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Contents

Moving into the New Millenium: Toward a Feminist Vision of Justice

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The terms of reference for this volume ask that authors address the following: "Given the political and social necessities of the criminal justice system, the probability of a continuing crime problem in the future, and the range of sanctions available, in what direction should the criminal justice system move in the next few decades? What do you think criminal justice should look like in the year 2012?" This article argues that conventional approaches to addressing such questions provide little promise for a significantly better future and offers a fundamentally different way of framing the issues. It explores what the next century might look like if a feminist orientation toward justice were embraced.

Conventional Approaches to Criminal Justice Reform

Most proposals for change in policies directed at crime and criminal justice concerns fall within one of two types. Many proposals are developed from a systems improvement orientation. This orientation takes for granted existing political, economic, and social institutional structures, and the values that undergird them, assuming that they are proper, or at least, unlikely to be changed within the foreseeable future. Reform proposals generated from a systems improvement perspective characteristically are framed as if crime were primarily an individual problem best addressed through more effective or more rigorous enforcement of the law. Thus, they focus on trying to find better means of identifying and intervening with individual offenders and of strengthening and increasing the efficiency of existing criminal justice institutions and agencies.

The other familiar way of framing reform proposals involves a broader crime prevention/social reform orientation. Reformers with this orientation emphasize the social and economic underpinnings of crime and the need to address them through policies and programs focused on families, neighborhoods, schools, and other institutions. In recent years, advocates of a prevention/social reform approach have moved considerably beyond the ameliorative strategies of the 1960's toward proposals for more sweeping social and economic reconstruction, stressing that policies aimed at strengthening families and communities need to be coupled with efforts to promote economic development and full employment.[1] Although they do not excuse individual offenders or ignore possible advances to be made by improving criminal justice practices, these reformers tend to view interventions with identified offenders more as last lines of defense than as promising avenues for reducing crime.

There are significant problems associated with trying to formulate recommendations for the future on the basis of either of these two conventional ways of framing the issues. The systems improvement approach has the apparent advantage of offering advances in the identification, classification, control, or treatment of offenders and in the operation, efficiency, effectiveness, or accountability of criminal justice agencies.

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However, this approach ignores the political, economic, and social aspects of crime and has little or nothing to contribute to the overall, long-term development of social life. Furthermore, it offers, at best, only limited, short-term utility in dealing with crime.

Many systems improvement advocates promise dramatic increases in crime control if only sanctions can be made more frightening, severe, certain, restrictive, or corrective. But such promises lack both theoretical and scientific support. Current knowledge provides little basis for expecting significant reductions in crime through reshaping policies in hopes of achieving greater deterrent, incapacitative, or rehabilitative effects. Other systems improvement supporters concede that notable increases in domestic tranquility are unlikely to be secured at the hands of crime control agents, but argue that until more fundamental changes have been made in social relations and policies, there is no alternative but to continue working toward whatever marginal increases in efficiency, effectiveness, or even-handedness might be achievable.

To date, prevention/social reform advocates have made scant progress in overcoming the notion that their proposals already have been tried in the "War on Poverty"/ "Great Society" era and found ineffective. Many who agree that the measures championed by these advocates are prerequisites for dramatic shifts in crime and social relations doubt that the massive changes envisioned are economically or politically feasible. Futhermore, prevention/social reform advocates have had little influence in ongoing criminal justice policy debates because their recommendations concerning interim criminal justice policies have been meager and uncompelling. They have offered little more than echoes of system improvement reform proposals, accompanied by wa:nings of the risk of simply reinforcing the underclass and increasing the social divisions in society if repressive measures targeted on offenders are pursued too zealously.

Thus, despite widespread dissatisfaction with the results of current policies and their burgeoning costs, it is difficult to find grounds for believing that the future toward which we are heading holds much promise of anything beyond more of the same. If current trends hold the key to seeing what the criminal justice system will look like in the next few decades, we face the prospect of maintaining a punishment system of awesome proportions without being able to expect much relief from the problems it supposedly exists to address.

