of crime. But how do we define crime? It seems many Christians accept the mistaken assumption that civil law can be easily identified with morality or divine law. However, the definition of crime is a relative matter that changes with the whims of legislative bodies. Any conduct may be declared criminal by law or made legal. For example, homosexuality, polygamy, and prostitution are crimes in some nations but not in others. The definition of crime is also culturally fluid. In Saudi Arabia it is a criminal offence to conduct a Christian worship service. In *Truth Decay* Douglas Groothuis tells the story of a Laotian Hmong immigrant in his thirties. This man kidnaps a seventeen-year-old woman as part of the accepted marriage-by-capture practice of the Hmongs. Groothuis comments that this forces the postmodernist in a sharp dilemma. The American legal system considers kidnapping a crime and not the equivalent of matrimony. Who is right? Whose law should apply?

Canada's judicial system focuses mainly on maintaining public order and punishing offenders. It views crime only as an offense against the state, not as an injury to the victim or community. It does not require that victims get repaid, or that offenders make things right, or that the community take responsibility for justice done. In Canada the belief in transcendent absolute norms for justice has been dismissed as an outmoded tradition from the ancient past. No wonder we see a rapid slide into immoral behaviour. Dostojewski understood it well when he said, "If God does not exist, everything is permitted." The Bible has a different perspective. Crime is primarily an offense against human relationships and secondarily a violation of a law (since laws are written to protect safety and fairness in human relationships). Laws are important. They provide a context and a guide. They are based on revelation. What then is crime? Offenders break the harmony that is to exist between them and their victim, their community, and God. The Biblical response to crime, then, aims to restore right relationships - shalom-between the affected parties. The criminal has to take responsibility for his actions, seek reconciliation and make restitution. The Biblical perspective radically differs from our current postmodern view of criminal justice. The latter does not systematically encourage offenders to take responsibility for their actions. Accountability is focussed on fulfilling the punishment imposed by the state, "on doing time," rather than having offenders take responsibility for what they have done.

Human Dignity

Who is a criminal? Regardless of what kind of crime is committed, he deserves the dignity of being held accountable for his actions, and pay his debt to society. No greater damage has been done to our society than by people refusing to take responsibility for

their actions, no longer accepting guilt when wrong has been done. Such a denial dehumanizes a person. Ultimately, lack of punishment undermines one's dignity as a moral, responsible human being. To be punished because we have deserved it, because we "ought to have known better," is to be treated as a human person made in God's image. We are personally responsible for our actions. After Cain murdered his brother Abel (Gen. 4:1-16), God strongly stressed the responsibility of Cain for his terrible deed. "Where is your brother Abel?" Cain had committed a crime and God told him to give an account of himself.

The Biblical view of taking responsibility for one's actions is often forgotten in our therapeutic society. Despite the rise of crime and violence, many people still believe in the basic goodness of man. Evil acts are not evil. Problems arise from social conditions rather than inherent moral corruption. Blame society! The root cause of crime is unemployment, racism, poverty, or mental illness. Ramsey Clark, Attorney General under Lyndon Johnson, wrote, "Healthy, rational people will not injure others." Since people are essentially good, social or psychiatric causes must force them into antisocial behaviour. The lesson is clear, the fault lies not in ourselves.

Are people naturally good? When we see ourselves in the light of the cross of Christ, we can't deny our own sinful nature. Criminals, not society, are the cause of crime. Poverty, racism, oppression, and substance abuse cannot be summarily dismissed as contributing factors to crime. Nor can they be tolerated in society. But they do not make people commit crimes. If we have lost the quality of life, it is because we do not obey the Creator's constitutional order for society. This is not a popular thing to say today. Sin makes us seek ourselves at the expense of our neighbour. The apostle Paul tells us what we can expect in a society like ours. If men are not lovers of God, their society will be one of lovers of self, lovers of pleasure, lovers of money, haters of good, inhumane (2 Tim. 3:1-7). Charles Colson and Daniel Van Ness state in *Convicted: New Hope for Ending America's Crime Crisis*, "No matter what its aggravating causes, there is only one teapot of crime. It is not some sociological phenomenon; it is sin. Though men and women have essential dignity and value, we are predisposed toward evil choices."

