A justice that reconciles

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Fostering a justice that reconciles, a justice capable of restoring harmony in social relationships disrupted by the criminal act.

Compendium of the Social Doctrine of the Church, 403

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Revenge or reconciliation

A statement on imprisonment from the New Zealand Catholic Bishops Conference for Social Justice Week 2009

It can be understandable to want to hit back at someone who has hurt you. That is what makes Christ's request to love our enemies – to do good to those who have hurt us – seem so incomprehensible when we are faced with the suffering caused by deliberate violence. But, following the example of Christ, the Catholic tradition teaches that revenge has no place in the punishment of criminal offending.

For victims of crime to rise above feelings of revenge towards a desire for reconciliation, or for offenders to sincerely repent of the harm they have caused and seek forgiveness – these are tremendously difficult tasks. Repentance and forgiveness leading to reconciliation are among God's greatest gifts, and at the same time are among the most difficult virtues to put into practice.

But for an increasingly fearful society in which many people are building a sense of security only on fuller prisons, longer sentences and harsher treatment of offenders, these are qualities which are too frequently dismissed as "soft" or "unrealistic". Instead what we find are increasingly punitive attitudes towards people in prison, and calls for revenge and retribution.

As Catholics we do not discount the terrible reality of the harm caused by criminal offending, but at the same time, we know that God's love does not give up on anyone. In Pope John Paul II's message for the Jubilee in Prisons he reminded us that prisons can be places of redemption, and that not to promote the interests of prisoners would be "to make imprisonment a mere act of vengeance on the part of society, provoking only hatred in the prisoners themselves". God calls even the worst of offenders to change, and offers healing to those victims of crime able to find the courage to forgive.

Neither repentance nor forgiveness can occur without love and support, nor can either take place in an environment of bitterness and vengeance. Such support is lacking far too often in our current criminal justice system.

In 1989 New Zealand's Catholic Bishops called our penal system "a poison in the bloodstream of our nation" and predicted that unless we changed our ways of responding to crime, we were heading to become the most imprisoned society in the Western world.

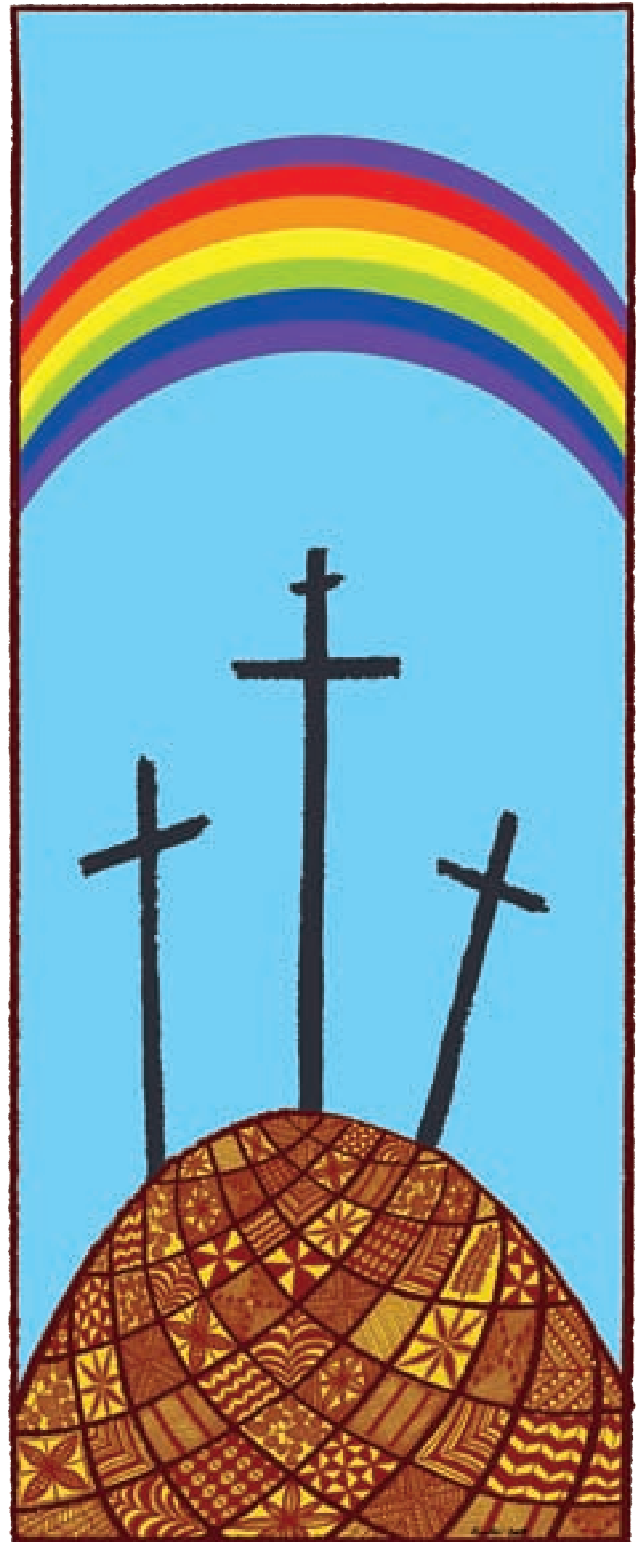

ILLUSTRATION: PETER LENDVAI

Twenty years later, we have reached the number two position, second only to the United States. Prison numbers are growing faster than we can build prisons to hold people, and shortage of cells is leading to unsatisfactory solutions such as double-bunking.

Our respect for human dignity means that every person has a right to feel safe in the community. But this same respect for human dignity also means that every prisoner has a right to safety. The basis of our society's right to punish those who abuse the human rights of others, is also the basis of our society's responsibility to protect the human rights of offenders.

Many New Zealanders have found opportunities for repentance and forgiveness through restorative justice processes, such as Family Group Conferences. Our experience is that requiring offenders to face up to the consequences of their crimes, and giving victims an opportunity to express their hurt, can be a turning point for both parties. Restorative justice needs good facilitators who understand that reconciliation is the goal of restorative justice, and it is not simply another way of sentencing offenders. New Zealand has led the world in incorporating restorative justice processes into our justice system, and we need to continue to support this work for everyone involved.

The Catholic Church does not comment on criminal justice as a disinterested observer but as a community which has made, and continues to make, a considerable contribution to the lives of people in prisons through prison chaplaincy and other forms of ministry. Those who minister on our behalf to people in prisons speak of a constant deterioration in prison conditions, and of greater stigma for people trying to turn their lives around and reintegrate back into society.

"I was a prisoner and you visited me"– in his parable of the Last Judgement told in Matthew 25, Christ fully identified himself with prisoners. For two thousand years, the Catholic Church has responded to this message through prison ministry and visiting. All members of the Catholic family are called to heed Christ's message: *"Whatever you do to the least of my brethren, you do to me"* and to support those who work in prisons, and to welcome those coming out. Some will be able to do this through practical hands-on action, while for many others the support will be in the form of prayer. Both are needed.

All of us, whether victims of crime, offenders, employees in the criminal justice system, family members or neighbours, are called to find paths to a justice system which reconciles; which rejects attitudes of revenge; which helps victims to heal and offenders to turn their lives around. It is the only true path to the security and safety that our society longs for.

New Zealand Catholic Bishops Conference, 2009

PHOTO: ADRIAN HEKE

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Proclaim liberty to captives

Luke 4:18

ILLUSTRATION: PETER LENDVAI

Jesus began his public ministry proclaiming the prophecy of Isaiah as his own mission – good news for the poor, sight for the blind, and freedom for those in captivity.

The reaction of many New Zealanders today to the message that liberty for captives is part of the Church's mission would be similar to the outrage that met these words in Galilee two thousand years ago. We live in an increasingly fearful society, where many people's sense of security relies on high prison walls.

Yet, the ever increasing numbers of people locked away in New Zealand prisons do not seem to bring relief to those fears. Millions of dollars have been spent in recent years on constructing and maintaining new prisons, and on considering how to cram more people into existing ones, yet many New Zealanders are responding to fears of crime by locking themselves into their own homes. Security systems, high fences, gated communities – who are those most in need of the liberty proclaimed by Christ?

Our current justice system does not seem capable of providing a sense of security to the general public; or of providing healing, support and solidarity to victims of crimes; or of providing opportunities for true repentance and rehabilitation for offenders. In addition to the people trapped in frightened modes of behaviour, millions of dollars that is badly needed for other areas of social spending are also being held captive to our cultural expectations around crime and punishment. We are locked into a way of behaving with each other that is failing to work for any part of the community.