Current Trends: Iron Bars and Velvet Ankle Bracelets

Over the last decade, approximately 200,000 beds have been added to state and federal prisons across the United States, increasing their confinement capacity by more than two thirds (Bureau of Justice Statistics Bulletins, June 1986 and May 1987). In a recent random sample survey of local jails, officials in 44 percent reported that facility construction or renovation was underway (*Corrections Compendium*, Nov./Dec. 1986). And despite the fact that at least 22 states had to make spending cuts in their fiscal 1987 budgets and 23 passed or considered increases in gasoline, cigarette, or sales taxes, a review of spending proposals by governors across the country suggests that substantial additional increases in institutional networks are being planned (Peirce, February 9, 1987).

If the average annual growth during the 1980's in the number of federal and state prisoners continues through 1987, the nation's prison population will have tripled over the last fifteen years.[2] But the recent expansion of the punishment sector of the system has not been limited to prisons and jails. At the most drastic extreme, there are now more than 1,800 persons awaiting state execution across the United States (*Life-*

lines, Jan./Feb., 1987). At the other end of the penal spectrum, the adult probation population has been increasing even more rapidly in the 1980's than the incarcerated population.

As of the end of 1985, the total population under the control or supervision of the penal system has risen to 2.9 million persons, representing fully 3 percent of the adult males in the country.[3] An estimated one in every ten black adult men was on probation or parole or in prison or jail.[4] The proportion of Hispanics under penal control is not fully reported, but the number of Hispanics in the nation's prisons reportedly has doubled since 1980, a rate of growth that could result in Hispanics constituting one-fourth of the incarcerated population by the year 2000[5] (Woestendiek, February 2, 1987).

Not only have the numbers and mix of persons under penal control been changing, but the nature of that experience has been changing as well. For those incarcerated, such forces as overcrowding, deemphasis on programs and services, mandatory sentences, and other reflections of an increasingly harsh orientation toward offenders have worked to offset gains made through litigation and other efforts to improve the situation of those confined. Idleness, demoralization, isolation, danger, and despair permeate the prison and the jail.

For those subject to non-incarcerative penalties, levels of intervention and control, demands for obedience, and the sheer weight of conditions never have been heavier. As of the spring of 1986, intensive supervision programs were operating in at least 29 states, and an additional eight states reportedly were planning to implement such programs in the near future (Byrne, 1986). Typical requirements in such programs include not only increased contact and surveillance, but also mandatory restitution and community service obligations; payment of supervision fees, court and attorney costs, and fines; curfews and periods of "house arrest"; urinalyses, blood tests and other warrantless searches; and even periods of incarceration. The latest popular addition to these and other non-incarcerative sanctions is electronic surveillance. There are now more than 45 programs in 20 states using electronic devices to monitor the whereabouts of convicted offenders or defendants awaiting trial (Yost, 1987).

The Need for New Approaches

Many common citizens, scientists, futurists, and leaders are predicting that the next 25 years portend a series of collisions, conflicts, and catastrophes. Recent world experience with increasing interpersonal violence, terrorism, social injustice, and inequality —along with such growing problems as overpopulation, ecological damage, resource shortages, the continuing arms build-up, and the specter of nuclear holocaust— has generated heightened awareness of the need to think globally and much

Just as the velvet glove only thinly cushions and screens the iron fist, it is important to recognize that "the velvet ankle bracelet" and its ostensibly more benign community penalties brethren are facilitating the diffusion and expansion of social control through the penal system and augmenting the iron bars rather than replacing them. With little fanfare or protest, we have come to accept levels of state intrusiveness into individual lives remarkable in a society that professes to value liberty. The nature and direction of the bulk of changes undertaken in the criminal justice system in recent years are such that the most pressing tasks in the coming years necessarily will involve damage control. Massive efforts will need to be devoted to coping with, undoing, and trying to ameliorate the effects of the present blind, determined push for greater punishment and control. Pursuing a more hopeful future requires exploration of alternative visions of justice.

