

# PEACEMAKING

Reflections of a Radical Criminologist



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Hal Pepinsky



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In appreciation for their love, support, and teaching,

to Rae Brenner Pepinsky, my grandmother;  
to Pauline Wright Nichols, my grandmother;  
to Pauline Wright Nichols Pepinsky, my mother;  
to Jill Bystydzienski, my wife and partner for life;  
to Katy, our daughter.



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## FOREWORD

This is a work of a lifetime. It comes directly from the life of its author; it is a result of a life of experience, thought, and struggle. The work is in the long tradition of the witness and the prophet. The witness first has to be where the suffering is taking place. And then he has to be moved by conscience to observe and to make the report. An Armenian poet writes of the woman who witnessed a mass killing nearly a century ago:

This thing I'm telling you about,  
I saw with my own eyes.  
From my window of hell  
I clenched my teeth  
and watched the town of Bardez  
turn into a heap of ashes.

The daily news is full of such wartime accounts. Hal Pepinsky has been bearing witness, and continues to bear witness, to the sufferings that are part of what is conventionally conceived as crime and to the sufferings and abuses that are related to criminal justice. This book, *Peacemaking: Reflections of a Radical Criminologist*, bears witness to crime and criminal justice from beginning to end.

The modern-day prophet is moved by the humanistic call instead of an appeal to divine intervention. The hope is for a transformation of human action, but the actions flow from human, and humane, consciousness rather than from the fear of divine judgment. And the

prophet of today finds peace in everyday human negotiations, a peace that cannot come from justice rolling down like waters.

It is this drive for justice, in fact, that removes us from the possibility of peace. Hal eloquently observes that the objective is *not* justice, a radical idea even within a radical criminology. Justice connotes a result, a solution, a completion, rather than a promise of communication and open negotiation of social conflict. It connotes an attachment to outcome too soon imagined and realized.

Building safety, security, trust, and peace takes place in a realm quite different from that of doing justice. "Stop seeking justice" might be the call. The alternative is found in the day-to-day lives of the real people engaged in the existential decisions of their daily lives. Offended and offender alike learn from each other and engage in the process of their own peacemaking. They work for peace, not justice.

Someday this report will be found, and it will be valued and perhaps used in ways beyond the imagination of the writer. We are narrators telling the stories of our times. We cannot hope for anything beyond the act of witnessing. The *Bhagavad Gita*, the ancient Vedic text, instructs, "Do not to the results be attached." What eventually happens may be even more wondrous than what we could have imagined or hoped for.

Richard Quinney

## REFLECTIVE STATEMENT

A major memory of my parents during my primary school years was that they were thrashing out and writing what I understand to have become the first classic text in its psychological specialty, *Counseling: Theory and Practice*. I am their only child. In the eighth grade, I entered what became my secondary school, eight miles from home. That school was ungraded. As you will see in this volume, that experience revolutionized my approach to grading when I became a “professor.” I don’t hate graders, but I do hate grades. I continue to try to make that clear at the outset every semester in every class to the students whose grade rosters I command. Understand that attitude and, intuitively if not consciously, I suppose you understand the following account of what I believe I have learned, most of all about defining what I want to learn.

Due to my childhood circumstances, I spent a lot of time alone. I fantasized. I had imaginary conversations, including those sitting on the toilet in my very own bathroom, where I asked important visitors to the Oval Office to sit down and proceeded to negotiate how we would deal, chiefly, with the Soviet Union. That was my lot. As a result, I have become an addict of staying alone and reflecting, first and foremost on my daily relations, thence to thinking through how to respond to universal problems. I crave reflection time. I am writing this statement at the close of a spring semester as I enter my summer off the payroll and attendant obligations. It has taken me several weeks to think through why I have thechutzpah to offer this statement for your reading. You might say that making up my own forms of meditation—my own times

alone in reflection—has become at least *a* if not *the* primary addiction of mine in adulthood.

I have found a professional home as an interdisciplinary mutt. I have followed no consistent career path. I went to college aspiring to be a path-breaking socialist pacifist trial advocate like Clarence Darrow, backed into a major in Chinese language and literature, which in turn qualified me more than my grades and test scores to back into the first Chinese law program in the States, which in turn led me to play out fantasies of doing serious work in a law office and to be the one of ten legal interns assigned to the assistant legal adviser for East Asian affairs at the height of the Vietnam War, from where, by a chance encounter with an old family friend (Harold Garfinkel, creator of the sociological specialty called “ethnomethodology”), I was led to apply to a criminology program in a sociology department. Senior colleagues of mine in the first two professorial jobs I gently but firmly got let go from labelled me a dilettante and a philosopher. I think they were and remain right.

As one example of liberties I take with being a “social scientist,” several friendly and supportive readers of this manuscript have commented on my refusal to include a standard table of references. One suggested gently that I come across as “a little egotistical.” Bingo! I’ll go further. This entire book is downright arrogant and presumptuous. How dare I think what Hal has figured out as one little old criminologist matters in itself! With thanks to Bob Gaucher, press reviewers including Liz Elliott, and the University of Ottawa Press, I am privileged to indulge myself so. I have the gall to believe the evolution of my thinking and feeling in criminology matters enough to ask people to buy this writing of mine in book form.

In my classes, I have come to see my opening and closing sessions in the same manner that I conceive opening and closing my volunteer work as a “victim-offender reconciliator.” At the start and end of each semester, I think about how to do what someone might say is a prayer for the success of our collective effort. Central to every opening and closing prayer, in the classroom and in mediation, is that *your opinions and feelings matter*, and they matter first to you and thence to the rest of the world. By extension, your capacity to empathize with others in peacemaking rests on your ability to empathize with yourself.

In evaluating myself, let alone in evaluating others, I have come to postulate that I—like everyone else in economic, political, religious life—have a war going on within the very part of me who decides

whom to listen to and what to say next. I try to strike balances in how I accommodate these two fundamental sides of myself: being driven by fear, and being impelled by creating a safe space for showing vulnerability and finding common ground in which to cultivate honest individuality. This latter side of myself is also known by many other names, such as “compassion” and “empathy.”

It has become axiomatic—a primary article of faith—to me that we are all born with the universe of human experience passing through and all moments lying within us. I postulate that my desire to “live,” like everyone else’s, is a desire to belong by finding language that connotes to all concerned, as my late father came to put it, “mutual understanding.” I call acting on behalf of this side of myself “peacemaking.” I call being driven by fear “violence.” We are all connected. No one can survive in a violent world, where survival rather than the destruction of human life becomes important in itself, without in some measure responding to violence with violence. The question remains, though, how can we and others—culpable as we all are in one way or another for either hoarding power or succumbing to it—transform cycles of violence and vengeance into an upward spiral of trust and co-operation?

I acknowledge my own arrogance and egotism in even asking a serious publisher to consider the manuscript. I hope I am striking a balance in the process between the side of me that wants to speak his own plain and honest truths in the plainest and most honest way he can muster and someone who acknowledges how much he learns in daily life, as in criminology, from people who are much talked and written about but who have little opportunity to be heard speaking for themselves.

I believe your and my personal opinions and feelings about any personal or social issues we face ought to matter and be nurtured, most of all, for the sake of transforming violence into compassion, as the Lakota say, “in all our relations.” I am arrogant and privileged enough to offer this book, founded as it is on the notion that how my opinions and feelings have changed in more than three decades as a self-identified “criminologist” matters, in and of itself, enough to become a “book.” Thanks for your consideration of this egoistic indulgence of mine. May you be equally arrogant in using what is written here, not so much to evaluate me as to be encouraged to get in touch with and express yourself in like manner. I offer thanks for the many times that, at this level of honest exchange of experience, I have learned so much from others.

I was born privileged and remain so. I am dedicating this book to my mothers before me and to someone who perhaps is a mother to follow, whose collective history reflects progress out of profound sexism, reflected even in the lives of the economically privileged women in my own life. My grandfathers and my father were professors. My mother, among the professionally accomplished and under-recognized professional women in her generation, was forbidden under a “nepotism rule” from being hired although she was just as qualified as my father (who was also a rebel). Born and raised in the Jim Crow South, her dissertation study of black/white experience in school was supported by a Rosenwald Fellowship, alongside Marian Anderson, an opera soprano who had been denied the opportunity to sing at the headquarters of the Daughters of the American Revolution in Washington, D.C. I have long told myself that perhaps I am a product of hybrid vigour—by birth a Yankee Russian Jewish Confederate white Anglo-Saxon Protestant, married to a Polish Catholic, with a daughter who looks like a Scandinavian Lutheran. My mother’s mother got two college degrees and, until a stroke late in life, painted beautiful watercolours of flora and of coats of arms at home for little money after marriage. My other grandmother was the first woman to graduate from the Cincinnati medical school. She used to regale me with stories of her internship at the Framingham, Massachusetts, women’s prison in 1905. My grandfather forbade her to work for money when they were married (of all things in Berlin, as Russian/East European U.S. Midwest Jewish residents for a year).

The radical feminism my wife and chief partner for half my life, Jill, has taught me is at the heart of the growth of my own understanding of the difference between violence and peacemaking. We may need millennia yet to overcome the violence of patriarchy, if indeed we survive that long as a species. I know how long and hard Jill struggled to move from following me in my career to establishing a career in her own right. I believe it has been easier for our daughter than it has been for her. Rational or not, progress across generations in public recognition and in liberation of these women most central to my life boosts my confidence that we can learn and are learning to transform violence.

I began calling the way my writing is framed “radical” before I knew what radical feminism was. I label the perspectives here “radical” because I have been privileged enough to survive professionally while

writing and teaching about the most basic question I can imagine: what phenomena as social scientists generally, let alone as criminologists particularly, should we at root be trying to understand and respond to? In the course of the reflections in this volume, I have given up on trying to understand and solve problems of “crime” and “criminality.” I have turned instead to trying to understand how to resolve being driven by fear into being impelled by compassion and trust building.

In retrospect, I have come to have an appreciation of the pacifism my mother shared with me as early as I can remember. I have long since appreciated the insights she shared with me as she worked thirty years on a book, *Worlds of Common Sense*, that compared “modes of action” in Norway to those in our country of birth. As she put it, the “locus of control” in Norway (where I spent my last year of secondary school with my parents, who had Fulbrights in Trondheim) was within the individual and was identified as external control in the United States, while the “locus of expression” was in the group in Norway and within the individual in the States. So, for instance, in the States, by cultural convention, I could flaunt my wealth and success as long as I obeyed the law. In Norway at the time, getting ahead of others rather than finding common cause with others was embarrassing, and no one normally needed the police to keep himself or herself in line. These were cultural conditions under which I learned to appreciate, like Norwegians at the time, that inequality—presuming some people are entitled to be better off than others—is a radical threat to peace. Violence reigns in public discourse where imbalance occurs between those who do the talking and those who are forced to do the listening. I regret my grandmothers—my Grandmother Rae in particular—and my mother did not have more opportunities than they were offered to express themselves in public. One source of solace to me about the gender oppression my mother in particular suffered is that Jill is about to become chair of a women’s studies department at the very university that denied my mother a chance to work in her and my father’s home field.

Jill is, as I have long told her, the centre of my human universe in this lifetime. Chapter 2 of this volume is a transcript of a talk I gave months after I met her. Jill soon thereafter got me to correct the sexist use of “he” that appears in that talk. I have not changed the language I used in that talk in this volume. In that instance of sexism in my own language, and as a reviewer pointed out there as in my loose differentiation of “offenders” and “victims,” I have learned to modify my speech. More



importantly to me in my own learning—as I hope is reflected in this book—Jill above all others has taught me that I tend to preach too much and listen too little to others, notably to the voices of those least heard otherwise, including those of women. At least with the 1973 transcript, I can leave evidence that, ignorant as I might still be, I was significantly more ignorant then than now.