So who are the captives to whom Jesus offers freedom? He offers it to all of us – to victims trapped in unhealed physical and emotional pain; to offenders caught in an endless cycle of violent environments both inside and outside of prison walls; to an ever more fearful public locked into beliefs that retributive punishment will bring safety and security; to politicians afraid to lead rather than follow public opinion; to former prisoners and family members unable to escape the stigma of criminal convictions; and to communities needing financial resources unavailable because the money is locked into responding to crime rather than preventing it.

Twenty years ago the New Zealand Catholic Bishops called for penal reform for these reasons, and have more recently summed it up like this: "Too often, offenders repeat their crimes, regardless of the social mayhem this causes. Victims often become embittered and harbour their anger, grief and pain for a lifetime. The community hardens its heart to offenders by demanding longer and harsher penalties... As teachers of the Gospel of Jesus Christ, we hold that compassion, mercy, healing, sanction where appropriate and forgiveness leading to reconciliation, lie at the heart of a fair and just criminal justice system."[1]

Christ offers liberty to all of us kept captive by the justice system we have created for ourselves. Human beings created the current Western justice system in which imprisonment is the main form of sanction for criminal offending, but there are many alternatives. Biblical justice and Christian approaches offer a very different way of considering how to respond to sin and suffering. There are also other cultural practices, such as those of Māori and Pacific peoples, which have been kept alive to some extent in the memories and practices of different groups, despite the imposition of British justice systems in the 19th century.

Pope John Paul II called on the worldwide community to find new paths to redemption, especially for those in prison. "We are still a long way from the time when our conscience can be certain of having done everything possible to prevent crime and to control it effectively so that it no longer does harm and, at the same, to offer to those who commit crimes a way of redeeming themselves and making a positive return to society."[2]

1 New Zealand Catholic Bishops Conference: *Creating New Hearts: Moving from Retributive to Restorative Justice*, 1995

2 Pope John Paul II: *Message for the Jubilee in Prisons*, 2000

PHOTO: CECILY MCNEILL

Fr Jim Consedine, former prison chaplain:

> ***"We rely too much on the law, by itself a soulless set of rules, to attempt to see justice achieved. In effect there are no mechanisms in mainstream society for reconciliation to be achieved from such a tragedy. Within the confines of the structures of mainstream law, apology and sorrow cannot meet mercy, forgiveness and reconciliation. Instead, the victims and their families are shut out of the processes from day one, and the offender awaits his or her just desserts, often in isolation, always in fear and trepidation...The consequence of this situation is an almost total lack of healing for the offender and the victim, resulting in a residue of deep bitterness and anger that can last for years."*** [3]

The New Zealand prison population peaked in September 2007 at 8457 – up from 4988 prisoners in April 1997. The 2008 briefing to the incoming Minister of Justice predicted that numbers would exceed 10,700 by 2016 and that current prisons would reach capacity by mid-2010.[4] Our rates of imprisonment are second highest in the Western world to the United States.

The Ombudsman reported in 2007 that the rising prison numbers had resulted in an increase of 70 percent in the operating expenditure of core justice departments since 2001/02, and that since 2004 spending in the justice sector had grown faster than Gross Domestic Product (GDP). "Of more immediate concern is the growth in capital expenditure...The growth over the years 2005, 2006 and 2007 can only be described as extraordinary, or, not to put too fine a point on it, extraordinarily worrying."

The rising numbers in New Zealand prisons are part of a worldwide trend towards greater imprisonment. Between November 1998 and June 2004, the known prison population in the world increased by a million people, from 8.1 million to 9.1 million.[5] Two million of these are in the United States.

The United Nations estimates that one out of every 700 people in the world is being held in a penal institution. "Imprisonment as a principal and frequent penal sanction is less than three centuries old in many countries. It has become so integral to our system, that societies do not think they can live without it. The current desire in several large jurisdictions seems to be to lock up more people, for longer periods of time, and not necessarily under more humane conditions."[6]

PHOTO: ADRIAN HEKE

3 Fr Jim Consedine: *Restorative justice: Healing the effects of crime*, Ploughshares publications, 1995
4 Department of Corrections: *Briefing for the Incoming Minister*, November 2008
5 Vivien Stern, Penal Reform International: *Address to International Study Seminar*, Vatican City, 2005
6 Eduardo Vetere, United Nations Office on Drugs and Crime: *Address to International Study Seminar*, Vatican City, 2005

Which of these proved himself a neighbour?

Luke 10:36

ILLUSTRATION: PETER LENDVAI

In the parable of the Good Samaritan, Jesus provides us with a model of responding to violent crime. The person held up to us as the good neighbour is not the judge or the priest who passed by, but the foreigner who helped the victim of a robbery. His concern extends to taking the injured man to a place of safety, providing for his care, and promising to follow up that care on his return.

The story of the Good Samaritan sits alongside similar Scriptural messages, which call us to respond to those in need, whether as victims of violence, or because they are affected by wider social issues such as war, poverty or discrimination.

We all need to feel safe in our homes, on our streets and in our communities. Our Catholic tradition starts with recognising the human dignity of both victim and offender. Political rhetoric can make us feel that we have to take sides, as if caring for victims does not permit us to also express concern for the welfare of offenders, or as if recognising the rights of prisoners somehow detracts from our care for victims of crime. Catholic teaching demands the accountability and sanction of offenders, and also healing and restoration for victims. These are often intertwined.

Many victims cannot find healing without the opportunity to confront the offender, to have the truth of their suffering acknowledged, and to have an opportunity to have the offender repent and make reparation for their actions. Many offenders simply do not understand the impact of the pain they have caused, if they are held to account only by what they experience to be a faceless, uniformed bureaucracy.

For these reasons, the Church supports and makes a commitment to restorative justice processes which focus on establishing what is needed to restore the wellbeing of the victim and the community, rather than solely on punishing offenders.

New Zealand has led the world in restorative justice processes, first in response to youth offending, and now many adults have the opportunity to participate in similar processes. However, theologian Robert Schreiter warns against allowing reconciliation to be reduced to a process or strategy, when its origins lie deep in our spirituality.[7] For that reason, it is important to remember what lies at the basis of our understanding of restorative justice.

The foundation for the Church's experience of reconciliation lies in the suffering, death and resurrection of Jesus Christ, and the reconciliation with God that this brought to the world. Many Catholics encounter the Church's ministry of reconciliation primarily through the sacraments of Reconciliation, Eucharist and Baptism. However, this ministry is also brought to situations of social conflict and injustice, including those experienced by individual victims of crime, or whole societies who have experienced war or human rights abuses.

Caritas Internationalis is the international confederation of Catholic agencies working for justice, peace and development in over 220 countries and territories. Guidelines prepared to assist Caritas organisations who are engaged in the ministry of reconciliation stress that reconciliation always begins with the victims.[8]

The guidelines also acknowledge that the first calls for justice from victims may in fact be calls for vengeance or punishment. "Such feelings are indeed legitimate, but giving them immediate satisfaction may not further the reconciliation process." Accompanying victims to move beyond these original responses often means dealing with the immediate impacts of violence and helping people move to a place of safety.

On occasions, third parties who assist victims of crime may also need to allow those they help to move beyond their initial responses if the victims are to find healing. Sometimes victims or their supporters can find it hard to let go of the status of victim, which may carry a sense of entitlement to criticise, retaliate or hold a moral advantage over their offender.[9] At the same time, pressuring victims to forgive before grievances have been addressed can be a further injustice.

7 Robert Schreiter: *The Ministry of Reconciliation, Spirituality and Strategies*, Orbis books, 1998

8 Caritas Internationalis: *Working for Reconciliation: A Caritas Handbook*, 1999

9 Karl Tomm: Enabling forgiveness and reconciliation in family therapy, in *The International Journal of Narrative Therapy and Community Work*, 2002, No.1

The United States Catholic Bishops warn against allowing concern for victims to be misused. "Some tactics can fuel hatred, not healing, for example, maximising punishment for its own sake and advancing punitive polices that contradict the values we hold... [We need to] acknowledge the emotional strain felt by victims, to understand that the search for wholeness can take a long time, and to encourage victims to redirect their anger from vengeance to true justice and real healing."[10]

In the Christian understanding of reconciliation, the process begins with the victim, not the evildoer. Many strategies of reconciliation are built around ways to get the wrongdoer to repent or to acknowledge wrongdoing, so that the relationship between the wrongdoer and the victim can be repaired.

Christian understanding of reconciliation focuses first on the victim. Because reconciliation is the work of God, Christians believe that God turns first to the victim, whose humanity has been damaged by the acts of the wrongdoer. This is consistent with a Christian understanding of God, who hears especially the cry of the poor and oppressed, who reaches out first to the marginalised and powerless of the world...

