

Creating New Hearts: Moving From Retributive to Restorative Justice
New Zealand Catholic Bishops Conference: A Pastoral Letter to the Catholic People of New Zealand

In every society, crime and issues of law and order loom large in public consciousness. New Zealand is no exception. Fair and just dealings between and among people constitute the heartbeat of a good society. We all need to feel safe in our homes, on our streets, in our communities. In recent years crime has escalated. Murder, street violence, sexual assault, burglary, theft, domestic violence, car conversion, and white collar crime have become more widespread. Yet the traditional means of dealing with such crime seem unable to bring about reconciliation and healing. Re-offending rates remain high. The prison industry is expanding. Fear of crime dominates too many lives.

It is time to re-evaluate what it is we need for true justice to flow throughout this land. We are called by God to be the stewards of creation, to protect the land and enhance the dignity of all its people. Crime traditionally escalates most where social injustice prevails. There remains much social injustice in New Zealand. In particular, there is a desperate need to provide affordable housing, adequate benefits, good health care and more employment. Deprivation in these areas forms a type of structural violence against the poor who are often left inadequately fed and in poor health, with little by way of shelter, money or hope. These are all areas the government should tackle as a priority.

But social deprivation should not be a cause for personal lawlessness and crime. Poverty may provide the environment for some crime, but it should not provide an excuse. Greed and selfishness are also principal causes. We are all called to act responsibly and peacefully towards our neighbour. Violence of any form toward another is a denial of the teachings of Christ, and an affront to the dignity of people. Traditionally in our society, the police are held responsible for maintaining law and order. This can only ever adequately be done when they have the respect of the community. That respect is in danger of being eroded if basic injustices are not tackled and if the police are called upon to maintain the law in situations of continued perceived injustice.

The criminal justice system itself is not beyond reproach. While we have prided ourselves in having one of the best criminal systems in the world, the results have not always justified that assessment. From a Christian perspective no criminal justice system can afford to be built upon a philosophy of retribution, focusing primarily upon punishment flowing from feelings of revenge; a negative philosophy will produce negative results.

Furthermore, an adversarial system by definition does not seek always to find the truth of a particular matter, but rather seeks a victory for one or other party. Such a system does not encourage offenders to take personal responsibility for their actions and can leave victims feeling that they are on trial too.

In recent years we have held the unenviable record of imprisoning an extremely high number of people. It was not without good reason that the New Zealand Bishops Conference in 1989 described the condition of many of our prison structures as 'an affront to human dignity ... and a

poison in the bloodstream of the nation.'

We challenge this philosophy of retribution on the basis that it is negative and usually counterproductive. We believe it to be contrary to the example of Jesus in the scriptures and to the teachings of the Church. It attacks the very hope and possibility of conversion that the resurrection of Jesus seeks to proclaim.

Restorative Justice

Restoration was the primary focus of biblical justice systems. Despite the widely popular misuse of the concept of lex talionis, the law of proportionality, as expressed in the notion 'an eye for an eye,' biblical tradition has a restorative focus. It was based on the need to seek **shalom**, the peace and well-being of the whole people. **Shalom** does not simply mean the absence of conflict. It means peace combined with justice and right relationships. The Law was there to seek, protect and promote **shalom**.

Coupled with **shalom** was the need to renew and restore the sacred Covenant which the people had with Yahweh. Crime always broke this sacred bond which then needed repairing. As a further need to temper community response, sanctuary became an essential element of justice, as did the special protection of the poor, the marginalized, the dispossessed, widows and orphans. The Years of Jubilee, when debts were forgiven, also sought to bring mercy, healing, new life and a fresh start to their processes of justice.

We are mindful of the success of the restorative processes as applied to Youth Justice in this country. Drawing on our ancient Maori tradition and wedded to modern insights, youth justice has started to become a real force for good in the community. It seeks to help offenders take personal responsibility for their behaviour, encourages victims to seek healing and a restoration of well-being, and challenges the community to recognize the human dignity of both offender and victim, with a view to helping repair the damage done by the criminal behaviour.

We need to reflect on that message and its application to issues of crime, law and order today.

An essential part of the Christian message is the concept of forgiveness, mercy and healing leading to reconciliation. This is what Jesus won for the human family on the Cross. These gifts form an essential part of what followers of Christ must practise in any age under all circumstances. They are among the most difficult of all virtues to practise. Practice entails the changing of peoples' hearts from anger, bitterness, hurt and resentment to hearts of compassion, healing and mercy. At the end of such a pathway lies true reconciliation. It is at the heart of Christian teaching that if God forgives us through the love of Christ on Calvary, we too must forgive one another. And we have to do it not seven times, but seventy seven times seven times.

Within a retributive system of criminal justice there is little room for forgiveness or reconciliation. The victims of crime should not be excluded from the criminal justice processes.

They need an opportunity to be heard and to access processes which would lead to reconciliation and healing.

Too often offenders repeat their crimes, regardless of the social mayhem this causes. Victims often become embittered and harbor their anger, grief and pain for a lifetime. The community hardens its heart to offenders by demanding longer and harsher penalties.

Conclusion

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. Even the worst of offenders remain children of God, redeemed in the blood of Christ. It is our opinion that victims need to be more actively engaged in the criminal justice system, provided that healing and reconciliation are the focus of such engagement.

We applaud the moves being taken in our courts and our prisons towards a more restorative justice system and we greatly appreciate the work of chaplains and others who strive to bring hope in the message of the Gospel of Life and Love.

Restorative justice processes for adults would offer a more positive focus and would guarantee a healthier, fairer and more positive form of criminal justice.

Wednesday August 30, 1995 - Wellington.

Signed, The New Zealand Catholic Bishops