Our Katy is another inspiration to me. Her interactions in all her relations teach me because she epitomizes what my mother—in contract small-group research she did for the U.S. Navy in the 1950s—called “productive non-conformity.” Not conformity. Not what my mother labelled “negative conformity” or Saul Alinsky called “oppositional politics.” Just being her caring, honest self in her relations, in her case establishing her own public identity as a promoter of understanding of and commerce in local, environmentally friendly, sustainable agriculture.

I dedicate this book to the understanding and support these women in my family first and foremost have given me, which have served as a foundation for my life in general, my work in criminology in particular. They are my primary inspiration in all my relations. I have also been supported and taught significantly and substantially by many students and prisoners and by countless others, including those who have lifted me out of the depths of professional and personal despair. I am too embarrassed at the thought of naming some of you and leaving so many of the rest of you unnamed. Please just know how grateful I am to you all.

I have an attitude. I call that attitude “peacemaking.” I offer this book in the spirit of inviting you to account first and foremost for your own identities and roles in violence and peacemaking. This is the spirit in which members of the Association for Humanist Sociology have asked that authors of scholarly articles in their journal *Humanity and Society* substitute “reflexive statement” for “abstract,” just as I substitute “reflective statement” for “acknowledgments” and “preface” in this volume. I thank family friend Mike Trask for validating my belief that “reflective” is clearer than “reflexive”; once more I have the audacity, with another’s encouragement, to define things my own way. May what I offer here of my own learning journey make your opinions and feelings about social control more prominent in your life and those of all your relations.

Hal Pepinsky



## CHAPTER 1

### INTRODUCTION

#### CONFRONTING INCESSANT WARMAKING

I was born months before the Germans surrendered in World War II. By the time I was old enough to begin becoming politically aware, my U.S. government was trying to extricate itself from a “police action” in Korea. Accepting their respective parties’ nominations in 1948 and 1952, Harry S. Truman and Dwight D. Eisenhower both began by declaring war on terrorism. President Truman declared what came to be known as the “Cold War.” Congress and state legislators were hot on the trail of communists and “communist sympathizers.”

While I was in college, following President Kennedy’s assassination, the decade-old covert war in Vietnam became overt. President Johnson followed with a declaration of a (short-lived) “War on Poverty” as I entered law school. With great fanfare, Johnson appointed and by 1967 heralded the reports of his “crime commission” and followed it with the sponsorship of the Omnibus Crime Control Act of 1968. When I was in graduate school in 1969, newly inaugurated President Nixon declared the latest, still-continuing “war on crime.” As he ran for re-election, Nixon elaborated his war on crime by declaring, further, the beginning of the latest “war on drugs.” In my three-score years in my homeland, political life has been dominated by war upon war.

The object of warfare is to locate, isolate, and subdue enemies (including killing them). Wars on crime are no different from other wars in this respect. Since the nineteenth century in Europe and North America, wars on crime have focused on “dangerous classes” —

typically poor young immigrants and people of colour. A good deal of criminology to this day focuses on profiling people “at risk” of becoming delinquent or criminal for the sake of “crime prevention.” “Modern” law enforcement, from its inception in cities in the mid-nineteenth century, has been concentrated on poor people hanging out on city streets, people whom merchants and their potential customers find threatening. To this day, most arrests are for crimes of public disorder or threats of disorder posed by people who variously have been known by names such as “vagrants,” “beggars,” and “gang members.” Most threatening of all are those who become “career criminals” —identified as such for having been repeatedly arrested and prosecuted.

Even drug wars concentrate on young underclass immigrants and people of colour. In the United States and in many other Euro-centred countries, the biggest increases in incarceration in recent years have been for drug offences, and among these of poor young women of colour.

Chapter 2 of this volume of reflections on what I have learned as a criminologist picks up in 1973. I had just finished my doctorate a year earlier and was in my fourth year of teaching. The chapter starts with an invited talk I gave at the Center for the Study of Democratic Institutions, followed by a response from centre president Robert Maynard Hutchins and an ensuing discussion that included criminal justice pioneers Victor Cizankas, police chief in Menlo Park, California, and Australian-born University of Chicago Law School Dean Norval Morris. The talk and discussion focused on the wave of programs being instituted across the country, with support from the Law Enforcement Assistance Administration of the U.S. Justice Department, to “divert” “offenders” from the criminal justice system—programs going under names such as “pre-trial diversion.” The hope was that these programs would help to reduce what appeared at the time to be world-leading incarceration rates. (Later the Soviet Union and South Africa under apartheid would be recognized as having higher rates still.) I warned instead that unless restricted in several ways I proposed, diversion programs would end up feeding more people into the system and creating more prisoners than ever—a phenomenon criminologist Stanley Cohen in 1979, in his widely cited article “The Punitive City: Notes on the Dispersal of Justice” (in *Contemporary Crises* 3: 339–63), labelled “widening the net” of criminal justice.

As it turned out, even I vastly underestimated the rapid expansion of wars on crime and drugs that would begin in the mid-1970s. I trace that expansion in Chapter 3 and try to account for the political culture upon which the expansion rested and continues to rest.

## **FROM CRIME AND CRIMINALITY TO VIOLENCE AND PEACEMAKING**

My thinking about matters of crime and criminal justice has undergone profound transformation more than once since 1973. In Chapter 4, I trace how my paradigm first shifted, from seeing the problem of crime and crime control as simply one of what makes people commit crime and of how we control crime and criminality to espousing a radical feminist concern for the larger problem of “violence.” In radical feminist terms, at personal and structural levels alike, violence is defined as “power over others” as against “power sharing.” Historically, radical feminists find that the template by which power over others or violence is legitimized and justified is a belief that social order depends on patriarchy, on the idea that father knows best. This explains, for example, the cultural subtext that gives men permission to batter “their” women and (re-)elects politicians who promise to defend us most vigorously against our foreign and domestic enemies, including “criminals.” In my thinking at the moment when I adopted a radical feminist frame of reference, the problem of crime and punishment became “patriarchy and the politics of fear.”

My adoption of radical feminists’ definition of the primary human social problem—violence as power over others—was to me a major step toward addressing a deeper crisis in my own thinking. I turned away from the study of crime and criminality. In place of these dependent variables, I turned to trying to understand and explain differences between “violence” and “peacemaking.” I shifted paradigms. Chapter 5 describes that shift. Chapters 6 and 7 focus on the nature and practice of transforming violence into honest, safe, secure, trustworthy relations for all concerned.

In 1971, I collected data for my dissertation riding along for 500 hours on police patrol in the high-crime area of Minneapolis. My question: when police responded to calls for service, how did they decide whether to report an offence? (The major factor: if the police dispatcher happened to name an offence and the police found a complainant who reported

that or any other offence, then the patrol officers reported an offence. If the dispatcher instead failed to name an offence, for instance sending the patrol officers to “check a disturbance,” then the patrol officers *never* reported an offence, regardless of whether a complainant alleged one. I never found out how the dispatchers exercised their own discretion—an “implication for further research.” See my 1976 article on “police patrolmen’s offense-reporting behavior” among my publications in an appendix to this volume.) Thereafter I had the opportunity to work with others collecting and analyzing data on police-reported crime trends in Indianapolis from 1948 to 1978 (published in 1982). Finally and fatally, I had superb help from the Sheffield, England, police constabulary to gather and analyze data on a decade’s trends in police crime recording there (see the 1987 article on police crime recording in the appendix). In the meantime, in 1980 I had published *Crime Control Strategies: An Introduction to the Study of Crime*. In that book, chapter by chapter, I reviewed literature, using each major measure of crime and criminality in use at the time, on what it might take to reduce rates of each, on the ethics of such actions, and on what planned effects and side effects would likely ensue from taking such actions.

By the time I wrote up results from Sheffield, I was ready to recommend, for the first time for myself, that we criminologists and politicians call a moratorium on trying to measure trends in crime and criminality at all, because in all instances I could see that crime and criminality trends were more readily explained by shifts in behaviour of those who collected and analyzed the data than by what was going on in the lives of their informants.

While in Sheffield, I also wrote drafts of chapters for the book Paul Jesilow and I co-authored, *Myths that Cause Crime*. While I was in Norway in 1986, Paul accepted the Academy of Criminal Justice Science’s annual book award for the work. In that work, for the first time, I wrote that the challenge to “us” in criminology (Paul agreed on this, as we did on all points in the book) was to tap what we *do* want from and value in human relations in place of carping on or stamping out what we don’t want. That was the first time I observed that the only “solution” to our crime problem was that we all died and hence became crime-free. At the same time, my students kept challenging me to offer reasonable alternatives to policies and practices I was harshly criticizing.

I was in the emotional and intellectual process of letting go of criticism and searching for positive, constructive alternatives. I was

searching for how to operationalize my alternative to the immeasurable phenomena “crime” and “criminality.” They are certainly measurable, but I have come to view them as politically- and culturally-based social constructs, not as inherent indices of whether social security is improving or declining. In Chapter 5, I describe the epiphany I had during my return to Norway in 1986 on a Fulbright to study “peaceful societies,” especially to spend time with a kindred criminologist whose work I much admire, Nils Christie. There I came to conceive of “violence” as “unresponsiveness.” “Responsiveness” was my original conception of what Richard Quinney and I termed “peacemaking” in 1991 in our edited volume.

*Criminology as Peacemaking* struck sympathetic chords across criminology. Colleagues have told me they took heart from that volume—that it tapped a need they felt to do something positive in criminology for a change. I learned from that experience about what fame and formal recognition entail. As I had put it to Paul Jesilow when we had won the ACJS award, “We are now famous in a medium-sized high school.”

In the 1970s and into the 1980s, Richard Quinney had been the most widely cited living criminologist worldwide. In retrospect, I think his recognition was another crucial part of the success of the book we co-edited. All of a sudden, in criminology and criminal justice texts, “peacemaking” became a “school” of thought. And, indeed, many people were swimming in that stream of thought.

Acclaim has often turned out to be embarrassing to me. Time and again I have heard myself cited for versions of “peacemaking” I do not believe. On the one hand, I feel profound gratitude for being acknowledged as having inspired others’ thinking and research. On the other hand, I feel impelled—as respectfully as I can manage—to say “peacemaking” is many things in the eyes of many beholders. It means only that the peacemaking criminologist at hand wants to be recognized for being constructive rather than purely critical of the status quo. I do not identify myself as a member of a school of thought. I have no property rights in how others define “peacemaking.” There are no inherently wrong or right definitions. I think it is simply incumbent on me to explain what “violence” and “peacemaking” have come to mean to me. That is my focus in Chapters 5 to 7.

Notoriety has led a number of my “critical” colleagues to evaluate the significance of “peacemaking criminology” as a whole. Their

primary criticism is that peacemaking criminology is not a testable theory. At best, it is an approach to criminology. I quite agree. I think of “peacemaking” as an attitude—one of studying how to build positive relations in place of negative ones. That’s all I can see that unites this “school.” To me in my own work, regardless of whoever else uses the term, “peacemaking” is not a theory. It is more profound than that. It is a commitment to the study of “peacemaking” as a paradigm shift—to studying “violence” in place of studying “crime” or “criminality.” In Chapters 5 to 7 in particular, I state propositions I currently hold about how, within this new paradigm, I and others have found that peacemaking transforms violence.