Christians believe that the reconciliation that God works is not a restoration to a former state, but a situation in which both victims and evildoers are taken to a new place...God leads both victims and evildoers to new life in the future that goes beyond the undeniable hurt of the past. *Caritas Internationalis*

PHOTO: ADRIAN HEKE

Fr Pat Devlin sm, Restorative justice facilitator

"Every day we pray 'Your kingdom come' when we pray the Lord's prayer. Part of bringing about God's kingdom is about restoring damaged relationships."

Fr Pat's work includes situations in which the courts have recommended restorative justice before sentencing, post-sentencing work with people in prison, and for situations of community conflict. He says that, compared to court processes in which the victims are often passive witnesses, restorative justice is very victim focused. He has never had a process in which victims were totally dissatisfied with the outcomes.

"People will have been hurt and broken and disempowered – they start to talk this over at these meetings, and you can see them start to become empowered. It also often enables the offender to own or take responsibility for what they have done. They see the consequences of their actions."

10 United States Catholic Bishops Conference: *Responsibility, Rehabilitaiton and Restoration: a Catholic perspective on crime and criminal justice*, 2000

11 Caritas Internationalis: *Working for Reconciliation: A Caritas Handbook*, 1999

When did we see you in prison?

Matthew 25:39

ILLUSTRATION: PETER LENDVAI

Whatever offenders have done, our Christian faith teaches us to always recognise them still as children of God. Jesus confirmed his complete identification with prisoners in the story of the last judgement in the Gospel of Matthew.

Recognising the face of Christ in every prisoner is an integral part of Christian prison ministry, which began in the cells of the Roman Empire with the earliest Christians and continues in the present day in prison chaplaincy services. However, in the Gospel story, neither those who accepted nor those who rejected Christ in that incarnation recognised him in doing so. "When did we see you in prison?" they ask, and Jesus replies that it was in serving "the least of my brethren" that he was served.

Finding Christ in prisoners, even those who have committed the worst crimes, does not mean approaching issues of crime and punishment in either ignorance or innocence.

Dr Christian Kuhn, president of the International Commission of Catholic Prison Pastoral Care, says prison chaplains are not naïve.[12] "We are aware of the enormous dangers which crime, and especially organised crime, drug trafficking and terrorism represent for society. We are also aware that there are some dangerous people from whom society must be protected. On the other hand, it is our daily experience that it is rarely the leaders of organised crime who are in prison, that the majority of prisoners around the world are not dangerous psychopaths, but rather it is the poor and marginalised who are detained."

Internationally, the majority of prisoners in the world are those who have come from the most disadvantaged and marginalised sections of the population. New Zealand's disproportionately high numbers of Māori prisoners are matched in the United States by similar proportions of African-American prisoners.

In most parts of the world, it is the poor, the indigenous people, those with physical and mental illnesses or addictions, and those with little education who fill jail cells. In every part of the world, the disproportionate rates of imprisonment provide an instant snapshot of wider social inequalities.

Bishop Vives of Spain told an international Vatican study symposium in 2005: "It is no coincidence that many of the people sent to prison come from the fringe sections of the population which suffer more than others from social vulnerability. Most people in prison have had most of their social, economic and cultural rights violated. The majority of prisoners have had their human rights trampled underfoot before entering the prison system: health care, work, family, housing, equal opportunities etc. Prison therefore simply reinforces what is already an immoral state of deprivation."[13]

PHOTO: ADRIAN HEKE

12 Pontifical Council for Justice and Peace and International Commission of Catholic Prison Pastoral Care: *Study seminar papers*, Vatican City, 2005

13 Pontifical Council for Justice and Peace and International Commission of Catholic Prison Pastoral Care: *Study seminar papers*, Vatican City, 2005

In New Zealand, as in many parts of the world, our prisons are becoming warehouses for the poorest, sickest, most vulnerable members of society. And, following trends in other parts of the world, as prison numbers grow, there is a dismantling of the support services in prisons which formerly addressed some of these concerns, even in the smallest of ways – education programmes, mental health services, drug and alcohol programmes. Ombudsman Beverley Wakem reported last year: "It appears there is a 'gap' in the system which defines mental health conditions, and which results in more mentally ill people being present in prison than would be expected by chance."[14]

Professor Richie Poulton of Otago University told the *Drivers of Crime* summit at Parliament in April 2009 that the Dunedin Longitudinal Study has found a link between a gene and antisocial behaviour. However, the key issue is that the gene is triggered by maltreatment in childhood.

"It is known that childhood maltreatment is a universal risk factor for anti-social behaviour and the earlier children experience harsh treatment the more likely it is that they will become aggressive. In other words, violence begets violence...The crucial 'take home message' is that while genes may play a part, the most important factor is the environment." He said that targeting environmental factors is the best approach to reducing antisocial behaviour.

Many people who end up in prison are themselves victims of violence and abuse, or of other unjust circumstances. To acknowledge that reality is not to excuse anyone from accountability for the decisions they have made, or the pain they have chosen to inflict on other people. But it is to accept that as a community we have a responsibility that goes beyond simply shaming and blaming people. We may need to examine and move beyond our stereotypes.

Celia Lashlie, Former Prison Manager

My work within prisons and among at-risk families has left me with the view that the main thing that needs to happen is an attitudinal shift. That doesn't necessarily mean you have to give up your view that prisons should be tough places, or start advocating that offenders should be hugged rather than sent to prison. What it does mean is that in determining your view on criminal justice policies, you need to check whose face comes into your mind's eye when the word 'inmate' is used and when you find yourself advocating for harsher penalties or the death penalty.

If the face that comes to mind is the tattooed face of a gang member or the face of a man who brutally killed a young woman after raping her, the challenge I would issue is to remove that face and replace it with the face of an 11-year-old girl who sleeps on the streets of Auckland, and sleeps in the pipes under those same streets; an 11-year-old girl who survives by agreeing to have sex with men who actively seek her out; an 11-year-old girl who has no expression on her face and who, when you look in her eyes, shows a knowing well beyond her years and a sorrow too deep to contemplate.

If your belief in longer and tougher sentences...can sustain itself in the face of the image of that young girl, then I will happily concede you are entitled to your view. Until that time, I will continue to believe your view is ill-considered and not linked to the reality I constantly connected with as I spent time in prisons in this country.

Celia Lashlie: *The Road to Prison*, Harper Collins, 2003.

The first to throw a stone

John 8:7

ILLUSTRATION: PETER LENDVAI

In the Gospel story of the woman condemned to death for adultery, we find in Jesus's response, not a blueprint for penal policy, but an indispensable guide to the part we should play in it. In considering the punishment laid down for the woman, Jesus asks us to look first into our own hearts, to consider how blameless we are before we condemn and punish others.

It can be easy to dismiss the Biblical penalty for adultery as being part of a barbaric past, and to consider our own present day prison system as more compassionate. However, like those willing to stone to death the woman taken in adultery, we need to stop and take the time to examine our own consciences about our own attitudes and practices.

It can be helpful to consider the recent history of the development of prisons. Many who worked in the 18th century to make imprisonment an accepted form of punishment sought a humane alternative to the capital and corporal punishment that had previously been the main forms of punishment in Europe for most crimes.

Unlike today's institutions, most prisons were not originally places in which convicted persons expected to spend years of their lives. They were more usually temporary holding places, designed to secure a prisoner awaiting trial or sentence. Even up until the 1770s, imprisonment as punishment in Britain was used in only 2.3 percent of cases tried at the Old Bailey.[15]

In the 18th century, flogging, execution and transportation of convicts to overseas colonies were more common punishments than imprisonment. However, according to Victoria University criminologist John Pratt, after the American war of independence, until Australia "became available" as a convict destination, "almost overnight, imprisonment was transformed from an occasional punishment...into the sentence of first resort for all minor property crime"[16].

European ideas of punishment were exported along with other aspects of British life to New Zealand, where settlers expected that Māori would quickly assimilate into British justice processes. The system of justice already in place was overlooked by early arrivals, who "did not recognise that they were observing the operation of a formal legal system and its mode of functioning, simply because it did not correspond to the British mode".[17] In fact, Māori strongly resisted the imposition of British legal practices, particularly imprisonment.

In contrast to the British system, in which a crime was considered to be an offence against the State and punishable by the State, Māori society saw crimes as being offences against people, and any reparation or restoration of relationship owed to the affected whānau and community.