more creatively about the future. To begin to adequately envision what criminal justice should look like in the year 2012, we need to step outside of the traditional ways of framing the issues and consider approaches that transcend not only conventional criminological and political lines, but also national and cultural boundaries and other limiting habits of the mind. At the same time, "...focusing on the principles and tools of punishment" can help us "understand the most prevalent way we have chosen to relate to each other in the twentieth century" (Sullivan, 1980:14).

A number of movements, models, and philosophies in various stages of development have arisen in response to the critical problems of the day, ranging from those focused on world order or global transformation, to pacificism or peace studies, reconciliation, humanism, feminism, and a wide range of other visions of a better world and a better future. While few have been focused on criminal justice problems, they offer a rich resource for a fundamental rethinking of our approach to crime and justice.

In seeking to escape the fetters on my own thinking and aspirations for the future, I have found much of value in a number of orientations. Indeed, I have been struck by the common themes that emerge across a variety of perspectives with a wide range of labels. This suggests the possibility of articulating a new direction for the future by drawing from many orientations and avoiding attaching any label to the values and concepts discussed. Such an approach would help prevent burdening the ideas with unnecessary baggage or losing the attention of people put off by the images any particular school of thought raises in their minds. For me, however, the most significant breakthroughs in thought and hope came when I began to apply myself to considering what the values and principles of one particular orientation —feminism— would mean in rethinking crime and justice issues. Thus, the rest of this article shares ideas that emerged from this path of exploration, a path that continues to hold increasing meaning and inspiration for me and one that I hope will attract interest from a variety of people who otherwise might not devote attention to these issues. At the same time, it is my hope that people who find themselves more attuned to other orientations, or who see feminism differently, may find it useful to consider how the values described fit with theirs and what a future based on these values might look like, no matter what terms are used to describe it.

Values Central to a Feminist Future

Feminism offers and is a set of values, beliefs, and experiences, a consciousness, a way of looking at the world. Feminism should be seen not merely as a prescription for granting rights to women, but as a far broader vision. There are a number of varying strands within feminist thought, but there are some core values that transcend the differences. Among the key tenets of feminism are three simple beliefs —that all people have equal value as human beings, that harmony and felicity are more important than power and possession, and that the personal is the political. (See French, 1985.)

Feminist insistence on equality in sexual, racial, economic, and all other types of relations stems from recognition that all humans are equally tied to the human condition, equally deserving of respect for their personhood, and equally worthy of survival and of access to those things that make life worth living. This is not to argue that all people are identical. Indeed, feminism places great emphasis on the value of difference and diversity, holding that different people should receive not identical treatment, but identical consideration. Feminists are concerned not simply with equal opportunities or equal entitlements within existing social structures, but with creating a different set of structures and relations that are not only nonsexist, but also are non-racist and economically just.

In the feminist view, felicity and harmony are regarded as the highest values. Viewing all people as part of a network on whose continuation we all depend, feminists stress the themes of caring, sharing, nurturing, and loving. This contrasts sharply with an orientation that values power and control above all else. Where the central goal is power, power conceived as power-over or control, people and things are not viewed as ends in themselves, but as instruments for the furtherance of power. Hierarchical institutions and structures are established both to clarify power rankings and to maintain them. The resulting stratifications create levels of superiority and inferiority, which carry differential status, legitimacy, and access to resources and other benefits. Such divisions and exclusions engender resentment and revolt in various forms, which then are used to justify greater control.

Feminists believe that it is impossible to realize humane goals and create humane structures in a society that values p ,wer above all else. A major part of feminist effort involves better identifying and confronting characteristics and values — the political, social, economic, and cultural structures and ideologies — that are not conducive to the full realization of the human potential in individuals or society, the negative values that underlie stereotypes, rationalize discrimination and oppression, and serve only to support the groups in power.