To adopt my paradigm means only that you define violence and peacemaking as I do. Within that paradigm, testing what does and does not make peace in place of violence is open to study. I keep revising propositions within the paradigm. For instance, I no longer see shifts from public to private control of “deviance” as inherently constructive, as I did in 1973. As another instance, in a “peacemaking primer” I wrote early on in this new field of inquiry, I advocated that “dumping up” (against those who hold power over others) is an essential part of the peacemaking process. As you will see in this volume, I have since rejected these propositions or have at least seriously qualified them. I’m still learning. I invite criminologists to join my choice of an alternative paradigm for research and action. If this paradigm is worth adopting, then the construction and testing of theories within it have only just begun.

## METHODS

In writing this text, I have saved the drafting of this first chapter till last. Along the way, I have debated with myself as to whether I would label this section “methodology” or “methods.”

I consider “methodology” to be a much-abused word. My father called the problem “concertizing.” “Methodology” literally means “the study of [research] methods.” “Methodology” is a common heading for a section of research reports that simply describes the methods one has used. Seldom does one find a serious consideration of the range of possible methods and a weighing of how the choice is made. Seldom, for instance, does one who uses a survey consider literature on whether interviews ought to be done instead or of whether one ought to become



a participant researcher or participatory researcher. The method I use in this volume is the culmination of many choices among methods.

I choose to write in the first person. Many are the journal rejections I have received for doing so. I cringe when I hear fellow researchers say, "We know that..." Who is this royal "we"? I consider myself accountable for my own claims to knowledge. Being accountable and personally responsible means, to me, simply explaining as clearly and directly as I can why I choose to believe and feel as I do and how my data have led me hither. I persist in this heresy in this work.

I reject choosing between being theoretical and being empirical. To me, there is also considerable concertizing in the categorization of research methods. "Theory" just means generalizing from one's sample; what does what happened in my data set imply for what might happen elsewhere? "Empirical" means that one's generalizations are grounded in human "experience" (as the Greek root of the word implies). Every "finding" any of us states is of necessity, all at once in some way, both theoretical and empirical.

Another false issue of method to me is whether one's data are "qualitative" or "quantitative." I am typing this manuscript on a computer in which, ultimately, each of my characters can be reduced to a binary quantity: it exists, or it doesn't. All statistics are derived from this quantitative foundation. The nuances of whether each datum is ultimately 1 or 0 (signifying this rather than that) potentially become an infinite theoretical and empirical regress. This is what I discovered when I tried to reduce trends in crime and criminality to validity or invalidity. Hence, I, like all criminologists and other human inquirers, am inevitably, at all times, 100 percent theoretical and empirical, 100 percent qualitative and quantitative. A physicist uncle of mine taught me to see these differences, "scientifically," as "trivial." That is, they are debates of no practical significance. I, like all of us, learn empirically and theoretically, qualitatively and quantitatively, all at once. The question remains how I do so.

As I describe in chapters to come, my understanding of violence and its transformation is continually, in many ways crucially, altered by single human encounters. Everyday life is to me a continuing process of checking out my ideas of what promotes and transforms violence. I focus in this volume on describing that learning process.

I last applied for external research funding to support my 1990 trip to Tanzania to study dispute handling there. The response to

my applications was that this was “a nice sabbatical project” that did not merit extra funding. My research has always been serendipitous, opportunistic. At most in a project like that in Tanzania, I go in with an open-ended question, not being able in advance to know where and how I will find my most important data. On the bright side, my data are not limited by methods specified in advance to a human subjects review committee. As readers will see, the data that most crucially revise my own understanding of the world come unexpectedly in everyday encounters. Certainly, I feel ethically obliged not to abuse, compromise, or disrespect informants whose data I use. That, too, is an everyday experience. I find it imperative that I not just gossip but carefully weigh and respect a duty of confidentiality where my reports might adversely affect those who teach me. But because I never know in advance which mundane encounter might profoundly inform my understanding of how to transform violence, I find myself unable to clear my data collection with external reviewers in advance.

To me, reports of all my crucial findings are best told as stories. These days feminist scholars (such as Brenda Daly in her 1998 book *Authoring a Life*) call this “the narrative method.” Often it is trading stories, notably with students in the classroom, that arouses my awareness of what is most important to me about what I do or don’t know. In the context of conversations about violence and peacemaking, I find myself constantly surprised by my discovery in retrospect of which encounters have informed me and how they have done so.

Back when I was struggling to get refereed acceptance of my research writing, rejections claiming that I was unscientific because I report my findings in the first person were accompanied by rejections on the ground that my findings were “anecdotal.” Indeed, they were and remain so. In this volume, I account for my findings in a series of stories reporting occasions on which I have learned. Many of my colleagues, I am sure, would still call this method “unscientific.” This is how I learn. As I see it, my primary “scientific” responsibility is to report my discoveries as they honestly and truly have come to me.

I have taken two other major radical liberties in the method I use to report my findings here.

One is to depart from scholarly convention in referencing works upon which I rely. In my view, modern technology has made standard referencing (as in using APA style) obsolete. Even readers who have no computer access and go to libraries to find references will have



access to the Web for information. For books, an author's name and title suffice for readers to locate them. Where, occasionally, I cite articles, I provide enough information in the text for readers to find them. I believe that this approach fulfills my responsibility to account for my sources without becoming overly involved in performing conventional citation ritual. These sources matter as I relate how I have learned. But I do not pretend to offer a comprehensive bibliography on subjects I touch. Personal experiences, which incidentally involve works I have read, most shape and reshape my thinking. And so I eschew standard scholarly form in order to put the readings I cite in perspective, in the background role they have formed in my learning.

I recognize that my methods, like the thinking that results, are "radical" departures from scholarly convention. I hope and trust that in my own ways I make this work as accountable to readers as might be done in more conventional ways in other research monographs. As times and my thinking have changed, so my methods of discovery and reporting findings have evolved.

This volume is an account of how my "criminology" has evolved from my earliest days in the profession. I write it as an invitation to others to shift paradigms, as I have, from studying crime and criminality to studying violence and to studying how to transform violence by making peace in its place. I hope readers enjoy the ride.



## CHAPTER 2

### TOWARD DIVERSION FROM DIVERSION FROM THE CRIMINAL JUSTICE SYSTEM<sup>1</sup>

A transcript of a conference conversation I had in 1973 follows. It is sexist. I have come to resist labelling “offenders” as clearly as I did in 1973. I have changed. There’s no shame in that, and perhaps there has been growth in understanding along the way. Let the sexist, racist, classist labelling of mine that appears here remain as testimony to how much the consciousness has been challenged and changed in my professional lifetime. As for the progress in my thinking and feeling that follows in succeeding chapters, I believe whatever progress I have made in how to talk about criminology has been a gift to me and in the process has continued to divert me from “diversion” programs in criminal “justice.” Nonetheless, in the writing of this volume of criminological reflections, I see a continuity of commitment to diverting us all from teaching other people lessons toward what contemporary criminologists label “restorative” or “transformative” justice.

**Introduction (by a voice on the transcribed tape, on behalf of the centre):** “Diversion” in the terminology of criminal justice is a means of halting or suspending formal criminal or juvenile justice proceedings against a person who has violated a statute, in favour of processing through a non-criminal disposition or means. Diversion programs include probation, halfway houses, drug-treatment centres, and educational and work programs. If the offender successfully completes the diversion program, the result is a recommendation to cancel all legal action against him. The system is considered by its adherents an

effective way to use scarce criminal justice resources and a means of encouraging the offender's social restoration into the community.

Not all observers see the process in completely sanguine terms, however. In the discussion that follows, we hear the argument that one unfortunate effect of diversion programs is to increase the intensity and frequency of state supervision. The view is that of Harold E. Pepinsky, assistant professor of criminal justice at the State University of New York at Albany. The discussion took place at the centre's recent Conference on the Politics of Change in the Criminal Justice System, which was held [in Santa Barbara, November 6–9, 1973] in collaboration with the Center for Studies in Criminal Justice at the University of Chicago. We join the conference now with the presentation by Mr. Pepinsky.

**Hal:** Pre-trial diversion is the latest in a history of institutions that began in the United States with the prison. The prison, after all, was seen as a diversion from corporal punishment and hanging. It was seen as a more humane way to deal with offenders.

Not only was it a more humane way to deal with offenders, but another element began to be introduced, which was that some people can't help themselves, that some people are incompetent. Here we see the beginning of the rise of the notions of insanity and of feeble-mindedness and that disadvantaged people need to be helped in some way. It isn't enough just to punish a person. What you have to do is, more effectively than before, give that person help which is really going to change his pattern of behaviour, because he can't help himself. And so you have not only the prison; you have at that same period the insane asylum, the alms house, and homes for wayward children. You have at the beginning of the twentieth century the institutions of the juvenile court, probation, and parole. Each time, what has happened as those institutions have developed is that they have become additions to what already was there rather than substitutes. The number of people brought into the old institutions tends to remain the same if not over time increase, and as the new institutions develop a new class of people begins to be brought in, of people we previously couldn't reach but we now discover can really benefit from the kind of service we offer. You get a new kind of person being brought under state supervision, and in addition I think you begin to set up a cycle of failure: as you begin to supervise a person, as you begin to treat a person, you provide a new regimen that the person can fail in addition to failing by committing a statutory offence and so get fed back into the system. You engender a

new kind of recidivism; you expand failure. Numbers increase both of people who are initially brought into the system and of rates of return to the system.

Another thing occurred to me when I looked at the pattern of state supervision and treatment that seems to have grown since the 1820s in the United States and seems to be continuing to grow. More and more people more and more frequently are brought under state supervision in a variety of programs that get established, maintain themselves, and are then joined by still more programs. Beside expansion in numbers within programs is the expansion of programs themselves.

In the paper I prepared for this session, I briefly mention a couple of alternative systems, that of the Tasaday in the Philippines, and that of the jungle people in the Amazonian jungles of Brazil whom Jules Henry wrote about. I wanted to think of a couple of other alternatives that I think might be more directly meaningful to us, to think of what is a little more familiar to us that might be an alternative system.

One of those is pre-Jacksonian America. An American system in which ... okay, if a few people were executed and if some people were shipped from community to community, but for the most part, when a person was found officially guilty of a transgression, he was whipped or given a few days in the stocks; then he was back in the community, and that was just about the end of it. As long as he was a part of the community, there wasn't the notion that he was any kind of person in particular; he was instead someone who has done something that's wrong that we have to treat for the moment. The community maintained a sense of all of its members having a place in it, an equal type of participatory role in the community, and an equal integration into the community as community life went on. You didn't have people who had to be removed and isolated and taken out of the community in some way in pre-Jacksonian America.

The other example comes from my having had quite a bit of interest in the People's Republic of China. The Proletarian Cultural Revolution [which began in 1967 and collapsed after Mao Zedong died in 1975], from what we can gather, makes very little use of any formal kinds of institutions, makes very little use of capital punishment. There was killing during the Cultural Revolution, and we can get into that in more detail if you like. But, at the present time, this kind of system seems to be you're in a group where you work, you're in a group where you live. If you do something wrong, you're subjected to criticism. We discuss

with you what you're going to do about that, and the next day you can equally well be in the role of the critic. That you maintain yourself as a member of the group, and the assumption is that you and the group will go on in the same relationship they have before, even though we have to deal with problems of each person's behaviour as they arise, and go on in the same kind of relationships that we had before. In other words, it seems to me that there are social systems that look at least somewhat familiar to us in which we haven't had patterns of significant use of state supervision and of taking people out of communities in order to deal with them. And that, I think, we can use as the kind of countermodel to what happens with diversion.

There's another difference in these two social systems that goes along with the use of state supervision or not that becomes pretty salient to me. As far as the values of the people in the community that does not rely on state supervision are concerned, they rely on or trust primarily in the support and the sustenance they get from particular ongoing relationships with people. The threat there is the breaking off of those particular relationships, and the suspicion is that an outside structure might interfere with the continuance of those ongoing relationships.