Traditional forms of compensation were through utu or muru, which involved the reparation to the tribe of an affected person. Utu has often been misunderstood or mistranslated as "revenge" and muru as "plunder". However, like many cultural practices of Asia and the Pacific, might be better understood as reciprocal obligations, or "a means of seeking, maintaining and restoring harmony and balance in Māori society and relationships".[18]

The clash of understandings and expectations about what had been promised and granted by the Treaty of Waitangi extended not only to the better known aspects of land ownership, but also to the administration of justice. Māori chiefs understood that the right to discipline their people was a fundamental aspect of the rangatiratanga guaranteed by the Treaty, while colonial administrators and settlers were under the impression that the rights of citizenship extended to Māori included access to British justice.

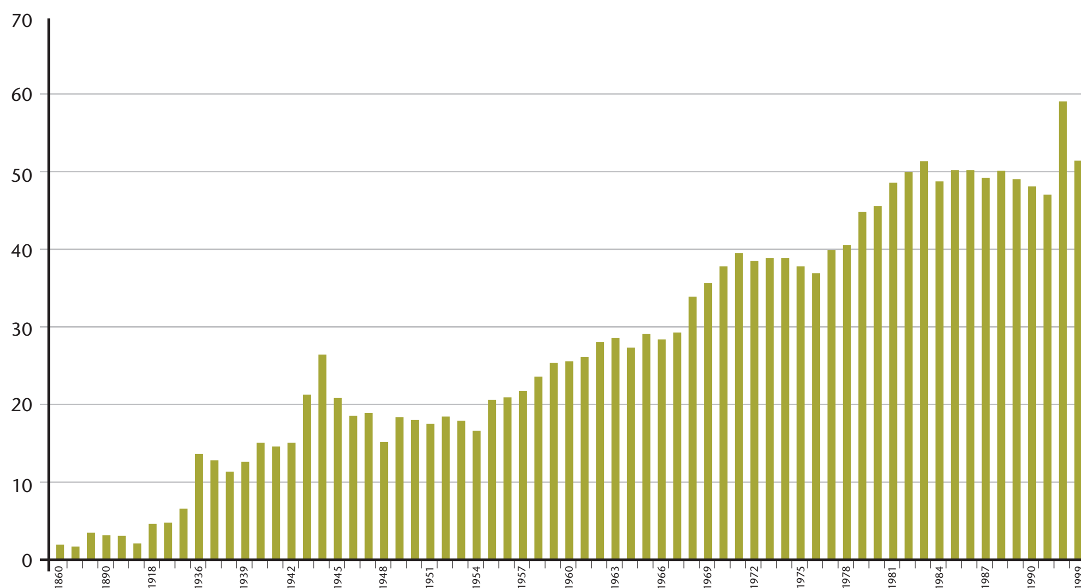
16 John Pratt: *Punishment in a perfect society*, VUW, 1982
17 John Pratt: *Punishment in a perfect society*, VUW 1982
18 John Pratt: *Punishment in a perfect society*, VUW, 1982
19 Ministry of Justice: *He Hīnātore ki te Ao Māori/A glimpse into the Māori world: Māori perspectives on justice*, 2001

Because of the traditions of compensation, and the strong resistance to imprisonment which was alien to Māori culture, early colonial administrators recognised that "Māori society lent itself more to the fine than to imprisonment".[19] As proposals for a parallel justice system are currently being raised, it is interesting to learn that despite the protests of settler communities, a series of elected rūnanga were set up to administer justice in a way which combined some aspects of British and Māori justice. However, these were abolished in 1893 when British justice was no longer being strongly resisted.

Māori urbanisation in the 20th century contributed to a situation in which there was a rapid increase in Māori imprisonment rates. Although only 15 percent of the population, Māori now make up more than 50 percent of those in prison. This is internationally understood to be a signal of wider social deprivation of the indigenous community and of wider social inequalities.

The disproportionate imprisonment figures for Māori are reflected at all levels of the justice system: More Māori are apprehended by police; a higher proportion of Māori are prosecuted (Māori receive few warnings or diversions); once before the courts, Māori are more often convicted; and sentences for Māori are more often custodial.[20]

Māori received into prisons as % of total received



Source: Greg Newbold: *The problem of prison*

Kim Workman, *Rethinking Crime and Punishment*:

In the United States, one in every nine African American men between 18 and 30 are in prison, and one in 15 Hispanic Americans, compared to one in 100 for the general population. Here, 40 percent of Māori males over 15 either have had a prison or a community sentence, compared to 7 percent of Pākehā.

There are whole streets where fathers are absent because they are in prison, and where there is a lack of social cohesion. Often, the leaders in the youth gangs, are those 12-18 year olds whose fathers are in Mt Eden prison. We need to consider criminal justice issues in the context of the wider social and economic environment. We see a child of 12 as a victim of violence and family dysfunction, but somehow at the age of 13 we put on our crime spectacles, and regard them as young offenders.

The evidence is undeniable – more than 50 studies involving 300,000 prisoners confirm that the longer people are kept in prison, the more likely they are to reoffend. Another recent study showed that the harsher the treatment, the more likely prisoners are to reoffend.

19 John Pratt: *Punishment in a perfect society*, VUW, 1982
20 Dr Pita Sharples: *Address to Drivers of Crime conference*, Parliament Buildings, Wellington, April 2009

Neither do I condemn you

John 8:11

ILLUSTRATION: PETER LENDVAI

Over the past century imprisonment has gradually evolved from public forms of punishment – such as public work gangs – into private punishment, in which the lives of prisoners are cut off as much as possible from the general population.

The problem with the invisibility of justice behind prison walls is that most of us are far removed from the brutality of prison life. Longer prison sentences, harsh conditions and constant overcrowding have turned prisons from the humane alternative envisaged by 18th and 19th century reformers into institutions which frequently go beyond the deprivation of liberty.

The New Zealand Catholic Bishops Conference described prisons as places which are destructive of people's humanity, where prisoners are hardened rather than encouraged to turn their lives around. "As well as punishing, many of our maximum and medium prison structures are responsible for destroying, partially or totally, temporarily or permanently, those confined within their walls. The existence of such prisons is an affront to human dignity. They are a poison in the bloodstream of our nation".[21]

Catholic teaching on crime and punishment seems paradoxical. We do not tolerate behaviour that violates the rights of others, and wish to hold offenders to account when this occurs. But at the same time, Catholic faith does not give up on anyone. "Even the worst of offenders remain children of God."[22]

The Catholic Church teaches that the purpose of punishment is to discourage behaviour harmful to human rights, and also to repair the disorder caused when this does happen. Punishment is intended to encourage reintegration into society and to foster a justice that reconciles, that brings harmony back to disrupted social relationships.[23] This requires all forms of Church ministries connected with crime and punishment to work in defence of the dignity of those detained.

Respecting the human rights of those in prison is not currently a popular concept. It can be very difficult in the face of a society clamouring for vengeance and retribution to continue to hold fast to this truth, and even more so in the context of the very real suffering of victims.

In the Taunoa case in 2004, Justice Young found the Behaviour Modification Programme at Paremoremo prison had resulted in mistreatment which was in breach of the Bill of Rights.

Pope John Paul II recognised that prisons can become places of violence often resembling the places from which inmates originally come. "Not to promote the interests of prisoners would be to make imprisonment a mere act of vengeance on the part of society, provoking only hatred in the prisoners themselves," he said.[24]

The challenge of ensuring our recognition of human rights and dignity extends to "the least of our brothers and sisters" is the test of how well we understand the basis of the human rights and dignity that every person is given by God. As Jesus taught us, there is no special merit in loving your friends – the challenge is in loving our enemies – those who may harm us. This does not come naturally, and many of us have to struggle to overcome the inclination to condemn forever those who have harmed others through their offending.

21 New Zealand Catholic Bishops Conference: *Bishops Back Penal Reform*, 1989
22 New Zealand Catholic Bishops Conference: *Creating New Hearts: Moving from Retributive to Restorative Justice*, 1995
23 Compendium of the Social Doctrine of the Church 402-403
24 Pope John Paul II: *Message for the Jubilee in Prisons*, 2000

However, we are called to follow the example of the counter-cultural treatment of Jesus towards sinners and perpetrators of crime. American prison chaplain Sr Susan van Baalen explains: "The accounts of the woman at the well or the woman caught in adultery demonstrate that Jesus, in his dealings with sinners, never fails to hear the cries of the sinner, to invite her to communion with himself and to challenge her to make right decisions."[25]

The recognition of human rights is particularly essential when people have been deprived of their liberty. We have only to consider the story of the Passion of Christ – the unfair trial, the humiliation by guards, and the violence of his death – to draw on our own deep understanding of what happens when a person is at the mercy of those in power.