Feminist belief that the personal is the political means that core values must be lived and acted upon in both public and private arenas. Thus, feminists reject the tendency to offer one set of values to guide interactions in the private and personal realms and another set of values to govern interactions in the public worlds of politics and power. Empathy, compassion, and the loving, healing, person-oriented values must be valued and affirmed not only in the family and the home but also in the halls where public policymaking, diplomacy, and politics are practiced.

Modes of Moral Reasoning

Research on moral development and on how people construe moral choices has identified two orientations that reflect significant differences. (See Gilligan, 1982; and Gilligan, April 1982.) In a "rights/justice" orientation, morality is conceived as being tied to respect for rules. It is a mode of reasoning that reflects the imagery of hierarchy, a hierarchy of values and a hierarachy of power. It assumes a world comprised of separate individuals whose claims and interests fundamentally conflict and in which infringements on an individual's rights can be controlled or redressed through rational and objective means deducible from logic and rules.

In a "care/response" orientation, morality is conceived contextually and in terms of a network of interpersonal relationships and connection. This mode of reasoning reflects the imagery of a web, a nonhierarchal network of affiliation and mutuality. It assumes a world of interdependence and care among people, a world in which conflicts and injuries can best be responded to by a process of ongoing communication and involvement that considers the needs, interests, and motivations of all involved.

At present, the "care/response" mode, with its emphasis on contextuality, relationship, and the human consequences of choices and actions, tends to be viewed as representing a lesser stage of moral development and as less broadly applicable than the "rights/justice" orientation, with its emphasis on standards, rights, and duties. (See Scharf et al., 1981:413.) This tendency to contrast and rank the differing modes of reasoning has limited the moral and conceptual repertoires with which problems are approached in the worlds of government, science, and world power. Devotion to peacekeeping and nonviolent conflict resolution often are dismissed as irrelevant or less im-

portant than devotion to the "rules of the game" or abstract notions of rights and responsibilities. Thus, the potential contributions of a "care/response" orientation to dealing constructively with the major global crises of security, justice, and equity have hardly begun to be tapped. (See Reardon, 1985:89-90.)

There is a need for a massive infusion of the values associated with the "care/response" mode of reasoning into a wide range of contexts from which they have been excluded almost entirely. It would be a mistake, however, to try to simply substitute a "care/response" orientation for one focused on justice and rights. Especially at present, when there are such vast differences in power among people, we are not in a position to trust that the interests of the less powerful will be protected in the absence of rules designed to insure that protection.

Studies by Carol Gilligan suggest that although most people can and do understand and use both modes of reasoning, they tend to focus more on one or the other in confronting moral issues.[5] In her research, the mode of reasoning around which people tended to center was associated with gender. Men were more likely to employ a "rights/justice" orientation and women were more likely to reflect a "care/response" orientation, although responses from women were more mixed than those for men. Given the capacities of both men and women to use both modes of moral reasoning, and because there is no reason to believe that differing emphases or priorities in moral reasoning are inate or biological (see Bleier, 1984), we have an opportunity to explore more fully the contributions each can make to resolving moral dilemmas of all kinds.

Thus, the challenge involves searching for a more complete vision of justice and morality, a vision that encompasses concern for process and outcomes, as well as principles and rules, and for feelings and relationships, as well as logic and rationality. We need to labor to find ways of more fully integrating abstract notions of justice and rights with contextual notions of caring and relationship in both public (political) and private (personal) realms.

The Criminal Justice Context: The Dilemmas of Defense and Protection

The criminal justice system provides a clear picture of the challenges ahead. In the criminal justice arena, there is no attempt to disguise the fact that the goal and purpose of the system is power/control. The stated goal is control of crime and criminals, but it is widely recognized that the criminal justice system serves to achieve social control functions more generally. Law is an embodiment of power arrangements; it specifies a set of norms to be followed —an order— and also provides the basis for securing that order: coercive force. Coercive force is seen as the ultimate and the most effective mechanism for social defense. And once the order to be protected and preserved is in place, little attention is given to whether the social system to be defended is just or serves human ends.