What happens, it seems to me, in the society where the pattern of state supervision takes hold and becomes significant is that people begin to rely on a structure. Here again they invest in mechanisms that will take care of them. They become more suspicious of having to rely on a relationship with a particular other or particular group of others for continuing survival and support.

In the paper I wrote for this presentation, I note also that there's an index that is a pretty strong indicator of whether the social system is the one kind or the other—the social mobility rate within the population. As the social mobility rate increases, geographically in terms of the split up of families with divorce, in terms of occupational mobility both horizontal and vertical, you tend to see a movement toward the system in which state supervision is more relied upon—in which there is a breakdown of a community.

In those communities that handle the problems within informal or private group structures and don't rely on state supervision, these mobility rates tend to be relatively low. Indeed, in *Discovery of the Asylum*, David Rothman notes that, along with the rise of institutions in the United States, there was a concomitant rise in geographical mobility in the United States. An increasing rate of geographical mobility in the

United States seems to accompany the rise of the prison and the alms house and the homes for wayward children and so forth. So we have that kind of index to work with, but it seems to me it can be used as a measure and indirect measure of what kind of system we're in and how much people are going to rely on state supervision and how important state supervision is going to be within that social system or what the importance will be.

The formal structure ties into this mobility in two ways. First, there's the formal legal structure—the formal structure of laws and the rules of how people are to behave toward one another and how procedurally they're to bring the state for protection.

The formal legal structure protects and reinforces mobility in two different ways. First of all, it guards the right to mobility. Substantive rules are set up that say to a person, "you have the right to move from one relationship to the other," and we protect that right in certain ways. For example, a citizen of the United States can move relatively freely from one state to the next, and a state cannot prohibit his entry except under extraordinary circumstances; we encourage that mobility. A person under certain circumstances has a right to divorce, and the state can't question whether he stays in the marriage relationship or not, and so forth. In one sense, rights under law guarantee a person a certain level of mobility—guarantee him that he can move away from some relationship when he wants to.

On the other hand, the apparatus of the state under that legal system tends to guarantee to a person that, if he runs into trouble, he doesn't have to deal with that person in a relationship, he doesn't have to maintain the relationship. He can call on the state to substitute itself for him in the relationship and to intervene.

He can call on them, for example, if a neighbour is playing loud music. I don't have to go and talk to the neighbour about turning down the music. I can ask the police officer to tell them and never have to go talk to them. If I'm having trouble with my wife, or if somebody is having trouble with their husband, perhaps one way of getting around this is to have the husband or the wife committed to a mental institution, and the state will then begin to take on the burden of dealing with that person. That's a way of removing myself from the relationship. So it works two ways. The formal structure guarantees my right to move, and it also gives me means to have others removed from me if I want to happen to stay in the same place. But what it serves, what it reinforces

in both ways, is overall seen as increased mobility in the population.

Remember that I said that I thought state supervision was doomed to failure. It is doomed to failure in terms of its announced goal of guiding people, educating people, rehabilitating people, making people who didn't fit in existing relationships fit back into them, and bringing them back into the relationships. It seems to me the reasons that it's doomed to failure can be divided into three, fundamentally.

First of all, at the point at which the state takes over supervision of someone, the state stigmatizes the person. There's a correlation, a direct correlation, a direct association, between the social status of a person and whether he needs to be taken care of. If a person needs to be taken care of, that's an indicator that he belongs to a lower status than the person whom the state can afford to leave alone. When the state begins to take over for a person, that's a signal to others who know about his contact with the state that he's less to be trusted as one with whom I can engage in relationships. He's one of whom I have to have greater suspicion. That stigma in itself presents a barrier to the person ever to re-enter relationships outside of state supervision once he's entered under state supervision.

Secondly, when the person is under supervision, he's given a deviant role to play. This is Edwin Lemert's concept of secondary deviation that he's documented empirically in case studies of treatment of deviance [in labelling theory in sociology]. If I tell a person that he's not able to cope without supervision, [consider the consequences]. If I tell him he's apt to be out of control, he's a little more apt to believe that, and he's a little more apt to take on the role of a person who can't control himself or cope when he's out from under state supervision. As he takes on that role, he is not simply the person who was out of control or who couldn't cope in a particular situation; he is the person who does this characteristically, and he is the person who acts out that role. At least there is a higher probability that he is going to be placed in that role, and that too is apt to keep him separated from the society later on that he was initially separated from. That too serves as a barrier.

Thirdly, and this is a little more subtle—I'll try to see if I can communicate it—when a person is subject to state supervision and told what he has to learn is how to get along with people, how to be able to function with people, the people with whom he's taught to function are the people who are in the supervisory role with him. He co-operates successfully; he learns the role of co-operation; he learns the role of



how to get along only under the circumstances in which he is being supervised by someone else. He's told as soon as you've learned to do this, you won't have any basis for contact with the people who are in a supervisory position anymore. But what is this going to say to a person? If I know where to fit in, the only place I know where to fit in is in a situation where people will interact with me because they are in a role supervisory to me. Therefore, if there's any place that I'm going to be able to interact with people in a successful way, it's got to be one in which I demonstrate my need for supervision in order to earn the kind of relationship in which I can deal. This person is given an incentive to qualify himself for the kind of relationship in which he was given a place before, in which he was taught that he could co-operate and could get along. He is apt to try to bring himself into the system, resenting it meanwhile, because, remember, lower status means you are bound by supervisory definitions of what is good for you.

To summarize, all we can expect from patterns of diversion of people from the older criminal justice kinds of programs or the older programs of state supervision is to increase the scope of people who are brought under state supervision and increase the frequency with which those people are brought back under state supervision once they enter.

I have a prognosis. Remember that I talked about alternative social systems. A cycle of failure means that you have a trend toward increase in scope and frequency of state supervision.

The question arises: how long can this go on? Does it mean that we're moving toward an Orwellian state of some sort, or is this trend going to be reversed? Will we move toward the alternative kind of system where state supervision tends not to be accepted and tends to be suspected by people?

I would say, first of all, that I believe in a historical projection that we're going to reach a point, I can't give you exactly when that will be, I can't tell you exactly the percentages, but that we are going to reach a point when the trend has to begin to reverse itself. As more and more people are brought into the system, we have to rise higher and higher in the status system to get people to bring them under state supervision. There has to come a point when the power of people in that status hierarchy is such that they can begin to fight state supervision and can begin to articulate in a way that gets transmitted through society that state supervision of any form doesn't work. It's not merely that

the system doesn't work but that state supervision as such is suspect and is to be rejected. In other words, the society can tolerate a certain proportion of people being treated as deviant and being supervised, but there's got to be a threshold point that's reached at which that tolerance begins to wane, or so it seems to me. The system is moving in the direction of getting to that threshold point, and then you can begin to expect a reversal.

What courses of action can you expect people to take at that point? You can see, and I think you see some instances already, of a trend toward vigilantism, of people forming groups to deal with their own problems privately so they don't have to rely on the state.

Secondly, people will take a lot more flack from people with whom they are in relationships before they get to the point of calling on the state to intervene and help them out, because they don't believe the state can do as much as they did before. People will work on problems among themselves a lot harder before they go to the state.

You should begin to see a decline in the development of programs of diversion and in the reported frequency with which people are brought into the system. Because the system of state supervision has its built-in failures, because it cannot succeed on its own terms, it can only compound the problems that it faces on its own terms. I see this historical projection of failure not only as inevitable but as desirable.

What I've tried to propose in my paper are ways in which this historical process of reversal of reliance on state supervision can be accelerated and reinforced.

I have two notions of ways in which people who are interested in how we would treat that which we now call crime or deviance, or treat it as a problem of social control, as a social system in which people solve their own problems privately and private interaction and don't rely on the third party, the state, to intervene for them.

I see essentially two incentives that could be used to reinforce this development. First of all, it seems to me that incentives could be used to reward people for private resolution of conflict. For example, a state government could say to a municipal government it costs us \$13,000 a year to keep a man in prison. It costs us so and so much to take a man through the court system. It costs us so and so much to use other ancillary state services, probation, and parole services, at least at the state level. What we will do is to subsidize you for reduction.

Here what I would try to reinforce is a reduction in rates of reported offences or occasions for the state to intervene. I would give subsidies to the municipality for reduction not only in rates of reported offences but in rates of arrests and in rates of people using other state supervision services. I would say to the municipalities, "You get more money to spend as you will as long as any of the statistics about how many people are brought into state supervision go down. I will reward you for that."

At a private level, you can give tax credits perhaps to people who privately take on state burdens—perhaps a tax credit to an employer who hires an ex-offender as an employee, a tax credit to a person who takes someone into his or her home or who trains the person. The qualification that you have to put on the credit that keeps it from fostering failure and dependence, for example in the case of a child brought into foster care, is that anyone being served cannot have corresponding contractual obligations to the state. The person being served can't be a ward of the state. The person can't be on parole from the state. Any contractual relationship with the state must be non-existent in order for the individual who deals with that person at the private level to get the incentive from the state for dealing with them at the private level.

I suppose you have to recognize that, when people are trying to learn more and more to deal with interpersonal problems at a private level, having lost the experience that people have had before, having lost the skills people might have had before dealing with each other at a private interpersonal level, they're going to need support of some sort. I would say it is legitimate for the state to provide support services, but there have to be measures taken to ensure that those support services do not become functional equivalents of state supervision. I provide for four procedural safeguards that, it seems to me, would preclude a state support service from acting in a supervisory role.

First of all, any supervisory service that was set up could not set any conditions on initiating contact with a person who walked in to ask for help. As long as the person wants to go in and ask them for help, they can't tell them that they won't see them "unless" or "except..."

They also can't set conditions on how contact will be maintained. They cannot terminate their relationship with someone who comes in. That would be the second condition that I would lay on state support services.

The third condition that I would lay on state support services is that they cannot maintain records of information that are not already publicly available, so that you can't have a dossier on a person being built up as someone who is a particular case of whom the state takes recognition in any sense except in any way he was already publicly known before.

The final condition that I put on state support services is that they could not enter as parties, either on their own behalf or others' behalf, into any legal action. They couldn't initiate legal action; they couldn't present any evidence in any kind of legal action. They couldn't take any role in a formal state action concerning any of the people that they saw.

It seems to me that, under these conditions, state support services can conceivably serve in a mediatory role. They can conceivably provide some advice to people who are in trouble and help them talk through how they work things out, but they can't take over. They can't take over the relationship by any of the means of power that are currently at the state's disposal.

Correspondingly, I would hope that, if you set up these incentives and supports for people resolving disputes privately, you would begin to see the social mobility rate in the population decline. It seems to me that, as people begin to develop more faith in their ability to work out disputes interpersonally, and their ability to rely on the continuation of relationships with particular other people, this will give them a tie to a particular place in the society and will make it a little bit harder for them to be persuaded to move in some way. To move geographically, to move from one family to the next, to move from one job to the next: I would see a decline in the social mobility rate as people learned to function better in the private resolution of disputes. I think it's a matter that you can't do for a person, you can't decide for a person that you're giving him the tools better to work out relationships. What the state has to do is to encourage people to do it and to let people see that, when they're thrown on their own and they actually work on their own, somehow or other they work it out.

Paradoxically, perhaps, when that sort of social control system operates, as Jane Jacobson found in *The Death and Life of Great American Cities*, where you can least systematically explain how people work out things among themselves, where there seems to be the greatest chaos about how people work out their relationships together, there seems

to be the lowest incidence of what gets reported as crimes, especially violent crimes, let alone property crimes. In a sense, we have to let go of our capacity to explain systematically how people resolve disputes among themselves in order for the people to resolve those disputes as they arise more successfully among themselves.