Many Christians since the time of Christ have also experienced imprisonment, torture and cruel forms of execution. We have a two-thousand year old tradition of prison ministry, including paying attention to the rights and dignity of prisoners, which dates back to the origins of the Church, such as the plea in the Letter to the Hebrews: "Keep in mind those who are in prison, as though you were in prison with them."[26]

The Human Rights Commission says detention raises fundamental issues of human rights. "A key reason for human rights protections is to mediate the exercise of power over citizens. State power is at its greatest when citizens or others are detained by the State, and people in detention are extraordinarily vulnerable to abuses of that power."[27]

Overview of the rights of prisoners in New Zealand is undertaken through complaints procedures overseen by the Office of the Ombudsman, who has this year begun a series of inspections of all institutions in which people are detained. These include prisons, remand centres, mental health services, and places where asylum seekers are detained.

Rights of people in detention are covered in a number of human rights agreements and conventions. However, internationally, there is still a wide gap between the principles and the reality, because many people in prisons are already regarded as outcasts and because treatment in prisons takes place out of public view.

PHOTO: ADRIAN HEKE

Picture: Sr Josepha O'Connor, retired prison chaplain

What do Catholic prison chaplains say?

"We don't take Christ to the prisons, he is already there." *The Catholic Church's experience of criminal justice is grounded in the experiences of prison chaplaincy. Twenty-five Catholic prison chaplains are based in New Zealand's 20 prisons.*

Current chaplains are deeply concerned about conditions in New Zealand prisons as a result of overcrowding. "Double-bunking added to long lockdowns is a formula for increased violence, manipulation and intimidation."

When asked what was the message that she would most like to get across to the wider community, one chaplain replied: "Look after your children, supervise your children, love your children. Because you don't ever want your child to end up in prison."

25 Pontifical Council for Justice and Peace and International Commission of Catholic Prison Pastoral Care: *Study seminar papers*, Vatican City, 2005
26 Hebrews 13:3
27 New Zealand Human Rights Commission: *Human Rights in New Zealand Today/Ngā Tika Tāngata o Te Motu*, 2004

Which is easier to say: "Your sins are forgiven" or "Take up your bed and walk"?

Matthew 9:5

ILLUSTRATION: PETER LENDVAI

The goal sought by the Catholic Church in relation to issues of criminal justice is for repentance, forgiveness and reconciliation, rather than vengeance and punishment. As the New Zealand Bishops said in 2006, this is anything but a 'soft option'. "It is an extraordinary task, a difficult and painful path for both victim and offender, requiring an enormous investment of time, resources and support for all parties."[28]

Holding offenders to account and providing healing for victims are frequently interconnected. In Biblical justice, despite the often misunderstood 'eye for an eye' approach, the message is not so much one of retribution as of proportionality, of seeking shalom – peaceful relationships – for the whole community and restitution for victims. Similarly, restoration of relationships was central to many traditional European, Māori and Pacific justice systems.

One of the chief criticisms of our present penal arrangements is that offenders frequently do not have to face up to the impact of their crimes. American victim of violence Bion Dolman explains: "If you hurt another person, you have to be made accountable for that, and I don't think sitting in a cell is what is going to do it. It would be better for offenders to sit down with their victims and talk to them and understand what they have gone through. They should have to take that on. If the victim were able to say, 'I'm a person. This is who I am and what I felt. This is what you've done to my life,' I think that would have a greater effect."[29]

Reconciliation, including repentance on the part of offenders, and healing and forgiveness on the part of victims, is a long and arduous task. No one should be fooled into thinking that such a process can always be accomplished in a single meeting of victims and offenders. Despite this, for a large number of New Zealanders, the opportunity for dialogue through restorative justice processes, such as Family Group Conferences provided through youth justice courts, has provided a turning point for both parties.

Justice Fred McElrea says the restorative justice approach provided through Family Group Conferences often gives an opportunity for the hurt and anger of victims to be experienced in a face-to-face encounter. "The depersonalising defence mechanisms of offenders – 'They can afford it', 'It's only a car' and so on – tend to break down when the victim is experienced as a living, hurting human being... Shame can lead to apology and an expression of remorse, which in turn can lead to acceptance of the apology and possibly forgiveness."[30]

However, forgiveness cannot be demanded or legislated for, and it cannot be an obligation laid on victims, particularly before injustices are addressed. Therapists working with both victims and perpetrators of abuse say that sometimes an offender wishes to achieve reconciliation from a self-centred perspective, in which an apology is expected to magically restore relationships with people permanently damaged by their offending.

An offender may "expect or require the person to cease or lessen feelings of hurt, suffering or resentment. He may promote 'quick-fix solutions' which do not require developing a deeper understanding of the nature and effects of his abusive actions...When the plea for understanding and forgiveness seems to be associated with a self-centred desire for release from guilt and responsibility, this places even more demands and responsibilities on those suffering as a result of the abusive actions, and serves as a further abuse of power and privilege."[31]

28 New Zealand Catholic Bishops Conference: *Crime and Punishment*, 2006

29 Howard Zehr: *Transcending: Reflections of Crime Victims*, Pennsylvania USA, Good Books, 2001

30 Judge Fred McElrea: Taking responsibility in being accountable, in Jim Consedine and Helen Bowen: *Restorative justice: Contemporary themes and Practice*, 1999

31 Alan Jenkins, Rob Hall and Maxine Joy: Forgiveness and child sexual abuse, in *The International Journal of Narrative Therapy and Community Work*, 2002, No.1

In contrast, other offenders can be brought to an acknowledgment of the victim's feelings. "From this perspective, he is prepared to face (rather than avoid) feelings of shame and remorse," and to seek restitution, in which an offender takes responsibility for restoration, without necessarily requiring anything in return from those who have been affected by their offending. When forgiveness is placed as a possibility, rather than as a demand or obligation on victims, many find themselves able to embrace it.

Theologian Robert Schreiter says just as resurrection is not merely resuscitation, reconciliation does not simply seek to return people to where they were before the pain and suffering they have experienced. Instead, reconciliation processes can help to move both victim and offender to a completely new place, where the hurt of the offending does not disappear, but is transformed into a "new creation".[32]

It is important not to oversimplify the demands of reconciliation. It is not a quick process, and it certainly should not be seen as the cheap or easy alternative. It cannot be reduced to a two-hour meeting format. Those promoting reconciliation recognise that Family Group Conferences and other forms of restorative justice have not brought healing for all victims, nor repentance for all offenders, yet the Catholic Church remains committed to supporting the continuing development of such processes as the only real way of stopping the cycle of violence and suffering.

PHOTO: ADRIAN HEKE

Minister of Māori Affairs Dr Pita Sharples has been associated with restorative justice for several decades as part of Te Whānau Āwhina, which was developed by the Māori community of West Auckland to address the situation of large numbers of Māori youth appearing before the courts. The process developed at Te Whānau Āwhina during the 1970s became widely accepted and adopted, as local police and judges referred young people to the marae-based process.

Dr Sharples[33] explains how the process follows Māori protocol and principles:

Whakahuihui tāngata – ***calling the meeting***: The opening includes the welcoming of the manuhiri by the tāngata whenua and recognises the respect given to everyone present, including both offender and victim.

Karakia – ***prayer***: This acknowledges the imbalance of the mauri of those present, as a result of the offending, and begins a process of healing.

Whaikōrero – ***the enquiry***: a community panel set up specifically for the process asks questions about what happened. "The key kaupapa here is manaakitanga – caring and respecting... Feelings such as shame, guilt, sorrow, anger, love, fear are voiced openly".

Whakataunga – ***the determination***: The determination outlines a plan of rehabilitation for the offender, and restitution of some kind for the victim. "Through the expressions of remorse by the offender and the subsequent apology, the programme of rehabilitation and the restitution, the group is bound to a unified commitment to healing for all."

32 Robert J. Schreiter: *The Ministry of Reconciliation: Spirituality and Strategies*, Orbis Books, 1998
33 Dr Pita Sharples: *An indigenous programme for restorative justice by the Māori of New Zealand*, 17 October 2007

Father, forgive them

Luke 22:34

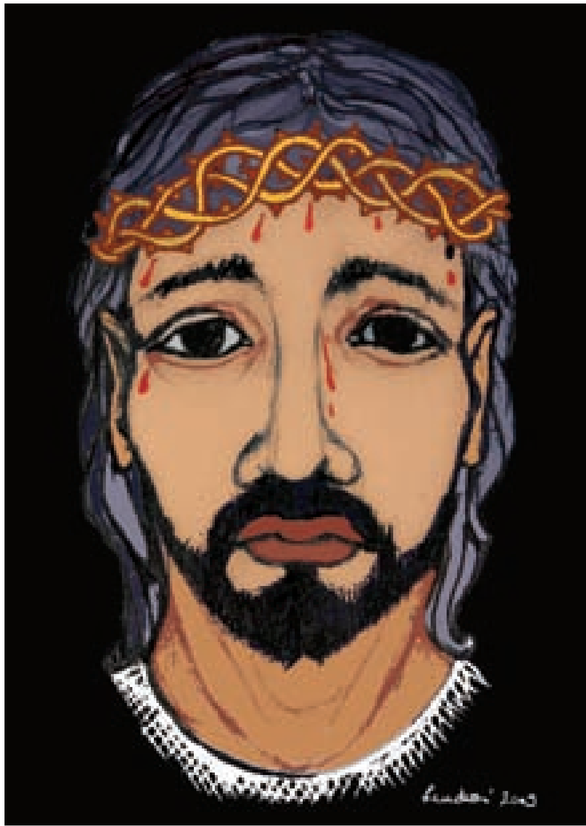


ILLUSTRATION: PETER LENDVAI

How do people forgive? Given the enormity of crimes committed against individuals, against communities and even against whole nations, it can seem impossible to imagine that humanity can find its way to forgiveness.

