

The Power of Public Opinion

After church, recently, I was asked what I thought of the Supreme Court (Canada) ruling that overturned the tough-on-crime policy set by our current government regarding sentence calculation which takes into account and gives credit for incarceration spent in pre-trial centres. The credit had been taken away by recent legislation, but this ruling was now overturned and credit has been restored. The headline in the Vancouver Sun was encouraging to me, for once. (Mike Blanchfield, the *Vancouver Sun*, April 12, B 1). It read, "Supreme Court gets tough on tough-on-crime agenda." I thought the ruling, "a confirmation of common grace at work in our court system," I said. The person asking was taken aback by my optimistic theological perspective. He referred to his longstanding fear of being victimized, a fear that had actually kept him from getting involved in the local M2W2 program to visit prisoners. "People commit a crime nowadays", he said, "and then get out right away with no punishment", He quickly referred to the Surrey Six, a gang land slaying in Surrey, before the courts currently; a truly horrendous gang related crime, but not really representative of those in prison. In his opinion prisons need to be tougher, and he supports the tough on crime agenda with its truth in sentencing emphasis. I recognize that this person does not have the whole picture, and that his knowledge is largely 3rd hand from the media and has done scant theological reflection on this topic. He does not understand the difference between a pre-trial centre and a penitentiary; as well he believes that retributive punishment will create a safer society. With such strong suppositions, I had a hard time finding a receptive hearing.

Having spent many years in prisons as chaplain has infused in me a sensitivity to the content and tone of media reports and the general negative, fear-based, comments I hear around me in society. As I write this, the tragedy in Calgary, of Matthew de Grood allegedly stabbing to death five of his fellow university graduates is of high profile in the news; my heart goes out to all the families and friends of the victims; there are just no words to express the collective harm and pain. I carry in my heart also the horrendous life situation of young Matthew, his family, and his friends. I ponder, "What's to be done?" He will likely spend lots of time in a remand centre; and, should he be found guilty, what kind of sentence calculation will address all the grief and loss of all those families affected, as well as the sensibilities of society at large? What kind of sentence calculation will satisfy God? What will make the community safer? This week I see again in the media, news items describing fear based appeals for specific prisoners not to be released on parole. Public opinion, potentially amplified now in our wireless era can have influential power, but like all powers in society, it can be abused and misdirected. I am thinking more in terms of social-cultural powers (systems theory), not simply that of individuals; I am thinking of bewildering powers such as those of for example, a racist culture, a gun culture, a culture of violence, or a culture in which winning is everything, to name some.

The recent Supreme Court ruling challenged the tough-on-crime policy that had recently taken away the two for one credit of sentences done in remand centres, refer to maximum security jails that hold people arrested and held for a crime before trial; before they are found "guilty." Sometimes people spend a long time in such a prison in this status of legal limbo; the poor and marginalized usually spend more time there because they can't afford bail, if it is even offered to them. I know from experience of the deadening environments of such lock ups in long term confinements. I must also say that in my experience the majority of staff working inside a prison do quality work, but are restrained by policy and

budget restraints to make significant changes. Remanded individuals, locked up in isolation for long periods of time, up to 18 to 23 hours a day, experience sensory and social deprivation, with serious negative effects on their mental health. I can't see the value of harming a person unnecessarily for the sake of justice; besides, being in such an environment longer, does not make them better, nor make society safer in the long run. Then I'm told that they deserve what they get because of what they have done, no matter what doctor or psychologist suggests, even if there is stable, loving, family and community support, including health and educational services for the offender that would provide for a safe and responsible future. The longer a person is in jail, the more seriously damaged the social fabric of family and positive support will be as well. More severe punishment, more prisons and longer sentences is not the answer for a safer society. Prisons according to the criminal Code of Canada should be of last resort. Yet, tough crime policies supposedly based on the will of the people will carry the day and often the primary sanction demanded by popular opinion.

I have many social exchanges that bewilder because of different perspectives on the criminal justice practice. But I realize that we see the realities of crime from different paradigms born of different experience and based on different knowledge. Popular opinion about crime today is based largely on a distorted perceived reality (*social reality of crime*) that crime is on the rise and that extreme danger lurks around every dark corner, and what we need is for more severe punishments (more time in jail) for law-breakers. However, the evidence does not support such opinion, and if truth be told, just responses to crime today are counterintuitive to the popular modern mind schooled by the ideas of retributive justice. Nevertheless, the power of popular opinion has a significant hold on criminal justice policy and its practice; and, the habituated popular mind seems resistant to change and to have attained a life of its own.

The doctrine of the separation of church and state complicates the situation. I do not mean to support the kind of power and control the church often wielded in a political way leading up to the time of the modern state, where religious authorities wielded absolute power; or modern ideologically partisan politics. But perhaps, "the baby was thrown out with the bathwater" during the Reformation and the birth of the separation doctrine. It seems that a dogmatic belief has emerged in which eternal values for the common good are no longer allowed to "interfere" with the business of the state. What has resulted, it seems to me, is a malaise (prohibition) in freely theologizing about issues involving state run ministries, including the state's responsibility for criminal justice. In a *docetic* sense there is great reluctance to get actively involved practically in the political process with theological reflection and action. Regarding the nature of religious practice and collaboration, it should be an inclusive, well considered "thick" religion, not a "thin" religious involvement.¹ Instead there seems to be a "hands off" policy: "let *the powers that be* deal with them; after all it is the primary role of the state to punish law breakers." With scant reflection or dialogue about the theoretical assumptions inherent in such public opinion and its popular theology (mental constructs and schemata), the habituated mindsets have little place or opportunity for deeper reflection and little influences to motivate public education for change to serve the common good.