I would not try to start out by a systematic destruction of state institutions by saying police will no longer exist, courts will no longer exist, and so forth. This, it seems to me, would only serve not to give people a chance to learn that they have any tools to rely on for themselves but simply to tell them that you've taken away anything that they could rely on when they got into trouble before. To begin with, you're going to need to have the institutions during a period of transition, and perhaps indefinitely, to take the problem cases off the hands of people when they can't cope. I'm saying that, even if the threshold is raised for when people can't cope, there are still going to be cases in which people can't cope. State institutions as they exist are there to deal with those cases and can be left to deal with those cases. Leaving state institutions in place avoids the crisis encountered during a police strike, for example. The police will still be there. You're not taking the police away and saying to people, now you suddenly have to cope without having any of those things around if you need them. And as people do need them, they can rely on them, but the hope is that you're encouraging them to rely on them less and less and teaching them by letting them teach themselves that they have to rely on the state less and less as time goes by. We keep those institutions around, but I suggest that historically there's not much point in spending a lot of time figuring out how we modify them.

It seems to me that an important lesson of the history of diversionary programs is that the form of diversion or help giving doesn't make a whole lot of difference; people fail more the more they get brought under state supervision regardless of the new form and feed the broader cycle of failure, as I've described. And so it doesn't make much difference whether we change these institutions or not. The cycle of failure is going to continue to feed upon itself. We can only really reinforce failure of state institutions by substituting attention to changing the institutions as we go along for attending to what we do to bypass those institutions and to bypass state supervision.

Ultimately, I suppose, one would say in a utopian view of what would have to be recognized about the people who had to be isolated,

who couldn't be dealt with in private, interpersonal conflict resolution, would have to recognize that for that person you have to incapacitate them permanently. We can discuss data on this and how you get to it in more detail. I would suggest that, as far as state supervision is concerned, if you decide that you have to isolate a person, that you can't deal with him in the community, you might as well give up on him forever.

You're not apt to increase the chances that he's going to make it in the community by locking him away or putting him under a program of state supervision. You're only probabilistically going to reduce the chances that he can make it. So once you've given up on him, I would say ultimately what I would think we'd have to come to a recognition that once you've given up on him rationally you might as well be prepared to give up on him permanently. You may want to treat him humanely somewhere else, but you'd better be prepared to keep him isolated for the rest of his life.

I wouldn't bother with trying to introduce change systematically into the system, as I say, but I would imagine that, as reliance on private resolution of conflicts increased and reliance on state supervision decreased, that's the kind of realization that people ultimately would come to. In summary, this is how I've moved from a notion of what diversion has represented historically to what its social significance has been, to what kind of social system it goes with, to what kind of alternative social system is available, and to how reliance on an alternative system might be encouraged.

**Responding to Mr. Pepinsky, Robert Maynard Hutchins, Chairman of the Center for the Study of Democratic Institutions:** I thought there was a whiff of anarchism in the paper, and there is some slight taint, if I might call it that, of anarchism in Mr. Pepinsky's oral emendations. For example, it alarms me a little to hear of vigilantism as a good thing, which I understood Mr. Pepinsky to be suggesting in his oral remarks. I think that Mr. Pepinsky is on to the principle of subsidiarity.

**Hal:** If you could explain that for me because I didn't understand what you meant by that.

**Hutchins:** Let's take the rough approximation given by an American saint, Abraham Lincoln, that the object of government is to do for the



people what the people can't do for themselves or as well for themselves. You then think about how you would set up structures of society so as to place responsibility so far as possible on the smallest unit and then the next largest unit and next largest unit. You never lose sight of the fact that you've got a political community as a whole that you're dealing with and that the ultimate political decisions that may have to be made are those that co-ordinate activities of all subsidiary units.

It's hard for me to believe that the state can ever be disposed of. I don't think that Mr. Pepinsky is suggesting that, but Mr. Pepinsky acts as though, talks as though, occasionally he would like to have it disposed of if he could. And this again raises some sort of classical questions, like ... take the proposition advanced by John Stuart Mill and represented in government. The object of the state is to promote the virtue and intelligence of the people. If that's true, in what you told us, to put that together with the principle of subsidiarity and see if you can work it out assuming that the state is inevitable at all times under all circumstances. Disrupting or corrupting influence in society seems to me to abandon hope of the political community.

One of the interesting things about your paper is that the political community is never referred to. The political community is presumably designed, whether you accept Mill's formulation or not, to enable everybody to live and to live a better life than he would have lived if the political community did not exist. The tendency of your remarks, I think, is to suggest that the opposite is true. The state is some kind of a burden that we have to bear temporarily, at least, until we can think of some reasonable substitute for it. I am relieved to learn that you would propose to retain certain institutions and try to improve them.

I still believe that subsidizing people for reducing crime, arrest, etc. rates would produce a wholly artificial situation, since the chief [sitting in on this session and presenting in his own right] would immediately have no crime in Menlo Park if he could get paid for not reporting any. My principal question does revolve around this issue of must we give up the political community? Is there any way of...since I regard it, and I think you do really, as inevitable? You have to have a political organization. Can we turn whatever we've got into a community? Can we make it a decent habitation for our people, or do we have to say that we're all going to settle our difficulties on our own?

This is extremely difficult for me to visualize. I see, for example, the prostitutes of Nevada hard at work. They're called on under your

program to solve their difficulties for themselves. I'm very unfamiliar with this field [laughter]. It's possible I might say I am increasingly unfamiliar with the field. The visualization of this conversation with prostitutes, meant to solve their own problems, if that's what you have in mind, is very difficult for me and would have been at any time in my life.

And so I have these few theoretical difficulties and a few practical, technical details that bother me. I think my message, if I have one, is that perhaps some consideration might be given to the object of the political community, to the methods of achieving it and the relationships that might then develop between the non-deviant or, shall we say, normal members of a political community and those who would turn out to be deviants.

**Rexford G. Tugwell, a senior fellow at the centre:** I was struck, as you went along, that you made only one correlation and that was between, I think, mobility and dependency. The assumption was that mobility is a very bad thing and ought to be stopped. I don't understand why this is. It seems to me in certain circumstances mobility is one of our liberties that we ought to have. It seems to me that there are a lot of other correlations that you might have brought in, such as the increase of population and all that goes with that, also the increase of affluence and difference in status that that brings, and so on.

**Hal:** I was first brought to awareness of an alternative conception of liberty by a Swedish psychologist. We were talking about conceptions of freedom. He was asking me what it was I conceived of freedom being, and I kept on speaking in terms of freedom from this and freedom from that.

It seems to me that there is an alternative conception of freedom and an alternative conception of what you might call mobility, but I don't think we generally get measured for that. Then it is possible that there are all kinds of things that people can do when they stay with other people in particular relationships and move with them that they're not able to do when they constantly shift from one relationship to another. And so I think it's not so much a matter of choice of liberty or restriction from liberty, but it's a question of what kind of freedom or what kind of liberty do you have?



The freedom of staying in a particular kind of relationship can be enabling in a way that is precluded by enjoying the freedom to move on to other relationships, if need be.

**Tugwell:** Away from them? You're wavering now.

**Hal:** No, I'm taking the position that I would, in fact, encourage the "freedom with" rather than the "freedom from."

**Tugwell:** At the expense of the freedom from?

**Hal:** Well, I think it is inevitably at the expense of the freedom from. I opt for the choice of reinforcing possibilities of freedom with at the expense of freedom from. Whereas now I think there's a tendency in our social system to opt for the freedom from at the expense of the freedom with.

**Tugwell:** Another thing, if I may go on. I was struck with your leaving out economics practically altogether. It seems to me that the contact between the dependants of a state and the state is very largely economic. People are in trouble because they're poor very often. You don't mention, for instance, the institution of social security and all that goes with it, unemployment insurance, and old age assistance, and so on. It seems to me that these are very important, and they go in the direction that you're talking about, really, because everybody gets them. Your status doesn't decline because you're on the social security rolls, because you've contributed to it. You're entitled to it. You seem to leave this out entirely.

**Hal:** Once again, I wouldn't remove those systems as they currently exist. I would hearken back to what Rothman describes of how economic support was provided to people before the development of institutions. And [I would] suggest that what can perhaps take its place is, if a person is in a group and is in need, the people privately give him what he needs to get along. That an elderly person, for example, doesn't suddenly get cut off from family and have to be put somewhere to be taken care of but that there is a group of people who maintain the responsibility for giving of whatever of their resources they have.

It really represents a decentralization of the distribution of economic resources.

**Tugwell:** When this aged person has a decent income, it's an advantage to his children to have him around. You know, all of this or most of this was thought of when the social security system was being devised. One reason for doing it, I believe, was to remove all of these stigmas from people. Everybody is treated alike.

**Hal:** You say in effect, don't you, that a person is guaranteed a certain level of support regardless of any particular demonstration of need on his part so that he doesn't have to place himself into a particular category in order to qualify as against an aid for dependent children kind of system where you say because the person is poor he gets—

**Tugwell:** As it is, if you give certain people who don't need it assistance, but that, I think, is really, honestly, minor.

**Harry S. Ashmore, CSDI president:** Before we had social security, we had the extended family, and it was highly unpopular with a great many people within it. You're hung up on a real dichotomy there. You cited the People's Republic of China as your contemporary example, and I suppose that flows from what you're saying now. Where people presumably have a minimum of state intervention in your terms, but the fact of the matter appears to me to be that you have an absolute maximum of state intervention, because the state prescribes the whole status of everyone within the society and assigns them to it. And then, of course, if there's any deviation at all, they're coerced back into conformity. Now you can say this is done by the people rather than by the state police; it seems the end product is the same.

**Tugwell:** And the state police are certainly involved in what the critics have to say.

**Ashmore:** Are the state police still there? They called them Red Guards, whatever you will, at the time that they had a wholesale job of coercion to do. It just seems to me that, if this is the example of what you have in mind, I can't see how the state, as I would define the state, or the collective power or whatever it may be, is eliminated.

**Hal:** What is gone, I believe, with the developments since the Cultural Revolution in China is a decrease in the extent of centre state agents being involved in what goes on. You don't see police around very much. You may see people in PLA uniforms, but they're not on any type of patrol. Even when a judge enters into a case, it's not that people go to his court but that he comes into the group to mediate and reaches out without requiring that parties come to him.

**Tugwell:** This is said in the *Chicago Tribune*. The *Tribune* reporters and the editorial writers were never told by the colonel, Todd McCormick, what to write because he didn't have to tell them. They knew what they had to write. You have the same situation in China. The criticism, the basis of the criticism of the individual, conducted by other individuals is officially supplied.

**Norval Morris, dean of the Law School at the University of Chicago and director of its Center for Studies in Criminal Justice:** I want to make a couple of rather less ambitious and small points per your criticism. The range I understand by diversion is quite great, running from the pre-trial to the earlier release from an institution under a prison sentence. And it turns on, though I don't have a good definition, any occasion in which there is discretion to exercise lesser control than might be exercised if you continued through with the system. I think it is a manifest fact that in all of such programs the likelihood is that more numbers of people will be brought under social control than if you didn't provide the diversion. Let me take a paradigm of that.

Certainly, as a power to issue a notice to appear in relation to any felony other than a traffic offence, which I think is wisely given to the police, the consequences, the number of people who are brought into the courts is increased. That is to say in all instances the number of arrested plus notice to appear exceeds the previous number of arrested. That is that some people are given a notice to appear who otherwise would have been told by the police when to go ahead and mind their business in the future. So I think there's an inevitable consequence that all diversion reprocesses increase the numbers under state supervision as you use it. To conclude from that that it is evil is, I think, superficial.