Sometimes the example of Jesus forgiving his executioners is quoted, occasionally to encourage people to forgive quickly even in the face of terrible wrongdoing. Caritas Internationalis says a closer reading of the story in Luke's Gospel shows that Jesus does not in fact forgive his executioners, but rather calls on his Father to forgive them. "Jesus in his being tortured and executed cannot encompass the enormity of the wrong being done to him. But his Father rescues Jesus' humanity that allows the victim Jesus to call on God to forgive."[34]

Caritas Internationalis's reconciliation guidelines therefore start from the recognition that reconciliation is first and foremost the work of God. Many events requiring reconciliation are of such enormity that in fact human beings are incapable of effecting reconciliation ourselves. It is only God who can make it possible.

St Paul taught in his letter to the Corinthians that because of the reconciliation brought about through Christ, we are all called to the ministry of reconciliation. However, we can only be God's *agents* in this process, because ultimately reconciliation can only come about through God. This does not mean that human beings should just sit back and passively wait for reconciliation to happen.

It may be helpful to step back from the individual cases of punishment and reconciliation which are the main setting for considerations of forgiveness for many New Zealand citizens. The ministry of reconciliation is not confined to Church confessionals and the social settings of criminal offending.

For significant numbers of the world's population, reconciliation is needed to overcome situations of war, genocide, widespread human rights abuses and other forms of injustice. If it can seem extremely difficult for individuals to overcome our pain and suffering to achieve reconciliation, it can seem even more overwhelming that global communities and societies might do so.

However, there are many inspiring examples of reconciliation processes, such as the Truth and Reconciliation Commission of post-apartheid South Africa or peace ceremonies involving the handing over of broken weapons in Papua New Guinea.[35] We are called both to individual acts of reconciliation and also to address injustices which affect whole communities. Recent Treaty of Waitangi settlements are one example of addressing historic injustices.

PHOTO: ADRIAN HEKE

34 Caritas Internationalis: *Working for Reconciliation: A Caritas Handbook*, 1999

35 P. Gibbs and D.W.Young: *The Churches and Peace Building in the Papua New Guinea Highlands*, PNG Church Partnership Programme, 2007

For anyone still facing the consequences of pain and suffering, whether as a result of individual or structural sin, calls to 'put the past behind you' or to 'forgive and forget' are at best unhelpful, and at worst can be oppressive. Many people have the impression that 'forgive and forget' is a Biblical concept. In fact, it comes from medieval Western Christianity, and does not have any scriptural foundation.

Our Christian heritage, rather than asking us to forget the evil that has been perpetrated on human beings, asks us to transform our understanding of that suffering. "To forget either trivialises the issue or trivialises our dignity as human beings...What has happened to us can never be erased. But it can be seen in a different way which empowers the victim rather than being a continuing source of degradation."[36]

Through forgiveness and reconciliation, suffering people are not asked to forget what has happened to them, but to remember in a different way, freed from the bitterness that can accompany the memory. People do not forget the evil they have experienced, but those who have been able to find healing in their memories may be transformed into people who find a particular mission in bringing about reconciliation for others.

On a global scale, we can see that peaceful transitions, such as the end of apartheid in South Africa, were able to occur because some key people were able to forgive without forgetting. Equally, there are many who bring their personal experiences of surviving the effects of crime to the work of accompanying victims in their healing and in bringing offenders to an understanding of the hurt they have caused.

Jesus acknowledges in his plea to his Father from the cross that his executioners do not yet comprehend the evil they are committing. "Father forgive them, they do not know what they are doing."[37] For some offenders, such as those whose actions have brought about the death of a child through abuse or neglect, the greatest punishment can be to come to a full realisation of the consequences of their offending.

Former prison manager Celia Lashlie speaks about one such offender: "Nothing you or I might do to her...will compare to the pain this inmate will feel at the moment she comes to the full realisation of the part she played in the death of her child. And once she has reached that level of awareness, she will live with it forever."[38]

PHOTO: MARY BETZ

Delia Ruane, Seasons for Growth grief programme, Diocese of Auckland:

"Every saint has a past, and every sinner has a future". She says helping offenders to address their grief helps many to understand the causes of their offending. "One man awaiting sentence for a violent crime told me: 'They sent me to anger management, and they told me what to do when I got angry, but you have helped me see why I am angry'."

Delia says the majority of offenders she meets in prison are there because things have gone very wrong in their own lives. "Some people are abused and go on to abuse others - they don't have the strategies or the support to get them through." One participant in the programme wrote afterwards: "I myself was blinded and was about to be swallowed by the darkness of the past. Now I feel good and happy and look forward to my new future."

36 Caritas Internationalis: *Working for Reconciliation: A Caritas Handbook*, 1999
37 Luke 22:34
38 Celia Lashlie: *The journey to prison*, Harper Collins, Auckland, 2003

He was lost and is found

Luke 15:32

ILLUSTRATION: PETER LENDVAI

There are many messages in the parable of the forgiving Father welcoming his son. One of particular importance for New Zealand society is the example it gives us of how to help reformed offenders find their way home. For most, there is no fattened calf waiting on their arrival.

The experience for most people leaving prison is that the fears of the community do not seem to be lessened in spite of the punishment they have received. It appears that fewer and fewer members of our society subscribe to the notion that a former prisoner has 'served their time' and should be allowed to re-establish their life.

What society appears to hope will happen is that a offender will depart from a prison ready to become a peaceful, productive member of society. Despite the reduction in prison programmes for education, work and addiction treatment which would assist towards this goal, many former offenders also seem to share that hope at the time of release.

However, the barriers to successful reintegration are huge. If poverty and limited employment choices were a factor in the causes of the original offending, it is extremely unlikely that this will not be significantly worsened once a prison sentence is added to the CV.

Professor Tony Ward of Victoria University says there is an increasingly 'risk-averse' approach by the community, in which people are seen primarily as potential bearers of risk or potential agents of harm. The alternative view is to take a 'good lives perspective' which understands that, like other people, offenders seek good relationships and to change their lives for the better.

The 'risk-averse' perspective makes employers reluctant to take on people with criminal convictions, in many cases preferring to take the risk of potentially employing a future offender rather than a reformed one.[39] Added to that, the difficulties of repairing strained relationships with partners and families, the difficulties in obtaining accommodation, and just the daily stress of dealing with the bureaucracy of applying for a benefit and meeting parole requirements, can contribute to extreme stress.

Sociologist Shadd Maruna says despite the importance of 'turning point' moments in which many offenders wish to turn their lives around, the process of 'going straight' is actually closer to the ongoing effort and commitment required to give up smoking.[40] It doesn't happen in one moment, and lapses can occur when people are most vulnerable or under stress.

In addition to these other pressures, the prison experience itself is unlikely to assist most prisoners to make significant changes in their lives. For example, former prison chaplain Fr Jim Consedine says there is no better recruitment area for criminal behaviour and gang membership than prisons. "For a person wishing to break his or her gang affiliations, prison can prove an impossible place to be... Prison reinforces gang affliations and makes it extremely difficult for members wishing to make a break to do so."[41]

Although most of us would hope that prisons would help those for whom drug or alcohol addictions were a factor in their offending, ironically many prisoners have reported that prison was actually the place where they were first introduced to drugs.

39 Professor Tony Ward, Promoting Human Goods and Reducing Risk, in Prison Fellowship Conference Papers 2006

40 Shadd Maruna: *Making Good: How ex-convicts reform and rebuild their lives*, American Psychological Association, 2000

41 Jim Consedine: *Restorative Justice: Healing the effects of crime*, Ploughshares Publications, 1995

There is considerable debate, both in New Zealand and internationally, about the value of treatment and other programmes in prisons. Many doubt the ability of prisons to rehabilitate or reform, and point to high rates of recidivism even when programmes are provided.

