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Banishing Goodness and Badness: Toward a New Penology

Naneen Karraker*

Twenty-five years ago, I used to take the train from time to time into New York City to see my great aunt Florence. The train always stopped at 125th Street, elevated so I could look straight into the windows of the tenements of Harlem's geographic core. The shabbiness, the dingy brick buildings, the sad black and brown faces, the broken down cars on the littered streets below, all were a constant reminder of the despair and frustration of those who had to live there.

And then the train would move on, through the tunnel under Park Avenue to Grand Central Station. I would get off the train and walk up and out on to Park Avenue where mostly white faces walked briskly along, bright yellow taxis darted among large shiny cars, and giant gleaming buildings shot up to the clouds. Here was the center of enormous wealth and power, in stark contrast to what I had seen only minutes before.

Ten years later, as a student intern I began working in a halfway house for men returning to San Francisco from prison. I found in that community another reminder of what I saw on that train ride into New York City. Here was a group of men from poor and working class families. The majority were black and brown. At first, like many others, I expected them to be very different from me. Not until I had worked there for awhile did I discover I had more in common with each resident than I had anticipated. Also, I quickly saw that they had come to the halfway house for lack of any stronger support in the community.

One of my favorites was a black man in his mid-forties. I spent a lot of time listening to him. He had just served five years in California prisons. Before then, he had been in and out of Texas prisons so often the authorities decided to call him a *habitual criminal*. After his stay at the halfway house, he went on to establish, on a shoestring, a halfway house in the Fillmore district. He housed, clothed, and fed several dozen ex-cons for about two years before the building they were using was condemned. He then asked me to help him write some fundraising proposals. It was at that point, I learned he could barely read or write. I was shocked. Here was a bright, compassionate man who gave so much to others, and he had none of the tools necessary to make it legitimately in this country without settling for far less than his potential.

Another favorite was a white man in his early thirties. He had been raised in orphanages and, when I met him, hadn't been out of a locked institution for more than three months at a time since the age of 15. Prison had become his home. For nearly a decade after first meeting him, I made myself available to counsel him and lend him money from time to time. I watched him again and again struggle to learn to survive in the free world. Besides the fact that he knew little or nothing about keeping a job, managing his money, or nurturing friendships, he faced an even greater disability. He had the face of a 50-year-old and the social skills of a teenager. This made every interaction he had with the outside world ten times more stressful than for most others. Potential employers, for example, expected one thing; they got something very different. He was constantly a failure in the eyes of others. And his standard response to

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feeling like a failure was to steal a car, burglarize a house, and drive drunk with a car full of stolen goods until he got stopped. A guaranteed ticket back to prison. It wasn't until he started successfully escaping from prison that I had any hope for his future. By escaping, he was saying that prison was no longer his refuge, that he might be able to find a place for himself in the outside world.

As I have worked in the criminal justice arena over the past fifteen years, my ideas about crime have become clearer. First, I have an increasingly lower tolerance for crime. I want to live in a world where I can leave my car and house unlocked, where I can walk the streets without fear, where my children can run around the corner to our neighbor's and I don't have to worry that they will be kidnapped or frightened by some confused and angry person. I also want to be able to use services and products, knowing that they will not harm me or others. Second, what I have learned about crime fighting in America makes me sure that unless we change our ways, my dream will never be realized. Though in the past two decades we have moved from the *War on Poverty* to the *War on Crime*, we have had no real impact on the crime rate. This seems to have something to do with our refusal to give up old, worn-out ways of thinking about crime and its control.

A good illustration of a new, and potentially effective, way of thinking about crime and its control is provided by the noted psychologist Kenneth Clark. In 1981, Clark argued before a subcommittee of the federal House Judiciary Committee that violent street crime will worsen if stiffer punishments are imposed on offenders. Violent street crimes, he said, are committed by "individuals who have given up on any possibility of quality of life that is positive. . . . They operate on the assumption that they don't have a damn thing to lose." When asked if he was advocating two standards of punishment, one for the rich and one for the poor, Dr. Clark replied that he was advocating something beyond that issue. "What I am advocating," he said, "is that if you are really going to do something about crime, society will have to address itself to the roots of violence, to the roots of racially related crime. . . . a total reexamination of some of the givens, assumptions, and explanations of the society of which we are a part" (1981). He acknowledged this would be extremely difficult for our society to do.

I have thought a lot about Clark's words since 1981. It seems that the *lock 'em up* approach has prevailed and may very well continue to prevail because of its appeal to the feelings most of us have about *goodness* and *badness*. For most of us to carry on in this challenging world, we need to believe we are basically good and are doing the right thing. But in order to do that, most of us need to believe that some others are bad. Because people need money to survive here, we are led to believe that having money is good. We then see poor people as bad. And since virtually all of those in power are white, blacks and latinos must be bad. And since our laws are supposed to define good behavior versus bad behavior, then lawbreakers, especially if they are poor, black, or brown, must be really bad. And so on.

We cling to a criminal justice process which is supposed to sort out the good from the bad and do something about the bad. But because of the contradictions between our society's principles —e.g., all people are created equal, and its realities, e.g., all people are not assured equal opportunities— we never seem to be able to do anything that really reduces crime. When the idea of rehabilitation prevails, it never quite loses a punitive element, thereby making rehabilitative efforts virtually ineffective. When the idea of punishment prevails, we only make our convicted criminals feel even worse about themselves and less able to live law-abiding lives. When the idea of crime prevention prevails, as with rehabilitation, it usually retains a punitive element, thereby making it ineffective.