I think we've only begun to question the point of the increased numbers. I think they are blatant as well as are other functions to the system.

Let me take probation as a good example. I think the effect both of probation and parole as they were invented has been to increase the numbers of people at any one time within the criminal justice system. But I think the main latent effect of probation is to allow a judge to do nothing. Because I think that most people on probation, nothing happens to them. Caseloads are such that you look around the state and nothing happens. They are said they are on probation, but in fact operationally it's a suspended sentence. So that there is a potentiality of increased state intervention and state supervision and these stigmatizing and deleterious consequences to which I think you rightly point; operationally, it often isn't so rational.

Operationally, the latent effect is to allow us to get out of an embarrassing situation where the community is saying to us, or we think they are, "Do something." So I think the problem of analysis is the proper limits of coercive power within diversion, not the question of whether we want diversions. I find that a very difficult, difficult question indeed that I don't have many suggestions on. I think it mischievous to approach the diversion reprocess as such. It gets mixed up with these other larger issues of control, where I guess I'm in agreement.

Take prohibition, for example. I don't think prohibition broke down. Prohibition reduced the amount of alcoholism in the country. There was no doubt of that; it reduced the number of deaths from liquor. It reduced the number of traffic accidents. It reduced the number of industrial accidents. It stopped parents from spending much of their milk money. Everything that the prohibitionist claimed it did. It simply turned out they have a lot of very much worse collateral disadvantages. That's why it was changed.

It was substituted by what you can call a diversion. By and large, I'm in favour of some control of alcoholic purity, and I'm in favour of some taxing by which there is an income to the state out of that. I hadn't thought that people who sold liquor were stigmatized by regulatory offences. I think the question is to what extent we can use controls, short of immediate criminal law, on behaviour that we wish as a state to control without having these large disadvantages.

I think the way it comes is out of less stigmatizing controls, recognizing that often the latent effect of a diversion is simply to do nothing, and that's worth doing.

**Joseph Schwab, professor of education and biology at the University of Chicago and visiting centre fellow:** It seems to me that lurking

barely beneath the surface of Pepinsky's formulation is an enormously high, almost exclusive, valuation of one-to-one interaction among people in interpersonal relations generally. He would do anything to maximize these. Now, in the train of that valuation, come two other subsidiary matters.

One is the notion of human perfectibility by individual effort that seems to me to be absurd. A second corollary that underlies it is the notion that political community is inimical to the maximizing of one-to-one interaction and interpersonal relations when, in fact, the political community provides new and different occasions for interpersonal relations and one-to-one interactions. Interpersonal relations will not exist without a political community.

**Norton Ginsberg, dean of the centre:** I'm troubled by Mr. Pepinsky's historical references. As these relate to the inevitability of the increase of state interference in individual lives, it seems to me that we do have examples in history of state apparatuses that were extremely effective in controlling behaviour at various times in history which were far greater than what we now have, even with the technological devices at our command.

For example, in the last third of the nineteenth century, the bureaucracy and the near police state that was associated with the Austro-Hungarian Empire would be a good example. One might argue that we're only beginning to approach that degree of state interference and direction that was characteristic of that very large political organization a century ago.

I only say this, not that it bears negatively on some of your recommendations, Mr. Pepinsky, but because I think it's worth keeping our eye on the implication of the premise. One might also think of China, and China has come up several times here. I've had the great advantage on the plane last night of reading some of Robert Van Gulik's Judge Dee detective stories about China, which are a fair representation of the degree of state control and supervision which existed during the time period. Van Gulik was qualified to speak about this because he was a timely historian until his death.

When we look at the situation in China today, the similarities between what was and what is, it seems to me, are much greater than the differences. There are differences, and they are very substantial, but the similarities are very great.

There is no question today that, at the lower or less village level, the degree of self-management is probably greater than ever before, although some observers would argue even that point. The contemporary self-management has two important conditions attached it, and I really think they are important in relation to this general issue.

One is that self-management takes place only with a cadre present. That is down to the brigade level, and there are something like 300,000 production brigades in China, out of which the 75,000 or so communes are formed. There is actually a representative of the state present always. When the judge in the criminal proceedings sits, he does sit at the table. He has a cadre who is the secretary, or whatever his title would be locally, of the party in that village also sitting there. I think that is an important condition, and it relates to something that I guess Mr. Hutchins was saying about what Colonel McCormick's cohorts understood their jobs were to be.

The second thing is that the self-management procedures are carried on largely with the objective of carrying out the will of the state. Now it happens that the will of the state in China says that regional self-sufficiency is a good thing. Therefore, one is inclined, I think understandably, to think that that means greater individual freedom. I simply submit that the evidence is not in that direction, but superficially it might seem to be. So that the Orwellian fantasy that we associate primarily so much with ourselves, within this century, is much more in being, in my view, in China right now than it's likely to be here for a long period of time. This doesn't mean that everything is good there; it's obviously bad.

My second point relates to culture, and I think I'm correct that, when you look at other peoples who have largely subsistence economies and live in comparative isolation, the Tecopia communities like Tepoztlan, an American Indian tribe, one finds extremely complex cultures and extremely complex social organizations in which sanctions always loomed large. Those cases where sanctions did not loom large generally are associated with cultures that have had difficulties in surviving or probably haven't really survived at all, since there are so few examples of them. So if we're looking for models, I don't think we'll find those models in those misleadingly simple-appearing cultures that are so rare and indeed might not even be as described if they were more systematically understood.



**John Greasham, deputy director of the National Institute of Law Enforcement and Criminal Justice:** There are two aspects of Mr. Pepinsky's remarks which I find myself in substantial agreement with. The first is what I perceive to be the...total breakdown of the therapeutic model in our criminal justice system—the idea that there are people who are defective or deviant, and therefore the society can come forth, and its institutions, and help them to change. From what I can see, we have precious little evidence—with many, many attempts—and precious little evidence that any of them work. Then, in fact, spontaneous self-conversion seems to be the best way to explain changes in human behaviour. The tone that I got and agree with is that many of our institutions tend to emphasize the individual's inability to take responsibility for himself—to say you need help; you can't do it on your own. To that extent, I think the whole conception of the institution is flawed, and they are counterproductive.

I would go back and agree with Norval [Morris] that that's not essentially a part of social control. It's a part of the way in which the institutions function and the way they see their role. We do have institutions which act in a way to support personal responsibility.

An institution which Norval and I have some doubts about is what is called the Youth Services Bureau, which is a new attempt to add yet another diversion layer in juvenile delinquency. In the form that I have seen in at least one community, it is an institution which does not serve a therapeutic role in this model. Rather, it is merely a place for youth with concerns to come in and talk, with the ultimate purpose of saying you, youth, you, young person, must take responsibility for your actions. I'm here to help you talk them out but not to give you guidance, not to give you control. That would be the neatest trick of the week, wouldn't it? To talk out one's difficulties with them without giving them guidance.

**Tugwell:** Well, Carl Rogers tried it and found that he had been guiding them all along.

**Greasham:** All right, in the sense of posing alternatives, bringing to light alternatives which might not have occurred, not have appeared, to the person in the first place.

**Tugwell:** Studies of Carl Rogers's non-directive therapy sessions, which went on for over twenty years, displayed the fact that they were

controlling at every moment the client was telling the therapist exactly what the therapist wanted to hear. The communication was done by muscle and micro-movements of lips and whatnot, not by speech, but it was there, and Carl finally agreed that it was.

**Norval Morris:** [Unintelligible sentence.] The question is whether the person is voluntary. It's voluntarism that's at issue, not guidance. And you can defend everything you're saying if you'll put it in terms of volunteerism, not in terms of guidance. The question is whether he comes to the meeting without an alternative threat. There's no harm in going if he comes to the meeting without the alternative threat.

**Greasham:** Isn't the alternative often arrest?

**Morris:** That's not such a neat trick. That might be doable.

**Greasham:** It's no longer voluntary then. In this mode, it's supposedly not.

**Morris:** Don't make the test turn on guidance. Make it on voluntariness if there's any point in saying it.

**Greasham:** The second point that came up in my mind was that you raise for me the fundamental theory of criminal law, criminal justice, which at least law professors are taught, that in some prehistoric time societies acted so as to pre-empt the private right of vengeance. That's where the criminal law comes from, from that great act.

I hear a doubt about the wisdom of that and not doubt about the history but about whether in fact it is necessary or appropriate that the state say that all things which we define as crimes must therefore be considered acts against the state as opposed to acts against particular individuals. It seems to me that at this point we can begin to talk publicly about some doubts.

We can say that the criminal justice system as we know it is not functioning to protect people. If there were such an early act, we ought to reconsider it now. A study that has been done in Boston seems to suggest that the community mechanisms of control are far more important than the societal or state mechanisms. The non-criminal justice mechanisms are more effective than the criminal justice mechanisms. An attempt was



made to develop an index of community cohesiveness and to correlate with crime rates, to see whether cohesiveness was more effective than socio-economic indicators in explaining crime rates. It turned out to be so. The interpretation was that in an Italian community the mores are such that crime is just not tolerated. Delinquent acts are not tolerated. The little old lady comes running out of her front door to say you've taken something from next door; put it back, or I'll tell your mother. Compare a lack of community tolerance for crime in that sort of old-line neighbourhood with a black neighbourhood with roughly the same socio-economic characteristics, where people make about the same amount of money but have a terribly high tolerance for delinquent acts. I'm not going to get involved if somebody else's kid took something.

It seems to me that that research shows the policy of saying that each of us and each of our communities is responsible for deviance in a sort of coequal way with the state agencies. That pushes us in that direction. We have some examples of what I call "vigilantism minus": a vigilantism which is in the sense of the community saying we know the police won't protect us, so we're going to protect ourselves. Tenant patrols in public housing which include the preventive aspects of police work but don't necessarily have the lynchings. Community block watchers. In Manhattan at one point, in one area, they now have businessmen and housewives come out in orange or pink blazers during the time that kids are going to and from school to act as escorts.

**Tugwell:** What about all private police forces?

**Greasham:** That's an aspect I hadn't thought of. Yes, exactly. And that goes to the extreme, doesn't it, of our walled communities where we actually build moats around a group of expensive homes and establish our own knights in armour to protect us from the evil hordes.

**Hutchins:** Are you suggesting this is a good development?

**Greasham:** I don't find that last example a good development. I consider the other ones very positive. I see that this sort of development can be spurred by candour on the part of public institutions and especially by the police. When the police begin to admit, as they do in Menlo Park and Kansas City, that there's not a heck of a lot they can do to prevent crime, and the people have got to look out for themselves, I think we can make a more *substantial* impact on it.

**Unidentified:** Are you in favour of gun toting?

**Greasham:** Not at all.

**Unidentified:** I can't find how you draw the line.

**Unidentified:** That's my question too. Everybody is supposed to be armed if they're in the dangerous neighbourhoods.

**Greasham:** Not at all. Clearly, for me, the results of an armed populace are totally counterproductive.

**Unidentified:** Well, if you're in a violent situation, what is your solution if you don't want to depend on the police?

**Victor Cizankas, chief of the Menlo Park, California, Police Department:** The fallacy about routine patrol, how we respond to calls, how we have been reactive—I think that the police, coupled with other agencies, can prevent crime, can actually prevent violence.

Let me get very far out. We had a meeting with city planners and police chiefs talking about designing safer communities ... with such simple things as requiring a contractor who is installing electrical devices, plugs and whatnot, in an apartment complex to spend a little more money so that when resident in apartment A runs an egg beater the television in apartment B does not go out. You start reducing those irritants that make people uptight.

That's a far-out example, but that's the kind of things that we can do. We can require working together when we design a new park. You design it with aesthetics, but you don't put the outhouse down in a gully where things happen. You paint it very nicely and put it up where people can see it, where it can be patrolled, where the opportunity for crime diminishes. It's those kinds of things that we have not done before that we have to start doing now.

