

# A More Humane Approach to Addressing Harm

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## INTRODUCTION

The core value of the common good, which sustains community and justice, is being eroded in modern society.<sup>1</sup> Globalisation has provided many material comforts, but resulted in an underlying sense of insecurity and risk.<sup>2</sup> Many people have lost the experience of solidarity with others that community and religion offered in the past. They feel threatened by other groups, often blaming them for their lack of access to employment, housing and public services.

In this paper, which is based upon research commissioned by a Catholic philanthropic organisation, an alternative, and more humane approach to addressing harm is presented – one that has a greater potential for positive outcomes. In our original research, we were interested specifically in the values of human dignity, active participation in society, the common good, social justice, and solidarity. These are concepts that also serve as core components of Catholic social teaching. Our goal was to explore if these values could transform the way society responds to crime.

## SHATTERING ASSUMPTIONS: THE HARM OF CRIMINAL BEHAVIOUR

When a crime is committed, criminal justice agencies focus on the perpetrator. Addressing the harm of criminal behaviour, rather than the perpetrator alters the orientation of approaches to crime. Michael White's maxim is illuminating: the person is not the problem; the problem is the problem.<sup>3</sup> And the problem is harm.

We need to distinguish the materiality of harm, financial cost and physical injury, from the experience of suffering which may be emotional, psychological, physical or relational. Suffering is contextual, experienced subjectively and specific to each individual.

The meaning of the harm caused by criminal behaviour is also mediated by its wrongfulness. That it has no justification in law matters. For Shklar, injustice is often experienced through powerful, often distressing, emotions.<sup>4</sup> It interrupts and disrupts lives, causing “shattered assumptions”<sup>5</sup> about living in a world which can undermine the capacity to participate in society. The effects of experiencing injustice will often continue to dominate an individual's life long after physical wounds have healed, punishment has been inflicted, or compensation received.

The criminal justice system as a bureaucratic, professional structure strives to engage with crime in an impersonal and rational manner. Victims' experience of harm, on the other hand, is personal and emotional. Consequently, many victims experience *secondary victimisation* by the criminal justice system.<sup>6</sup>

What professionals consider to be risk factors associated with offending,<sup>7</sup> can be viewed from a humane perspective as harmful events or conditions which perpetrators of crime have experienced.<sup>8</sup> A humane approach is also based upon the understanding that the reactions of society, the media, and the criminal justice system to crime play a significant part in adding to the harm endured by both victims and perpetrators.<sup>9</sup> Social and criminal justice reactions often exclude victims and perpetrators from necessary resources, weaken

1 Roberto Esposito, *Terms of the Political: Community, Immunity, Biopolitics* (Fordham: Fordham University Press, 2013).

2 Zygmunt Bauman, *Modernity and the Holocaust* (Cambridge: Polity, 1989); Ulrich Beck, *Risk Society* (London: Sage, 1992); Guy Standing, *The Precariat: The New Dangerous Class* (London: Bloomsbury, 2011).

3 Michael White, *Maps of Narrative Practice* (New York: Norton, 2007).

4 Judith Shklar, *The Faces of Injustice* (Yale: Yale University Press, 1990).

5 Ronnie Janoff-Bulman, *Shattered Assumptions: Towards a new Psychology of Trauma* (New York: Free Press, 1992).

6 Maarten Kunst, Lieke Popelier, and Ellen Varekamp, “Victim Satisfaction with the Criminal Justice System and Emotional Recovery: A Systematic and Critical Review of the Literature,” *Trauma, Violence and Abuse* 16, no. 3 (2014): 336–358; Malini Laxminarayan, Mark, Bosmans, Robert, Porter, and Lorena Sosa, “Victim Satisfaction with Criminal Justice: A Systematic Review,” *Victims & Offenders*, 8, no. 2 (2013): 119–147.

7 David Farrington, “Childhood Risk Factors and Risk-Focused Prevention,” in *The Oxford Handbook of Criminology*, ed. Mike Maguire, Rod Morgan, and Robert Reiner (4th ed. Oxford: Oxford University Press, 2007).

8 Vittoria Ardino, “Post-Traumatic Stress in Antisocial Youth: A Multifaceted Reality,” in *Post-traumatic syndromes in children and adolescents*, ed. Vittoria Ardino (Chichester: Wiley/Blackwell Publishers, 2011); Robin Weeks and Cathy Widom, “Self-Reports of Early Childhood Victimization among Incarcerated Adult Male Felons,” *Journal of Interpersonal Violence* 13, no. 3 (1998): 346–361.

9 Howard Becker, *Outsiders: Studies in the Sociology of Deviance* (New York: The Free Press, 1963); Stanley Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* (London: Paladin, 1973); Edwin Lemert, *Human Deviance, Social Problems and Social Control* (Englewood Cliffs: Prentice-Hall, 1951).