Can a clear line between the church and state be clearly drawn? The notion, however, though having attained the status of a fixed doctrine, is not quite so clear in social-political experience or in the daily

life of members of the church. Most church members seem quite happy to have as the state's main role the punishment of the wrongdoer; and then, the more punishment meted out in this regard the better. The church member might justify the state's tough stance on crime as a necessary application of justice as willed by God, joined often with an expectation for rehabilitation in the punitive environment. Personal core values, as well as theologically perceived intolerances and biases, creep imperceptibly into public policy as influenced by public opinion. In a reciprocal sense, political-economic ideology influences the "tough on crime" public mind; tough meaning retributive punishment. I have come to see that the current popular criminal justice policy, rooted in the rationalism of personal-choice, and in the logic of retributive punishment, does not have a sound theological leg to stand on, yet it seems to have attained the status of "gospel truth"; Love and justice are isolated from each other.

I am suggesting that public opinion based on habituated legal positivism and on distorted theological heuristics, is manipulated by political opportunism, and has currently a strong negative effect on the direction of criminal justice in Canada. It should be challenged, as the Supreme Court has done recently. One can draw a line of support for this challenge from Paul's letter to the Colossians. Paul describes the negative deceitful direction of the powers and authorities of his time, which had to be exposed and called back to acknowledge the cosmic health giving rule of Christ, Paul is identifying the toxic effect in his society by the philosophical and cultic logic dogmatized in the name of the *stoicheia* (elemental cosmic forces) and domineering powers, *exousias* (ruling structures), which, St. Paul warned, were misleading the Colossians (Col. 2:14-20). Social forces and Powers intended for stewardship of the common good are off course and active again today, and must be called back to their created intended purpose to lead society in the way of shalom. Paul emphasises that Christ unmasked the beguiling pretenses as illegitimate and discredited the legalistic cultic logic, and He has taken His rightful place as cosmic Lord, opening up the way and responsibility for his followers to actively be engaged in continual vigilance and shepherding of these social political structures vital for the wellbeing of all human beings. ⁱⁱ

The challenge of change must be engaged in by the people of the church with a wise, collaborative, perspective towards the general public and the institutions of the state. A holier than thou posture, or an exclusivist one, does not do justice to the needs of our pluralistic society today, nor does it reflect the universal impact achieved by Christ in his death and resurrection. It calls for a *thick* religious approach, working freely with those who differ from us in religious or ideological views. Paul writes in Ephesians That the church is called to reflect the wisdom of God to the mysterious powers that impact society, the "...rulers and authorities in the heavenly realm..." (Eph. 3:10. NIV). What keeps the church from engaging with grace and love in this vital mandate? We can negotiate core intolerances in sensitive ways for we believe that other views and practices can no longer defile us or need deter us; because of common grace we can collaborate with others in giving right stewardship (not oppressive domination) in tending to the structures, powers, and forces of society created by God to nourish the Common Good. It should not surprise us to meet the influence of Christ in these very structures. As CS Lewis suggested somewhere, it would be odd not to meet pagan Christ's; Christ is eternal Word, cosmic Lord.

We, of the church, are a new Creation and no longer look at others in the manner of the old order. The Principalities and powers are now securely in the authority of Christ, but we, the followers of Christ in each generation and its specific "cosmology" are the messengers of the New Creation. This means the

power of public opinion needs the continued stewardship of leadership, rule, and justice that leads to shalom for all; for victims and their offenders, and society as a whole. Powers that continue in socially dehumanizing and oppressive patterns must be challenged by the Way of the new historical situation in Christ, joining other voices of opinion to address the situation that is having a stranglehold on making changes for reconciliation, for the common good, and for justice for all. We advocate for harm-doer, the harmed one(s), including the enemy, the refugee, and the undesirable. We do this as well as for the poor, vulnerable, the mentally ill and the marginalized minorities, for it is they that are overrepresented in our Canadian lock ups, jails, remand centres, prisons, and penitentiaries. What is needed are different models for correction and discipline (education and direction giving), as well as educating and modelling a different way. Society, including the church, must move away from mere symbolic socially distant law-enforcement thinking, to attending to pro-active interventions, to addressing the human need and social harm done in crime, to see it all as a ministry of reconciliation. It is time to move from the logic of deterrence, and the practice of returning evil for evil done, to returning evil with good such as healing, and education in normalized environments. We simply no longer believe that beating people up (by taking time out of their lives...civil death) for a beating they have done will make them better; retributive prisons simply attempt to portray civility in what is at base a barbaric practice of civil death. As followers of Christ we are stewards of life and peace for simply everyone.

ⁱ Volf, Miroslav. "Forgiveness, Reconciliation, and Justice," in *Stricken by God?* Eds., Brad Jersak and Michael Hardin (2007). Fresh Wind Press, Abbotsford, BC. pp. 268-286.

ⁱⁱ I rely on the work of Henrikus Berkhof, (1962) *Christ and the powers*. Trans. John Howard Yoder, Scottdale, Pennsylvania: Herald press. And of Walter Wink (1998) *The Powers that be: Theology for a new millennium*, New York Galilee, Doubleday.