It is important to bear in mind that penal sanctions, like crimes, are intended harms. "The violent, punishing acts of the state . . . are of the same genre as the violent acts of individuals. In each instance these acts reflect an attempt to monopolize human interaction, to control another person as if he or she were a commodity" (Sullivan, 1980). Those who set themselves up as beyond reproach define "the criminal" as less than fully human. Without such objectification, the routine practice of subjecting human beings to calculated pain infliction, degradation, domination, banishment, and execution clearly would be regarded as intolerable.

Feminist analysis of the war system can be applied to the criminal justice system; the civil war in which we are engaged —the war on crime— is the domestic equivalent

of the international war system. One has only to attend any budget hearing at which increased appropriations are being sought for war efforts, whether labeled as in defense of criminals, communists, or other enemies, to realize that the rationales and the rhetoric are the same. The ideologies of deterrence and retaliation; the hierarchal, militaristic structures and institutions; the incessant demand for more and greater weaponry, technology, and fighting forces; the sense of urgency and willingness to sacrifice other important interests to the cause; the tendency to dehumanize and objectify those defined as foes; and the belief in coercive force as the most effective means of obtaining security —all of these and other features characteristic of both domestic and international "defense" systems suggest not just similarity, but identity. People concerned with international peace need to recognize that supporting "the war on crime" is supporting the very establishment, ideology, structures, and morality against which they have been struggling.

We are caught in a truly vicious cycle. Existing structures, institutions, relations, and values create the problems that we then turn around and ask them to solve, or rather control, using the very same structures, forms, and values, which in turn leads to more problems and greater demand for control. We all want to be protected from those who would violate our houses, our persons, and our general welfare and safety, but the protections we are offered tend to reinforce the divisions and distorted relations in society and exacerbate the conditions that create much of the need for such protections. The complicated issues surrounding self-defense, whether in an immediate personal sense (as when confronted by a would-be rapist or other attacker), in a penal policy sense (as when deciding how to deal with known assaulters), or in even broader terms (as when confronted by powers and structures that seem bound to destroy us), vividly illuminate the dilemma.

Sally Miller Gearhart vividly describes the dilemma surrounding trying to work toward the future we dream of while living in the present world by citing a science fiction work, *Rule Golden*, in which Damon Knight wipes violence from the face of the earth by having every agent feel in his/her own body any physical action she/he delivers. "Kick a dog and feel the boot in your own rib; commit murder and die yourself. Similarly, stroking another in love results in the physical feeling of being lovingly stroked" (Gearhart, 1982:266). Such imagery highlights:

> the necessary connection between *empathy* and *nonviolence*, [the fact that] *objectification* is the necessary, if not sufficient, component of any violent act. Thinking of myself as separate from another entity makes it possible for me to "do to" that entity things I would not "do to" myself. But if I see all things as myself, or empathize with all other things, then to hurt them is to do damage to me. . . .
>
> But empaths don't live long if the Rule Golden is not in effect. Our world belongs to those who can objectify . . . and if I want to protect myself from them I learn to objectify and fight back in self-defense. I seem bound to choose between being violent and being victimized. Or I live a schizophrenic existence in which my values are at war with my actions because I must keep a constant shield of protectiveness (objectification) intact over my real self, over my empathy or my identification with others; the longer I keep up the shield the thicker it gets and the less empathic I am with those around me. So every second of protecting myself from violence makes me objectify more and ensures that I am more and more capable of doing violence myself. I am caught always in the violence-victim trap (Gearhart, 1982:266).