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significant relationships, and reduce personal responsibility, thus obstructing both recovery and reintegration. The families of both parties also suffer from these effects.<sup>10</sup>

The harm of criminal behaviour extends beyond those immediately affected, to society at large, causing fear of crime,<sup>11</sup> reducing social cohesion, exacerbating intergroup prejudice and conflict, and demoralising whole communities. People can lose a common belief in a just, stable and moral society. People's sense of control over their lives and self-efficacy are diminished by the harm of criminal behaviour.

The 20th century philosopher, Hannah Arendt understood the nature of the irreversibility of a harmful act. Both victims and perpetrators of harm can be trapped in the consequences of what they have done and experienced. In such a scenario, Arendt writes:

our capacity to act would, as it were, be confined to one single deed from which we could never recover; we would remain the victims of its consequences forever.<sup>12</sup>

Shattered assumptions lead to a sense of unpredictability about future events, which disrupts the individual's self-understanding. Both perpetrator and victim can find themselves trapped in a narrative of harm, which inhibits each party from fully engaging in activities that are important to them.

Nancy Fraser and Axel Honneth discuss the concept of injustice from two perspectives: the distribution of resources, and the recognition of the value of people. Whereby exclusion from resources and lack of recognition of one's identity impact on an individual's ability to participate fully in society. Violating the principle of *parity of participation*.<sup>13</sup> The harm of criminal behaviour can be experienced as the loss or damage of resources, and the violation of values, which enable people to participate actively in society.

## WHAT IS DISTINCTIVE ABOUT MORE HUMANE APPROACHES TO HARM?

Humane approaches to addressing the harm of

<sup>10</sup> Jeremy Travs and Michelle Waul, *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities* (Washington: The Urban Institute Press, 2003).

<sup>11</sup> Chris Hale, "Fear of Crime: A review of the Literature," *International Review of Victimology* 4, no. 2 (1996): 79–150.

<sup>12</sup> Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), 237.

<sup>13</sup> Nancy Fraser and Axel Honneth, *Redistribution or Recognition: A Political-Philosophical Exchange* (London: Verso, 2003).

criminal behaviour aim to restore the internal and external resources required to participate actively in society to people responsible for harm, people who have been harmed, and others who have been affected. In such an approach, all actions would be designed and delivered with the purpose of preventing or undoing injustices, and restoring the individual, relational and social harms that have caused and been caused by criminal behaviour.

Crime harms individuals, relationships, and society in general. The values that shape more humane approaches relate to these: the value we place on the individual, the value we place on how individuals relate to each other, and the quality of the society we aspire to create. The concepts of the *common good*, *dignity of the individual*, *solidarity*, and *social justice* can frame what a human response to crime looks like;<sup>14</sup> a response that respects, restores and sustains these values, as opposed to one that disregards, damages or violates these values. The concept of the *common good* can be traced from ancient Greek philosophy through Catholic social teaching, to modern philosophy. It aims to motivate people beyond the mere primarily by the pursuit of personal interest. From this viewpoint, a just society provides people with the opportunities and capacities to participate in society for the common good in a way that they choose.<sup>15</sup>

The *dignity of human beings* is derived from the value of human life and the potential of people's capacity to choose their actions and to be responsible for them. To be a victim of a crime is to be treated as a means to another's end or to be objectified. This is dehumanising and humiliating. Respect requires a refusal to stereotype, stigmatise, objectify or idealise individuals.

*Solidarity* is derived from mutual responsibility and reciprocal support. Human beings can only live in relation to others.<sup>16</sup> Both actions for the common good and harmful behaviour have a 'ripple effect' beyond those directly responsible and those directly affected by them. Families, friends, neighbours and communities have a stake in repairing harm and alleviating suffering. While other people may be a potential threat, they are also essential to our wellbeing.

*Social justice* refers to fair and right relations, to the redistribution of resources and to the removal of obstacles to equality of opportunity and full participation in society. This is the foundation of human rights and many international statements on crime and criminal justice. More recently it focused on the value of diversity. Social justice can also be applied to the neglect of victims and to the discrimination against offenders.

Humane approaches place the value of social justice at the core of criminal justice. In contrast, it is inequality in society which separates people, leading to the neutralisation of moral responsibility for others.<sup>17</sup> Within the traditional criminal justice system the problem of addressing harm becomes a technical problem whose solution is often to separate or exclude further, rather than a more humane approach, which would create opportunities for people to re-connect.