**Unidentified:** Catching burglars can be done too.

**Cizankas:** But can you do it proactively?

**Unidentified:** The point is not to abandon the police but for us to realize that the police are our protectors, but they are not the exclusive protectors. We have a very substantial role to play ourselves.

**New unidentified voice:** I have a built-in objection out of my own experience to do-it-yourself law enforcement.

**Another unidentified voice:** I've had some of that, and it gets very dangerous.

**Many people started to talk at once for a brief period. Here are just a couple of sample lines on the tape as we segue back to Cizankas.**

On the other hand, you have two volunteers to every sworn officer.

Yes, but they are sworn officers.

**Cizankas:** They are trained for six months, and they are under state direct controls, and the same criteria apply to regular police. We're just making use of resources in a controlled way. So you can use community, but the community has to be trained. That's the problem we haven't been training for.

In response to Mr. Pepinsky's idea about subsidies for zero crime rates, I think you might be on the right trail. I would immediately come up with a zero crime rate and justify the resources to the city. But there's another thought there that spins off from that.

We have fire insurance ratings with a number of indicators that decide what your insurance in a city is going to be. I believe we could have a police rating that would be tied not to crime reported but to number of incidents where the insurance company had to pay for a burglary loss or for prevention education. We can have those kinds of things for American police departments. We've talked about this before. As police chiefs in soundproof booths, we've talked about this before. It's a very frightening thing for a chief of police to be judged, and he is really going to take the burden of it, but it is a possibility.

**Professor Pepinsky responds to the previous questions and comments:** To begin with, I guess I heard one point come out that may have been a misconception that I left that I didn't mean to leave. That is that I'm not

trying to draw distinctions between where social sanctions and social controls are close and tied and those where they are not, and I concede that, under private systems of justice control, the sanction systems can be very rigid and very tight. What I was talking about as a separate issue is that of the effectiveness of having the state come in as a third and an outside party to do the intervention *for* people.

One of the things you point to, John [Greasham], is just a greater effectiveness, if you want, of people monitoring and taking responsibility for monitoring their activities themselves, and controlling violence among themselves when they do, than when the state comes in from outside.

As to your point, Norval, about the effect of probation as a neglect, I don't have the data firsthand, but what I did hear David Rothman say about what he saw occurring in the early part of the twentieth century with the development of probation was that the rates at which people were brought in and sent to prison didn't decline. It stayed the same or increased. What happened was that you got new groups of people who were brought into the system and neglected and diverted and probationed and then gradually subjected to more and more elaborate programs.

So, sure, Norval, probation is a means of neglect. But if you put it into perspective, I think perhaps what it is is really a neglect of people who would have been even more totally neglected had the new institution not developed.

Let me make one final point, and that is to the example of the Tang dynasty and the Tang dynasty control which ties in, I think, to a point I at least tried to hint at from before. Tang justice, from what I've seen of it, and Manchu justice too, justice in Imperial China from the Tang dynasty onward, were very, very coercive and very onerous once it was imposed. The magistrate had a great deal of power. The complainant was just as apt to be tortured as any suspect when a case was brought before the magistrate. The magistrate exercised a great deal of control.

On the other hand, the fear of the magistrate was a deterrent to people's bringing cases before the state. What you have there, like what we might ultimately come to, is recognition...that, when we put people away in the state, we put them away forever. When state control is known to be very harsh state control, state control isn't relied on as often as it otherwise would be. And privately, people rely among themselves on controlling themselves and don't enter into the role of involving the state as much as they turn to more benign institutions.

**You have been listening to a discussion of diversion programs within the criminal justice system. The discussion was led by Harold E. Pepinsky, assistant professor of criminal justice at the State University of New York at Albany, and was recorded at the centre's conference on the Politics of Change in the Criminal Justice System. This program originated at the Center for the Study of Democratic Institutions in Santa Barbara.**

#### **NOTE**

- 1 This talk supplemented a paper at the second of several sessions, "Diversion Programs in Criminal Justice: Humane or Coercive?" Thanks to Judy Kelley for transcribing the talk and ensuing discussion from the CSDI's tape no. 695. I have done minimal copy-editing of spelling, grammar, and garbled talk.



## CHAPTER 3

### **AFTER 1973: THE U.S. EPICENTRE OF THE LATEST GLOBAL TIDAL WAVE OF PUNISHMENT**

#### **THE WAY IT SEEMED IN 1973**

The future direction of U.S. criminal justice policy appeared to be up for grabs as we talked about diversion at the Center for the Study of Democratic Institutions in 1973. On the one hand, there was a major infusion of funds and political backing for President Nixon's "war on crime"—a follow-up to the highly touted reports of the president's Commission on Law Enforcement and Administration of Justice in 1967 and to President Johnson's Omnibus Crime Control Act of 1968. The newly created Law Enforcement Assistance Administration in the Justice Department was giving out grants lavishly for a range of "exemplary projects," including college education for police officers, social science research, and a heavy focus on science and technology (e.g., for police departments to buy tanks to prepare for possible civil unrest). Spurred on by advances in communications technology, beginning with the introduction of two-way radios in police cars in the late 1950s, police departments had reached out to be responsive to citizens, feeding rapid rises in police-recorded crime that continued into the 1970s from the 1960s. Political rhetoric was that the Supreme Court, led by Chief Justice Earl Warren, was "handcuffing the police." It was time to "get tough on crime." Incarceration rates, which had dropped off during the U.S. war in Vietnam, began climbing back up to previous levels in the early 1970s as parole boards, such as California's, began to make a show of higher rates of reincarceration. By 1976, the incarceration rate was to climb to a new record of more than 200 adults in jail and prison per 100,000 U.S. inhabitants.

On the other hand, those of us criminologists who found U.S. world leadership in incarceration shameful found a lot of room for hope for a better future. In a 1980 book, *Crime Control Strategies*, I wrote of the hope that when well-connected white men got nailed for crime, crime control would pull back in deference to mainstream political demand. Spiro Agnew had resigned as vice president less than a month before we met in Santa Barbara. President Nixon was well on his way to resigning as well. Not only that, but we were withdrawing rapidly from Vietnam. It was only a question of time until Vietnam would finally be left to the Vietnamese alone.

In the 1973 CSDI discussion in Chapter 2, look at what Victor Cizankas says about his policy as an “exemplary” LEAA department, one where all officers were college graduates whose uniform was a light blue blazer. He announces the consensus of police chiefs worldwide at the time: the police cannot prevent crime. Wow! Contrast that to the currently prevailing wisdom among police administrators and their academic consultants: patrolling “hot spots” pays off, resulting in reduced crime up to and including murder. Contrast our concern at the time over crossing the 200/100,000 incarceration-rate barrier now that the rate (at last report) has passed 750/100,000. From 1973 on, the U.S. incarceration rate has climbed dramatically. But at the time in 1973, I and other “critical” or “radical” criminologists were hopeful that “diversion” would avoid mistakes of the past and be for real this time.

The fact that I was on the CSDI program in 1973 reflected how small criminology was at the time. I distinctly remember that when the American Society of Criminology (ASC) held its annual meeting in my hometown, Columbus, Ohio, where I attended as a first-semester graduate student after law school, there were 125 registrants. I feel in retrospect as though I got to know virtually every registrant during the conference and got known then, when criminal justice education had begun a growth spurt that hasn’t stopped yet. In contrast to mainstream law and sociology meetings, even then as now, I had a chance to have my opinion alone “count,” as in meriting a written and oral response by the eminent Robert Maynard Hutchins, that I would not enjoy in today’s academic market. Criminal justice has become too big an enterprise. Now there are several thousand registrants at each ASC meeting. I still attend small informal gatherings, introducing grad students to new friends and old, but hardly ever attend a formal session. This difference in the size of my profession, let alone the difference in



the scope of crime control, has become a fact that matters to how I feel and believe now versus then.

Then, only a handful of academic criminologists questioned the authority of the state to define the crime problem and the parameters in which success and failure of criminal justice were evaluated. In 1973, Richard Quinney published the first recognized Marxist critique of criminology, *Class, State, and Crime*. Two years later, three British Marxists—Taylor, Walton, and Young—made classism and racism an internationally respected, widely discussed issue of how “crime” was defined. Hy and Julia Schwendinger had just pronounced that criminology ought to have a bigger purview than studying “crime”; the focus should broaden to all “social harms” and their redress.

Today, collaborative, long-established “critical criminology” divisions of the American Society of Criminology and of the Academy of Criminal Justice Sciences number several hundred members apiece.

In 1973, critiques of the state, like mine, permeated academic criminology and criminal justice, spurred on more energetically by graduate students than by faculty themselves. In 2005, the program for the American Society of Criminology’s annual meeting has more than 400 sessions. Today, stronger in numbers and in institutional recognition, critical voices are virtually invisible in the kind of academic discourse that happens at national criminology/criminal justice meetings.

The smallness of criminology in 1973 was one big reason I think criminologists like me, who questioned our role as servants of the state, on the whole had a lot more respect and recognition then than we seem to enjoy in the field today. Size matters. The smallness of the profession fed an optimism then that has since waned.

### **“NOTHING WORKS!”**

This was the line a highly respected criminal justice researcher, Robert Martinson, was remembered for several years after the reportedly despondent researcher committed suicide. In 1971, a virtually unchallenged report, *Struggle for Justice*, came out under the auspices of the American Friends Service Committee. This was also the year of the infamous Attica Prison riot and devastating police response in New York State. Committee members on the task force in *Struggle for Justice* concluded that “treatment” and “rehabilitation” could not happen in prison because treatment and rehabilitation were coerced.

If as a prisoner you want out sooner rather than later, then you must perform the treatment or rehab routine. The parole system was a sham, the task force concluded. I was optimistic about movement away from imprisonment in 1973 in part because this report had so many respected names on its committee roster. No one in criminology at the time questioned the report's primary finding—another reason for optimism. Nicholas Kittrie was widely recognized for his 1971 book, *The Right to Be Different*, where he showed that being found not guilty of crime by reason of insanity condemned criminal defendants to longer confinement than criminal conviction. No one could argue that confinement helped wrongdoers and lost souls. Prison and commitment to mental institutions were simply punitive. That year, Jerome Miller (now director of the National Center on Institutions and Alternatives) won national acclaim and attention as youth commissioner for shutting down juvenile training schools in Massachusetts in favour of small community youth centres (a feat he was blocked from repeating a few years later, first in Illinois and then in Pennsylvania). In this climate, I was among those who thought that this recognition would help to cut down on incarceration. How wrong I and fellow optimists were.

One thing was clear. The federal infusion of grant dollars was so great that private foundations pretty much got out of the criminal justice research business. The U.S. Justice Department was taking control of the direction of criminology and criminal justice policy. As a reader can see in the diversity of voices in the 1973 CSDI discussion on diversion, there was reason for the optimism that people at all levels agreed upon: there was no legitimate basis for imprisonment except safety from what came to be known as the "dangerous few." I noticed then and have noticed since that while estimates of percentages of how many prisoners are "dangerous" vary over time, at any moment the percentages in the estimates are remarkably similar and remarkably unsubstantiated. Even at the height of the new war on crime wave in the early 1970s, the hardest-nosed prison administrators acknowledged that at least eighty percent of prisoners could be released at no greater danger to the outside community. Abolitionists would say the "dangerous few" represented a couple of percent of prisoners. The most liberal estimates of dangerousness suggested a common political will to engineer massive reductions in imprisonment.