Clearly, the standard approach in recent years has been to seek more control —more prisons, more time in confinement for more people, more surveillance and restriction of those not confined. Our willingness to cede greater and greater power to the institutions of social control is a reflection of a desperate society. But "no amount of police, laws, courts, judges, prisons, mental hospitals, psychiatrists, and social workers

can create a society with relative harmony. The most institutions can do is to impose the appearance of relative harmony..." (French, 1985). To the extent that we acquiesce to continuing escalation of social controls, especially those delivered by the crime control agents of the state, we reduce correspondingly the prospects for the kind of safety that cannot be achieved through force.

It will not be easy to escape from the cycle in which we find ourselves swirling. Legitimate concerns for safety and protection pose difficult dilemmas for feminists. How can we meet the serious and all-too-real need for protection against violence without violating our peaceful values and aspirations? How can we respond effectively to people who inflict injury and hardship on others without employing the same script and the same means that they do? How can we satisfy immediate needs for safety without elevating those needs over the need to recreate the morality, relations, and conception of justice in our society?

As Marilyn French has put it, "The major problem facing feminists can be easily summed up: there is no clear right way to move" (French, 1985). However, we can expand the conceptual and practical possibilities for change in criminal justice by re-examining our assumptions and expectations.

> ...[W]e need to begin picturing the new order in our minds, fantasying it, playing with possibilities. ... An exercise in first stepping into a desired future in imagination, then consciously elaborating the structures needed to maintain it, and finally imagining the future history that would get us there, is a very liberating experience for people who feel trapped in an unyielding present. ...[S]ocieties move toward what they image. If we remain frozen in the present as we have done since World War II, society stagnates. Imaging the future gives us action ideas for the present (Boulding, 1987).

Emerging Guides for the Future

Identifying values central to feminist belief does not automatically yield a specific formula for better responding to crime and other conflicts, or for resolving the dilemmas with which we are confronted. Indeed, feminists do not see the best way of moving toward a more positive future as involving primarily analytic and abstract efforts to describe specific structures and processes. Such approaches almost never encompass any explicit element of human relations or affective, emotional content, and few display any cultural dimension (Reardon, 1985:89-90). "We need theory and feeling as rough guides on which to build a next step and only a next step; flexible, responsive emotional theory capable of adjusting to human needs and desires when these create contradictions" (Reardon, 1985:89-90).

Feminist values do offer, however, some beginning guides for approaching the future. A key standard to help in making choices is to ask: What kinds of behavior and responses will achieve the goal of the greatest possible harmony? Thus, the task is not to discover how to eradicate crime, but to discover how to behave as befits our values and desire for harmony.

Acceptance of human equality and recognition of the interdependence of all people requires rejection of several current common tendencies. We need to struggle against the tendency toward objectification, of talking and thinking about "crime" and "criminals" as if they were distinct entities in themselves. We also need to reject the idea that those who cause injury or harm to others should suffer severance of the common bonds of respect and concern that bind members of a community. We should relinquish the notion that it is acceptable to try to "get rid of" another person, whether through execution, banishment, or caging away with other people about whom we do

not care. We should no longer pretend that conflicts can be resolved by the pounding of a gavel or the locking of a cell door.

A feminist orientation leads to greater awareness of the role and responsibility of society, not just the individual, in development of conflict. This suggests that individuals, groups, and societies need to accept greater responsiblity for preventing and reducing those conditions, values, and structures that produce and support violence and strife. Removing the idea of power from its central position is key here, and requires continually challenging actions, practices, and assumptions that glorify power, control, and domination, as well as developing more felicitous alternatives.

Commitment to the principle of equality means striving for interactions that are participatory, democratic, cooperative, and inclusive, characteristics that are incompatible with hierarchy, stratification, and centralized decision-making. Thus, rules, which often are substituted for sensitive, respectful engagement of persons in cooperative problem-solving, should not be regarded as sacrosanct. And because people learn from the nature of the processes in which they participate, as well as from the objectives of those processes, we should give greater attention to what the process teaches and how it is experienced.