These values of *human dignity*, *solidarity* and *social justice* inform key principles of humane practice. Rather than seeing individuals as simply products of their genes, their upbringing or their environment, a humane approach recognises their capacity to make meaning out of situations and events, to choose actions,

14 The use of these concepts self-consciously overlaps with the rich moral tradition of Catholic Social Teaching. In that tradition, *common good* is defined as "the sum total of conditions of social living, whereby persons are enabled more fully and readily to achieve their own perfection." John XXIII, *Mater et Magistra*, §65. For a recent discussion on the topic, consider David Cloutier, "What can social science teach Catholic Social Thought about the Common Good?" in *Empirical Foundations of the Common Good*, ed. Daniel K. Finn (Oxford: Oxford University Press, 2017), 170–207. In Catholic Social Teaching, *human dignity* can be understood as a "sublime" quality which entails that "rights and duties are universal and inviolable." Dignity demands that all humans ought "to have ready access to all that is necessary for living a genuinely human life." Paul VI, *Gaudium et Spes*, §26. In this tradition, *solidarity* "is not a feeling of vague compassion or shallow distress at the misfortunes of so many people, both near and far. On the contrary, it is a firm and preserving determination to commit oneself to the common good; that is to say, to the good of all of each individual, because we are all really responsible for all." John Paul II, *Sollicitudo Rei Socialis*, §193. An accessible introduction to the idea is found in: Cathy Molloy, "Solidarity in Catholic Social Teaching," in *Catholic Social Teaching in Action* (Dublin: Columba, 2005), 128–139. Social justice has perhaps been most fully developed within the Catholic Social Tradition among the Society of Jesus (Jesuits). Their declaration from the thirty-second General Congregation is taken as a landmark moment in Catholic social faith: "The mission of the Society of Jesus today is the service of faith, of which the promotion of justice is an absolute requirement. For reconciliation with God demands the reconciliation of people with one another." (Society of Jesus, *Documents of the 31<sup>st</sup> and 32<sup>nd</sup> General Congregations of the Society of Jesus* (Saint Louis: The Institute of Jesuit Sources, 1977), 411.

15 For a recent discussion see Michael Sandel, *Justice: What's the Right Thing to Do?* (New York: Farrar, Straus, and Giroux, 2009).

16 Emmanuel Lévinas, *Totality and Infinity: An Essay on Exteriority* (Pittsburgh: Duquesne University Press, 1969).

17 Zygmunt Bauman, *Modernity and the Holocaust* (Cambridge: Polity, 1989).



harm, and in strengthening relationships. The counter-intuitive aspect of the restorative process is that each party needs the other to have what has been lost or violated restored. Victims usually want those responsible for the harm to make themselves accountable in a direct and practical way. By doing so, perpetrators can earn respect by taking responsibility and making amends. Through such a process both parties may move on in their lives.

### *Personal narrative, dialogue and the possibility for forgiveness*

While it is not the primary purpose of restorative justice, forgiveness can emerge from the experience of telling and listening to stories and of entering into a dialogue with the aim of arriving at a mutual understanding of what has happened and its consequences, and of agreeing commitments that address the suffering caused taking steps to avoiding harming another person in the future.

Storytelling and dialogue drive the restorative process. Arendt wrote of the ability of stories to “reclaim our human dignity.”<sup>23</sup> Stories represent human beings as actors rather than passive victims or objects of others’ narrative or theories. They can restore dignity and often facilitate emotional and relational connections.<sup>24</sup> Minow has observed that a victim telling their story transforms the narrative from one of “shame and humiliation to a portrayal of dignity and virtue.”<sup>25</sup>

Dialogue is a conversation with a centre not sides.<sup>26</sup> In a restorative process it has the capacity to:

... humanise what is going on in the world and in ourselves only by speaking of it [the harm], and in the course of speaking of it we learn to be human.<sup>27</sup>

## CONCLUSIONS

Foregrounding values such as the common good, human dignity, solidarity, and social justice can reorientate our criminal

justice system in transformative ways. These concepts, resting on more explicitly theological categories such as redemption, and forgiveness, have a clear relevance and application to addressing the harm of criminal behaviour in modern society through a secular system of justice. Creating a more humane criminal justice system benefits everyone, in particular the person harmed and the person who has caused the harm. In these turbulent times, material self-interest, disrespect, division, inequality and severe judgements and punishment can seem to flourish. It is critically important that alternative values continue to be applied in practical and effective ways.

23 Hannah Arendt, *Men in Dark Times* (New York: Harcourt, 1968), 216.

24 Meredith Rossner, *Just Emotions: Rituals of Restorative Justice* (Oxford: Oxford University Press, 2013).

25 Martha Minow, *Between Vengeance and Forgiveness: Facing history and Genocide and Mass Violence* (London: Beacon Press, 2000), 243.

26 William Isaacs, *Dialogue: The Art of Thinking Together* (New York: Doubleday, 1999).

27 Arendt, 25.