The key New Zealand organisation that helps prisoners reintegrate back into the community is the Prisoners Aid and Rehabilitation Society (PARS). They estimate that of the 9000 prisoners released each year, around 3000 return to prison within a year.[42]

Canterbury University sociologist Greg Newbold, himself a former Paremoremo inmate, says recidivism figures alone are a crude measure of the value of prison programmes. They do not tend to measure the severity of offending – for example whether a person's criminal behaviour is becoming more or less violent. In addition, prisoners often return to situations which do not support "lessons learned or commitments made in the artificial environment of a cell block".[43]

Sociologist Shadd Maruna says because prison is such a dehumanising experience, we need to discover processes which rehumanise people on their return to society. Prisons deliberately strip away self-esteem and identity through arrival processes such as removing a person's own clothing and possessions, performing physical searches or medical examinations, assigning them a number and accommodating them to prison routine. Nothing is done to prepare prisoners to return to taking responsibility for their own decisions, let alone to restore the self-esteem or identity that has been deliberately removed.[44]

PHOTO: NZ PARS

Lyanne Kerr, National Manager, Prisoners Aid and Rehabilitation Society:

There's a narrowing of what's acceptable. The world is busier, more stressed. People are less and less tolerant of differences. They feel as if the more harshly they treat offenders, the better off victims will be.

Prisons are becoming much harsher places. The programmes which used to humanise people – such as getting university degrees – aren't there. The ability to come out of prison a better person is lessened.

Everyone who leaves prison has to report to their probation officer within 72 hours. Everybody says at that point, I'm not going back, I'm going to see my wife, get a job, pay my taxes. Over the next few weeks, you see the deterioration, the euphoria of getting out disappears and is replaced by the experience of getting knocked back for work, going to WINZ and being treated badly, living on the dole which is so little money. Then a mate asks can they just store some "things", and they think it means they can pay the power bill...

The least we could do with people while they are in prison is equip them with some skills for when they come out. People who don't know what it's like say things like, "why can't they get their act together" or "just buck up and get a job". But more and more jobs exclude you if you've got a criminal record.

42 John D Whitty: *How to reduce the NZ prison population*, in Prison Fellowship Conference Papers, 2006
43 Greg Newbold: *The problem of prison*, Dunmore Publishing, 2007
44 Shadd Maruna: *Making Good: How ex-convicts reform and rebuild their lives*, American Psychological Association, 2000

Forgive us our sins, as we forgive those who sin against us

Matthew 6:12

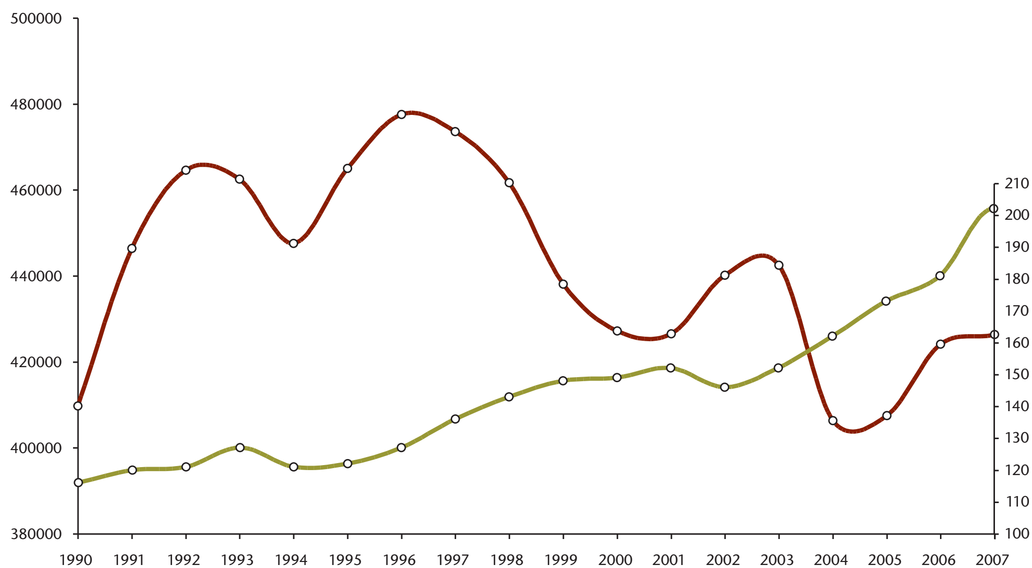
ILLUSTRATION: PETER LENDVAI

Despite the fears of crime experienced by many members of our community, most of us will not have to face reconciliation over the worst kinds of offences. Without discounting the terrible reality of the harm caused by criminal offending, most New Zealanders – apart from those from refugee backgrounds – will not have a family member murdered, or be tortured or subject to other forms of human rights abuses.

The trend over the past decade has been for reported crime to decline, even as prison numbers have dramatically increased. This would not be the perception of many New Zealanders, many of whom continue to feel unsafe and insecure.

Many New Zealanders likely to come into contact with restorative justice processes will do so because of relatively minor crimes such as property crime. This is not to trivialise the impact that burglary or theft can have on people's sense of safety and wellbeing, but many studies have shown that New Zealanders consistently overestimate the amount and severity of crime.[45]

Prison population [rate per 100 000 total population]: 1990–2007
Total number of reported offences in New Zealand: 1990–2007



Source: Professor John Pratt, Victoria University of Wellington

45 Bonnie Robinson: *Beyond the Holding Tank or Reforming Prison, one bumper sticker at a time* in Prison Fellowship Conference Papers, 2006

PHOTO: ST THOMAS OF CANTERBURY COLLEGE

Restorative justice processes are being used in non-criminal settings, and by a range of organisations. While we need to compassionately consider and support New Zealanders dealing with the consequences of serious criminal offending, many of us might find immediate needs for repentance, forgiveness and reconciliation much closer to home – perhaps within our families, schools, workplaces, neighbourhoods or parish communities.

Many Catholic schools have adopted peer mediation or restorative justice processes to deal with issues of conflict or school discipline. One is St Thomas of Canterbury College in Christchurch, where principal Christine O'Brien says the journey to integrate restorative justice into school processes has been positive and life changing. One clear result has been major reductions in stand-downs, suspensions and exclusions; other outcomes have been about promoting community peace.

Christine O'Brien says restorative justice is an effective process to resolve situations of bullying because it focuses on developing empathy, on empowering the victim and on reparation of the relationship by the offender. "Schools do not exist in isolation from society but are a microcosm of it...Many of the solutions presented [to bullying] reflect the trend which we see in the public reaction to law and order, and crime and punishment at the moment. We do not believe these are helpful for resolving issues relating to young people in a school setting."[46]

Josh Maclean, Head Boy, St Thomas of Canterbury College, Christchurch:

> ***"Restorative justice is one of the best things to have happened at our school because it has helped friends stay together. Friendships have not been destroyed when some actions went too far. The restorative conversation helped friends to front up, talk about what happened and now we have a lot stronger friendships.***
>
> ***"Restorative justice teaches you how important communication is. Relationship is the key. It encourages you to think about resolving things rather than bottling up negative thoughts."***
>
> Photograph (left to right): Matthew Elia, Caleb Reweti, Josh Maclean

A primary school currently working to adopt restorative justice practices is St Columba's school in Hamilton. Using strategies such as allowing students a chance to reflect in a 'thinking room' and using a 'restorative conversation sheet' helps teachers and students to plan a way to 'make things right'. Principal Michael Mokai says students are themselves now having more conversations about reconciliation, victims are definitely being heard and offenders feel more accepted.[47]

Margaret Thorsborne, a speaker at the 2009 Catholic Schools Convention, says Queensland schools adopted a restorative justice conferencing approach to school discipline issues as intervention for serious cases of bullying. "Research had already established that bullies typically have low levels of empathy, tended to be highly impulsive and often retaliated if they were punished... [Restorative justice conferences seemed] an intervention which increased empathy and lowered impulsivity on the part of the bully, and improved the outcomes for both victim and offender".[48]

46 St Thomas of Canterbury College newsletter, March 2009
47 Caritas Aotearoa New Zealand: *Courage to Forgive: Social Justice Week 2009 Resource for teachers and students Years 1-13*, 2009
48 Margaret Thorsborne: *School violence and Community Conferencing* on www.thorsborne.co.au

Between 1994 and 1996, a total of 119 Queensland schools became involved and evaluation findings included:

- Participants were highly satisfied with the process and its outcomes;
- There were high compliance rates by offenders, and low rates of reoffending;
- A majority of offenders said they were more accepted, cared about and closely connected to other participants;
- A majority of victims felt safer;
- All school administrators felt that the process reinforced school values;
- Nearly all schools reported they had changed their thinking about managing behaviour from a punitive to a more restorative approach.