It may be difficult to imagine how some conflicts could be resolved amicably. Especially while we are in the process of transition, we have to contend with all of the effects that our present structures, values, and stratifications have had on people. Thus, we are unlikely to soon reach a stage in which we can expect never to feel the need to resort to exercising control over another person. But we can greatly reduce our current reliance on repressive measures, and we should aim to move continually in the direction of imposing fewer coercive restraints on other people.

Indeed, we need to question and rethink the entire basis of the punishment system. Virtually all discussion of change begins and ends with the premise that punishment must take place. All of the existing institutions and structures —the criminal law, the criminal processing system, the prisons— are assumed. We allow ourselves only to entertain debates about rearrangements and reallocations within those powerfully constraining givens. We swing among the traditional, tired philosophies of punishment as the weight of the inadequacies of one propels us to turn to another. We swing between attempting to do something with lawbreakers —changing, controlling, or making an example of them— and simply striving to dole out "a just measure of pain." The sterility of the debates and the disturbing ways they are played out in practice underscore the need to explore alternative visions. We need to step back to reconsider whether or not we should punish, not just argue about how to punish.

We may remain convinced that something is needed to serve the declaratory function of the criminal law, something that tells us what is not to be done. We may conclude that there is a need for some sort of process that holds people accountable for their wrongful actions. We may not be able to think of ways to completely eliminate restraints on people who have done harmful things. But we should not simply *assume* that we cannot develop better ways to satisfy these and other important interests as we try to create our desired future.

While we are in the transition process, and where we continue to feel that it is necessary to exercise power over other people, we should honor more completely certain familiar principles that are often stated but seldom fully realized. Resort to restriction of liberty, whether of movement, of association, or of other personal choices, should be clearly recognized as an evil. Whenever it is argued that it is a necessary evil, there should be a strong, non-routine burden of establishing such necessity. And where it is

accepted that some restriction is demonstrably necessary, every effort should be made to utilize the least drastic means that will satisfy the need established. Thus, we should approach restriction and control of others with trepidation, restraint, caution, and care.

In addition, we should recognize that the more we restrict an individual's chances and choices, the greater is the responsiblity we assume for protecting that person and preserving his or her personhood. We should no longer accept the routine deprivations of privacy, healthful surroundings, contacts, and opportunities to exercise choice and preference that we have come to treat as standard concomitants of restriction of liberty. Such deprivations are not only unnecessary but also offensive to our values and destructive to all involved.

These principles make it apparent that we should abandon imprisonment, at least in anything like the way we have come to accept the meaning of that word. There is no excuse for not only continuing to utilize the dungeons of the past, but also replicating the assumptions, ideology, and values that created them in their newer, shinier, more "modern" brethren now being constructed on astonishing scale. While tiers of human cages stacked one upon another are the most apparently repugnant form, all institutions erected for the purpose of congregate confinement need to be acknowledged as anachronisms of a less felicitous time.

How should we deal with people who demonstrate that, at least for a time, they cannot live peacefully among us unrestrained? Although the answers to that question are not entirely clear, feminist values suggest that we should move toward conceiving restriction of liberty as having less to do with buildings, structures, and walls and more to do with human contacts and relations. Few if any creatures are dangerous to all other creatures at all times, especially to those with whom they are directly and closely connected on an ongoing basis. Perhaps we can fashion some variant of jury duty and of citizens standing up for one another in the tradition of John Augustus, in which a small group of citizens would be asked to assume responsibility for maintaining one person safely for a period of time. A range of compassionate, constructive, and caring arrangements need to be created. And we should not allow the most difficult cases to stand in the way of more rapidly evolving better approaches for the rest.

At the same time, we need to stop thinking about issues related to how best to respond to those who caused harm as if they were totally separate from, or in competition with, issues related to how best to respond to those who have been harmed. There is not a fixed quantity of compassion and care, or even of rights, that will be diminished for those who have been victimized as they are extended to those who victimized them.