This punitive element will continue to pollute every effort we make at reform until we let go of the notion (1) that there are good people and bad people and (2) that bad people are either hopeless monsters or redeemable only by punishment. The criminal justice system in 25 years is likely to be very different from today's system, if our society can examine the givens, assumptions, and explanations Dr. Clark referred to and do something about them.

Though I have been tempted to define in some detail what our criminal justice system ought to look like in 25 years or what it is likely to look like given no change in current trends, I have decided not to do so. The reason for this is that the criminal justice system I envision, at least superficially, need not be much different than today's system. What must change is, as outlined above, our basic attitude toward "goodness" and "badness." Rather than pushing so-called bad people away, we must embrace them; we must find ways that we are alike, rather than different. As a compassionate, rather than vengeful, community, we must take back responsibility for those who break our laws and not abdicate that responsibility to overworked professionals.¹

If we can make this shift in attitude, much could improve. For example, our incarceration rate would probably decline, probation might become again a service rather than a law enforcement function, and halfway houses, group homes, and drug treatment programs might very well be embraced rather than rejected by communities. Our crime rate should decline as well. On the other hand, if our attitudes do not change, we will only replace costly incarceration or overloaded probation or parole officers with external or even internal electronic monitors, or replace comparatively restrained police with those unencumbered by constitutional restraints.

True, there are many compassionate people who work tirelessly to examine the social assumptions noted by Dr. Clark, operate programs based on more humane and equalitarian principles, and advocate criminal justice reform.² But the mountain of hatred and racial and economic prejudice they seek to overcome is enormous. It requires a level of clarity, of commitment, and of cooperation which is far greater than now exists.

My hope is that with an understanding of the horror of what lies before us, aided by the tools to communicate more and more quickly, we can build a movement to examine those "givens, assumptions, and explanations" and to do something about them.

Already the seeds of that movement are sprouting:

- The qualities of Jesse Jackson's ongoing presidential candidacy provide one example. On his visit to San Francisco before the last election, he held his press conference in the San Francisco county jail, not at Fisherman's Wharf, as did one of his opponents. By doing this he said (1) a black person can be "good" enough to run for president and valuable enough to get votes and (2) people in jail are "good" enough to speak to and valuable enough to affect an election.
- Early this year, California State Senator Robert Presley introduced legislation to establish a commission on alternatives to the state's ballooning prison and jail populations. Until then, he had been the state's leading prison and jail builder. By doing this, he said that prison and jail expansion is too costly, that the costs of just maintaining all the prisons and jails to be built will take too much from health, education, and welfare programs. He suggested that there may be other approaches to "badness."
- In late 1986, Governor Cuomo released a report debunking the myths that poor people (1) are mostly of racial and ethnic minorities and (2) are able-bodied

people who don't want to work. Cuomo said that welfare recipients are really just like most of us.

- Again last year, the country's Roman Catholic bishops overwhelmingly voted to approve their pastoral letter called "Economic Justice for All." The document will encourage Roman Catholic leadership nationwide to challenge the existing economic order because all people are "good" enough to live decently.
- And perhaps on a less grand scale, the McNeil-Lehrer Report recently aired a panel in which the unlikely combination of former Texas Governor Mark White, Alameda County, California Judge Don McCallum, Indianapolis Prosecutor Steve Goldsmith, and former Massachusetts Youth Services Commissioner Jerome Miller all agreed that building more jails and prisons to lock up more people is foolishness. Miller described how our corrections system could be far more effective if we treated each offender as though he/she were a friend or relative. The assumption here is that we care about our friends and relatives; we believe they are good, though they may at times do bad things. If they commit an illegal act, we would deal with them with caution, compassion, and decency. We would try to keep them from recommitting the offense, but also try not to destroy them in the process.

These are all just hints of possibilities. If they take hold, if they catch the American imagination, we can move away from the Fortress America we are fast becoming. We will be able to move toward that "more perfect union," that social order in which we care for others as much as we care for ourselves, and, by doing so, take better care of us all.

What I have said here may sound like a lot of wishful thinking. It is, if that is all that comes of it. But, for those working to change the direction of our criminal justice process, these thoughts may be useful guideposts. Keeping in mind the importance of compassion as opposed to punishment should help us to shape a social order that keeps us all safer.

Footnotes

¹Though no great panacea and perhaps skirting some of Clark's "givens and assumptions," the efforts of some of the private groups which write presentence reports seem to be demonstrating on a case-by-case basis how this different approach might look. The group with which I am most familiar, the National Center on Institutions and Alternatives (NCIA), prepares sentencing plans for individuals who would otherwise go to prison. For a sliding scale fee, the caseworker proposes to the Court a range of support, restitution, and treatment options. These plans are accepted by the Court about 70 percent of the time.

One case example from the NCIA San Francisco office is a man who was convicted of robbing several banks, clearly to support his heroin addiction. He was facing a 20-year prison sentence. NCIA convinced the Court to suspend his prison sentence and to make, as a condition of probation, commitment to a drug treatment program he had chosen. He also agreed to make restitution and complete 1,000 hours of community service in the form of speaking to community groups about his life experience. The option to adjust the plan has remained open to him. For over one year, he has met all the conditions outlined in his sentence plan and has felt no need to change it.

²By compassionate, I mean the understanding that there is much we share with others and that in some very basic ways we are all inextricably linked to each other. As we are compassionate, we accept the demoniac in ourselves and no longer attribute

those qualities only to a select few, or many, depending on how we look at the world. Compassion gives us the ability to judge without condemning others. Compassion is antithetical to violence.

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