Justice

Who decides what is just or unjust punishment? The state has the God-ordained responsibility to restrain evil and to preserve public order. It does so through its police forces, courts, and prisons. The state and governing authorities answer to God (Rom. 13). The state is the Lord's servant for our good. If justice is from God, the proper justice is always divine justice. The expressed function of the government is upholding right and opposing wrong. To qualify as just, all human law must be based on the divine law. The Bible is the source of justice for the state, which cannot fail. The state has the power and resources to arrest, to prosecute, and sentence offenders. The Swiss theologian Emil Brunner maintained that "properly understood, the human judge is merely a representative of God. He acts in the name of the divinely established order of the community. That is why the powers wield the sword...as holy servants of God, whether they know God or not. What they do in the name of the state, they do, albeit

unwittingly, by God's command."

Restorative Justice

A Biblical perspective of criminal justice is punishment to fit the crime, not the criminal. One doesn't punish an offence, a crime, but always a human being. Punishment does something either for good or ill. A relatively new approach to criminal justice is the restorative justice movement. Charles Colson and his organization, Prison Fellowship, have taken the lead in advocating this approach. Colson wrote a book *Justice That Restores* in which he argues that attending to safety needs and repair of injuries/damages means that the victim is as important as the offender in the Restorative Justice system. It includes principles such as promoting the rights of victims in the legal process, encouraging offenders to reconcile with their victims. The object of restorative justice is to repair the moral and social order God called us to live in.

Justice is more than handing out a sentence, it is also about caring and serving. It involves compensation for losses, given voice in the court process, and assisting victims as they attempt to reestablish their sense of personal security. The criminal justice process should leave victims satisfied that their rights have been vindicated, not that they have been ignored or, even worse, made out to be the villains. The wrongdoers are punished and the victims are helped. Unfortunately, too often restorative justice is accused of being soft on crime.

Restitution

We need prisons for dangerous offenders. But I believe a nonviolent offender should be working in community service, paying back those he wronged, learning to contribute as a responsible member of society rather than sitting idly in an expensive prison cell, growing bored and bitter. Performing free service is an excellent way for nonviolent offenders to pay this "debt to society." One of the most creative ways of administering justice involves the concept of restitution. God is determined to restore right relationships to all who will accept his restoration (all who believe). Wrong cannot simply be passed over. This Biblical response to crime aims at restoring right relationships between the affected parties. Restitution - paying back the victim- is essential to the process. It has its origin in the Old Testament. God told Moses while elaborating on the Ten Commandments that if a man stole an ox or a sheep, "he shall make restitution for it" (Exod.22: 3). The New Testament tells the story of the corrupt tax collector Zaccheus, who repented of his greed and extortion. He promised to repay fourfold to anyone he had cheated (Luke 19: 1-10). His restitution did more than financially compensate his victims. It helped restore the shalom that had been broken. Zaccheus did not pay a fine to the state for his wrong doing. He repaid his victims.

What does restitution involve? A first step in the restoration process and healing for both victim and offender is to recognize a wrong was done. Restitution does not mean to minimize the offense nor to overlook the safety and need of the victim. True restitution will recognize the injustice, make agreement to restore the equity as much as possible

and plan for an accountable future in which the trespass does not reoccur. On the basis of redemption, criminals are called to repent of their crimes and, as far as possible, to restore what they have damaged. Regardless of all the efforts put into implementing the concept of restorative justice, a call for repentance of sin, faith in Christ and conversion are essential. These are the most important factors for change. Offenders need to hear that through His death on the cross, Jesus bore our punishment and brought reconciliation for all who believe in Him. For example, every prisoner in Colson's Prison Fellowship program has to follow the path of repentance, restoration and public apologies to victims that is described in the gospel story of Zaccheus.

Role of the Church

In Matthew 25 our Lord tells His followers to care for prisoners and to visit them. Christians, who are specifically called to care for the bruised and broken of society, can offer hope to people touched by crime. The most essential element of any real change in the criminal justice system is the hope and transforming power of the Gospel. Churches, therefore, should have active prison ministries to provide for the men and women who show a desire for the message of salvation, the means, which alone can totally rehabilitate them. But this ministry also includes caring for offenders, both during and after their incarceration. The families of offenders also need help and encouragement. And emotional and practical support should be available for the victims of crime.

We can make a difference in the crime crisis. Often ordinary people can be used in extraordinary ways. We should be informed on criminal justice issues. We should pray for those touched by crime-victims and offenders- and those who work in the criminal justice system. And when we are involved in prison ministry, we must always remember it is only by the grace of God that we are who we are. We too are prone to sin and wrong doing.

Johan D. Tangelder
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