Many of these ideas may seem foreign, naive, or beyond our abilities. If they seem foreign, that may be because the ideas of care, community, and mutuality seem foreign. If these dreams for the future seem naive or out of reach, that may be because we have lost confidence in our capacity to choose, to recreate relations, and to realign priorities. It may be tempting to conclude that no efforts in the directions suggested here will be worthwhile, that nothing can be done until everything can be done, that no one can confront crime humanely until everyone is willing to do so. And it is true that we will never approach making such a vision reality if we focus only on issues of criminal justice. Our energies must be focused on the full panoply of global peace and social justice issues. But when we turn our attentions to criminal justice, we should choose and act according to the values and aims we seek more generally, not to increase division, alienation, bitterness, and despair. And every day, we should try to act as we believe would be the best way to act —not just in the future, but in the present.

What is advocated here is radical, but hardly novel. It simply echoes themes that have been heard through the ages, if rarely lived fully. We should refuse to return evil with evil. Although we have enemies, we should seek to forgive, reconcile, and heal. We should strive to find within ourselves outrageous love, the kind of love that extends even to those it is easiest to fear and hate. Love frequently is seen as having little relevance outside the personal realm. Yet the power ethic has failed to serve human happiness. To have a harmonious society, we must act in ways designed to increase harmony, not to further fragment, repress, and control. There is no other way. The means and the end are the same.

Footnotes

[1]A collection of articles that well exemplifies this approach is assembled in a book designed to provide an update of the report of the National Commission on the Causes and Prevention of Violence, commonly referred to as the Eisenhower Commission, after its chair, Milton S. Eisenhower. (See, Lynn A. Curtis, ed., *American Violence and Public Policy: An Update of the National Commission on the Causes and Prevention of Violence* New Haven, Conn.: Yale University Press, 1985.)

[2]In 1972, there were 196,183 state and federal prisoners (Mullen, et al., *American Prisons and Jails*, Vol. 1: *Summary and Policy Implications of a National Survey*. Washington, D.C.: U.S. Department of Justice, 1980). At year-end 1986, there were 546,659 state and federal prisoners (Bureau of Justice Statistics Bulletin, "Prisoners in 1986," May 1987). If the average annual growth rate of the 1980's of 8.8 percent continues through 1987, the total will exceed 590,000 state and federal prisoners.

[3]These numbers are reported only for males, presumably because men make up most of the correctional population. (See "Criminal Justice Newsletter," January 16, 1987, p. 5.) It should be noted, however, that the number of women in state prisons has more than doubled since 1981 (up to 26,610 from 11,212 in 1981), and the rate of growth in the population of female prisoners has been faster in each of those years than that of male prisoners (Peter Applebome, "Women in U.S. Prisons: Fast-Rising Population," *New York Times*, 15 June 1981).

[4]Given that nearly 87 percent of the adult correctional population was male and 34 percent was black, an estimated 850,000 adult black men were under correctional control at year-end 1985 (Bureau of Justice Statistics Bulletin, "Probation and Parole 1985," January 1987). The Census Bureau estimates that there were 8,820,000 black adult male residents in the U.S. at midyear 1985 (U.S. Department of Commerce, Bureau of the Census, "Estimates of the Population of the United States, by Age, Sex, and Race: 1980 to 1986," Current Population Reports, Population Estimates and Projections, Series P-25, No. 1000, p. 24). At year-end 1985, there were approximately 1,617,492 white adult males under some form of correctional control, out of approximately 72,780,000 white adult male residents in the U.S., representing a correctional control rate for white adult males of about 1 in 45. (Neither these BJS nor Census Bureau data report separate figures for Hispanics or other specific ethnic or racial groups.)

[5]This discussion is based on an oral presentation by Carol Gilligan at the Community College of Philadelphia in April 1984. See also other Gilligan works cited in this article.

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