At present, most New Zealanders who experience restorative justice processes will do so through the Family Group Conferences (FGC) of the Youth Court or Child Youth and Family Service. New Zealand's adoption of restorative justice principles in youth courts in 1989 was the first formal adoption by the legal system of any country of a system of justice based on restorative principles and practice.[49] The process has not been without its flaws, but evaluations have shown overall that there are many benefits both for individuals and for society.

Principal Youth Court Judge Andrew Beecroft says imprisonment is a particularly poor response to youth crime. "While adults adapt to the custodial system, children and young people may be *adopted by it*. Marginalised youth may learn to fit into the prison culture in the way they would fit into a family culture and continue to use that culture's norms upon release. Young inmates may experience intimidation and bullying by older inmates. Verbal, physical, sexual and emotional abuse is particularly likely to those incarcerated for the first time...The majority of young people will grow out of offending if they are kept away from the criminal justice system, are made accountable for their crimes and are given the right support."[50]

Dr Gabrielle Maxwell has studied the effectiveness of Family Group Conference (FGC) processes, and found the goal of achieving accountability for young people was being achieved almost universally. However, outcomes intended to repair harm were only achieved in around half of FGC plans, and measures to achieve rehabilitation were not always being implemented. Other issues which needed addressing included cultural responsiveness, timeframes and decision-making.

However, her overall conclusion was that New Zealand had made an effective transformation to restorative forms of youth justice processes. "The youth justice system in New Zealand is now undeniably based on new forms of accountability through acknowledgement of responsibility and apology, diversion from formal procedures and custodial outcomes, and a focus on repair and reintegration rather than punishment." [51]

Natalie Hornyak, Auckland Catholic youth worker:

I know that Aotearoa is a world leader in youth justice and I am proud of that, but in a lot of ways we are letting our young people down. I've spent many hours sitting with young people in Family Group Conferences, and they're painful. FGCs really need amazing facilitators who can ensure everyone understands the process and can support everyone present to engage fully.

I've also spent many hours in court with many young people. I've waited all day on these awful plastic seats and then not even been called up. The message is clear: "your time doesn't matter – you don't matter". So many young people are hungry for positive relationships. If they haven't had these when they're really young, or no one has stuck by them then of course they have trust issues. Somewhere along the line, these young people began to believe that they aren't worth very much, and then started living lives that echo their belief.

49 Gabrielle Maxwell: *Restorative justice for young people in New Zealand, Lessons from Research* in Prison Fellowship Conference Papers, 2006
50 Judge Andrew Beecroft: *Time to teach the Old Dog new tricks* in Prison Fellowship Conference Papers, 2006
51 Gabrielle Maxwell: *Restorative justice for young people in New Zealand, Lessons from Research* in Prison Fellowship Conference Papers, 2006

Let justice roll on like a river

Amos 5:2

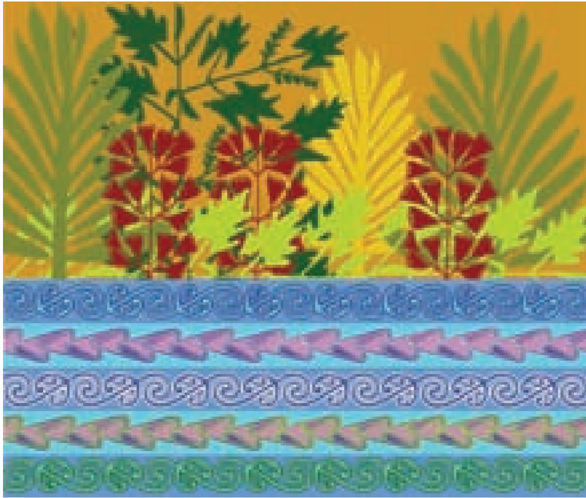


ILLUSTRATION: PETER LENDVAI

New Zealand theologian Christopher Marshall says that in contrast to the Western vision of justice as a blind woman balancing a set of scales, the Biblical vision of justice is of a river flowing through the land, transforming everything in its path.[52] Justice as typified by the Western image of the woman with scales is primarily focused on **judgement**. Biblical justice is primarily focused on **transformation**.

Justice in Catholic social teaching is much broader than the typical English usage of the word, which often confines it to the area of criminal justice. In a Catholic understanding, there are many different forms of justice, including legal justice, commutative justice (concerning contracts between people), distributive justice (concerning the destination of the world's goods) and social justice (concerning social, political and economic issues and the structural dimension of problems and their solutions).[53]

No criminal justice system exists in isolation to the society in which it is based. Inequalities in society are reflected in inequalities in prison. A society which does not care about the rights of its most vulnerable people and actively protect them should not be surprised when some of its citizens also disregard the rights of other people. Issues of crime and punishment are often indistinguishable from other social justice issues, including discrimination, poverty and responses to violence.

The restorative justice approaches supported by the Catholic Church as an alternative to the retributive, vengeful thinking of many in our society, reflect Biblical traditions of shalom, and Catholic social teaching on the rights and dignity of all people. There are many challenges for all of us, and also opportunities.

However, there is no future in an increasingly punitive and repressive system of punishment, which absorbs more and more resources and damages more and more lives. For the sake of victims, offenders and our whole community, we need to find better ways.

PHOTO: ADRIAN HEKE

Kilian de Lacy, Senior Catholic prison chaplain:

> ***Pope John Paul said prisons should be places of redemption. We need to discover the face of Christ in every prisoner. Some of us would like to think we are the face of Christ to them, but it actually works the other way.***
>
> ***As members of society we have to take responsibility for each other. Many people, including Catholics, don't want to know, don't want to think about people in prison, unless it directly affects them, and then it is usually the result of a negative experience.The Church's ministry to prisons belongs to the whole church. It would be great if every parish, school, class, person, religious community could adopt a prison cell in a particular prison, and pray for the occupant of that cell, whoever it might be at the time, along with his or her victims and family members. That would keep them in mind.***

52 Christopher Marshall: *Beyond Retribution*, Lime Grove House Publishing, 2001
53 Compendium of the Social Doctrine of the Catholic Church, 201

Catholic social teaching

Catholic social teaching is a body of thought on social issues, which is usually dated from Pope Leo XIII's encyclical Rerum Novarum in 1891. Pope Leo set out some guiding principles and Christian principles which should influence the way societies and countries operate. Catholic social teaching is continually developed through observation, analysis and action, and guides us in the responses we make to social problems.

Key Principles of Catholic social teaching

Human dignity

Every single person is created in the image of God, and is invaluable and worthy of respect as a member of the human family. It is from our human dignity that all other rights and responsibilities flow.

Respect for human life

Human life at every stage is precious and therefore worthy of protection and respect.

Human equality

Equality of all people comes from their inherent human dignity. Differences in talents are part of God's plan, but social, cultural and economic discrimination are not.

Preferential protection for the poor and vulnerable

Our Catholic tradition instructs us to put the needs of the poor and vulnerable first. It is especially important we look at public policy decisions in terms of how they affect the poor.

Association

The human person is not only sacred but also social. People achieve fulfilment by association with others – in families and other social institutions.

Participation

People have a right and duty to participate in society, seeking together the well being of all. Everyone has the right not to be shut out of participating in those institutions necessary for human fulfilment, such as work, education and political participation.

Common Good

The common good is about respecting the rights and responsibilities of all people. The individual does not have unfettered rights at the expense of others, but nor are individual rights to be subordinated to the needs of the group.

Solidarity

We are one human family. The principle of solidarity requires of us that we not concern ourselves solely with our own lives. Our responsibilities to each other call us to work globally for justice.

Stewardship

We have a responsibility to care for the gifts that God has given us, including the environment, our personal talents and other resources.

Universal destination of goods

The earth and all it produces are intended for every person. Private ownership is acceptable, but there is also a responsibility to ensure all have enough to live in dignity.

Subsidiarity

No higher level of organisation (such as government) should perform any function that can best be handled at a lower level (such as families and local communities) by those who are closer to the issues or problems.

Glossary of Māori terms as used in this booklet

Āwhina:	Help
Hapū:	Sub-tribe
Iwi:	Tribe
Karakia:	Prayer
Kaupapa:	Purpose, subject
Mana:	Authority, influence, dignity
Manaaki:	Care, respect
Manuhiri:	Visitors
Mauri:	Life spirit
Muru:	Act of compensation
Rūnanga:	High council, assembly
Tāngata:	People
Tāngata whenua:	People of the land
Utu:	Return, repay, respond
Whaikōrero:	Speak, speeches
Whānau:	Extended family

PHOTO: ADRIAN HEKE