## THE ADVENT OF “DIVERSION”

“Diversion” was one of the new terms that emerged in the president’s crime commission reports in 1967: to divert people from “the revolving door” of going to prison time after time. The most prominent early architect of diversion at the time was the Vera Institute in New York City. It pioneered “pre-trial diversion” programs, screened people too poor to make bail to select cases in which defendants would be let out of jail. If they stayed out of trouble for a period, then charges against them would be dropped.

Programs proliferated. While I was teaching in Minnesota at the beginning of the 1970s, the state instituted a sentencing alternative: suspension of prison sentences for property crimes on the condition that defendants make restitution. That program illustrated both the strength and the Achilles heel of such programs. Failure to make restitution became a violation of probation, a basis for being sent to prison. There was seldom a demand to show that a “diverted” case fell into a category of those who would have been sent to prison otherwise. A wealth of subsequent experience, for example, seeing what kinds of cases get referred to the group in which I serve as a volunteer victim-offender mediator, shows instead (a) caution about referring cases that might fail and thus jeopardize support for the entire program, matched with (b) a feeling that offenders who shouldn’t go to prison need to meet new and special conditions in order to have their sentences suspended instead.

As I now think back, I wasn’t immune to the naïve enthusiasm for the discovery of diversionary programs to emulate and implement. There I was, in 1973, citing cultural revolutionary China as a model of true diversion from state control of disputes. Another heaven on Earth I named, life among the Tasaday in the Philippines, turned out to be an anthropological hoax. The lawyer/social engineer in me wanted some social recipe to lay down to reduce U.S. levels of punishment.

I became enamoured of a twin model of pre-trial diversion that got established in 1974 in the United States and in Canada. In the United States, the research arm of the Justice Department’s Law Enforcement Assistance Administration, the National Institute of Law Enforcement and Criminal Justice, made the Night Prosecutor Program in Columbus, Ohio, one of its “exemplary projects.” Third-year law students from Capital University, interning in the Franklin County prosecutor’s office, mediated neighbour disputes, shoplifting, and bad cheque cases

that supposedly otherwise would have been formally charged and prosecuted. In 1976, in Kitchener, Ontario, Canada, a juvenile probation officer got the simple idea of asking one of his clients to accompany him down the street knocking on doors of a block of homes where he and a friend had vandalized mailboxes. That probation officer was a member of a “peace church,” the Mennonites. First in Canada, and then as of 1978 in Elkhart, Indiana (then home of the Mennonite Central Committee of the United States), this approach became institutionalized as “Victim Offender Reconciliation Programs” (VORPs).

I have lived downstate from Elkhart in Indiana since 1976 and been a VORP volunteer mediator since 1997. A cardinal principle of this program is that participation is voluntary (including, in this version, participation by mediators like me). I am distressed by the most common referral I get: the “offender” is “a juvenile” (meaning referred by the family court judge on recommendation of the juvenile probation officer). He comes to me at the end of his “disposition” (in U.S. legal parlance, the polite word for “sentencing” of “adults”; I have thus far in a couple of handfuls of cases had only male “offenders” as clients). More often than not, he has long since returned from “detention” (the “juvenile” word for “jail”). He and his often single supporting mom have shelled out several thousand dollars for “diversionary” treatment. (Thank heavens we don’t charge fees in our VORP program, at least not yet.) As Alice Miller put it in a well-known book title, I accept that all of these dispositions are *For Your Own Good*. At the same time on this road to hell, the money that the state and private “offenders” and “clients” have to pay has grown exponentially, side by side with all the new programs that promise to turn offenders’ lives around. The spirit from which such programs and sentencing spring is warm and nurturing. I continue to mediate because I believe that, when clients are willing, safe face-to-face, unconditional negotiation of settlement is good for all concerned, regardless of how much they have already had to do. The point is that, at the level of victim-offender mediation, even my own voluntary participation actually “widens the net” of criminal justice bureaucratic control (a term I gave Stan Cohen credit for in Chapter 1, citing a 1979 article). Diversion is a lie, one in which I continue to participate. I continue because I do not think I can be holy enough to fail to participate in a process I oppose without dropping out and leaving the field to the very forces that might co-opt me when I let myself engage with them.

As a volunteer, I freely refuse to mediate cases between corporate victims and offenders. I will not be a collection agent. I remain convinced that imprisonment is overwhelmingly wasteful and unnecessary. I remain committed to diversion. I hope I help victim-offender mediation clients to avoid having to rely on the formal legal system more than on keeping each other's personal trust. I no longer kid myself: the "diversion" in which I participate is not, in fact, diversion at all. I nonetheless try to learn from participation in a non-punitive approach to criminality and delinquency.

### PUNISHMENT FOR ITS OWN SAKE

As I pull back memories of how I and kindred spirits felt in 1973, I don't think I was alone when I felt optimism. Thomas Kuhn had just published a highly attended book, *The Structure of Scientific Revolutions*, in which he argued that "paradigm shift" happens. Maybe this was the time when prevailing reliance on identifying, isolating, and subduing offenders would give way in U.S. politics to a new response to crime.

We who opposed growth of racist and classist sanctions for crime and delinquency (criticism of sexism and ageism would follow) could see that all phoney excuses for incarceration were being stripped away. Maybe our colleagues, if not higher political powers and the media, would recognize that one excuse for incarceration after another had been stripped away. As we saw it, wars on crime and drugs were not only ineffective in promoting social order but also utterly lacking in moral legitimacy.

When Nixon became the first U.S. president to resign (while impeachment was pending), and when we in the United States accepted leaving Vietnam, I felt that the U.S. body politic was giving up on the sense of moral righteousness that underlay "criminal justice," and yet I worried. As Nixon left the White House for California for the last time, I thought, "There goes the president I love to hate." It had been comforting to have him in office as an embodiment of the deceptive imperialism I disliked. Now, I feared, people would try to recover from national disgrace by becoming more Nixon-like than ever.

For the moment in the mid-1970s, in a militaristic, competitive vein, it almost seemed as though those who would become labelled as critical criminologists had won the political argument. A president could be a crook who imperilled the U.S. Constitution and be pardoned. Nobody

had a serious counter to the argument that treatment in prison was inherently coercive, hence inherently involuntary, hence ineffective or even countereffective. There were demographic estimates that, even as police-recorded crime rates rose, “incapacitation” of the prison population would have negligible effects on recorded crime. (These conclusions changed with the times to estimating how much recorded crime one could take out of the system by patrolling “hot spots” and identifying those most likely to recidivate and “incapacitate.”) At best, you might isolate what became known as a “dangerous few.” The dream that other “critical” criminologists and I shared, that incarceration would be rejected as impractical for the overwhelming majority of those we had incarcerated, never happened.

Instead, baldfaced, the criminological mainstream shifted toward punishing for morality’s sake. At the time, the experience was pure shock and surprise. It soon came to be seen as criminal justice as usual.

I believe Andrew Von Hirsch’s 1976 book, *Doing Justice*, represented a watershed. I don’t presume to know whether the book led or merely foreshadowed prevailing political winds. Suffice it to say that Von Hirsch’s polemic provided an excuse for legislatures to force judges to sentence people to jail and prison. Why? Since there was no reason for incarceration except to punish, and since nobody could prove that anyone became safer in prison or jail, the only reason to punish was for punishment’s sake alone, as “just deserts.” This line of thinking overtook U.S. politics. In the wake of the humbling experiences of losing a war and an overwhelmingly elected president, attention to identifying domestic enemies, also known as the “criminal element,” and determination to give them more of what “they deserved,” redoubled.

Mandatory sentencing took hold. The Rockefeller Drug Law, named for New York Governor Nelson Rockefeller, had taken effect at the beginning of the 1970s. It mandated up to life sentences for those charged with drug trafficking. Now it is well recognized that this law merely transferred rather than restricted discretion—from judges, whose decisions were on the record, to prosecutors, whose discretion was largely invisible. By the end of the 1970s, state legislatures across the United States had enacted what came to be known as “determinate sentencing laws.” If a prosecutor persisted, then a judge would have no room to reduce a sentence. I have friends who have done four or five years’ mandatory prison time for first-time conviction, by U.S. federal plea bargain, for cultivation of personal plots of marijuana. Federal



judges who, under the U.S. Constitution, can serve until they die have resigned vocally and publicly because they were forced to impose sentences they felt were excessive.

Punitive criminal justice took off, especially in the United States, in the early 1970s, just when war in general and the war on crime in particular seemed to be especially discredited in many respects.

## WHAT WENT WRONG

By the mid-1980s, when I returned to Norway for half a year, I came to see my life in the United States as “life inside the castle.” After World War II, my national government became the heart of the most powerful empire in known human history. Its stockpile of what are now known as WMDs, or weapons of mass destruction, from nuclear bombs on through nerve gas and biological agents, far exceeds what the rest of the world has accumulated together. U.S. inhabitants are five percent of the world’s population, yet they account for forty percent of the world’s material consumption. By now, as Russia has pulled back from global economic competition with the United States, the U.S. incarceration rate as of 2003 is more than a third greater than the Russian counterpart. The United States holds one prisoner in four in the entire world (not counting potential “terrorists” held secretly by U.S. forces worldwide and not reckoning for incarceration of “juveniles,” which is scarcely ever added up).

U.S. victory in a global war for domination occurred on an unprecedented scale, with virtually no bloodshed, when the Soviet Empire collapsed, beginning with Solidarity’s electoral victory in Poland in 1989. A corollary of this victory was that what happened in the United States was romanticized especially by those, like the Poles, who had been under Soviet military and economic domination. Progress for the newly “liberated” peoples was suddenly measured most strongly by how many consumer goods, including foods, were on their shelves. Such humble beginnings for national liberation have mushroomed into international trade agreements that now include the “free trade” regime of World Trade Organization membership.

Once you have reached a level of national global hegemony dominated by monopoly over unstoppable means of obliterating humanity several thousand times over in a matter of hours, and of bullying people into giving up national self-sufficiency (e.g., of the

Japanese in feeding themselves) to open investment by one's biggest military contractors, plantation owners, and their associates, there's nowhere higher to go "inside the castle"—in the U.S. heartland of global economic and political hegemony.

Every oral and written history I know contains myths about the fall of an empire. The oldest myths are from China—that dynasties rise and fall in cycles lasting on average 200 years. A more powerful myth of dynastic rise and fall in Euro-centred U.S. political culture is that of the Roman Empire. Back around the 500<sup>th</sup> anniversary of Christopher Columbus's first landing in 1492 in the "New World," a number of members of First Nations of North America were talking about a prophecy that the nation-state, and white hegemony with it, would decline and fall in roughly half a millennium.

Back at the end of the nineteenth century, French sociologist Emile Durkheim pointed to an association between inflated rates of suicide and "anomie." When I think of Durkheim's anomie, I think of "ennui" or boredom. Durkheim suggested that achieving sudden material abundance could make further life efforts seem pointless. There were no culturally available norms for how to live a meaningful and value-filled life when confronted with material abundance. As someone born and raised an upper-middle-class white man "inside the castle," I have known enough miserable or lost children of the rich and well established to see that Durkheim was right about how inordinate wealth, power, and privilege promote anxiety and despair.

Culturally, the greatest leaders in the rise of economic and political supremacy tend to be military leaders—victors of mythic proportions. In such political cultures, demagoguery pays off. Those who survive and thrive politically in this ethos are masters of mobilizing the masses to unite against a common enemy. Since censuses of prisoners began to appear in the mid-nineteenth century, it appears that incarceration rates have levelled off or dropped only during overt wars involving significant U.S. military casualties. In this country, so far, we only lay off escalating crime wars when we are preoccupied with fighting external enemies. One way or another, our politicians thrive by identifying and mobilizing the body politic against supposed common enemies.

The U.S. incarceration rate began its current escalation just as the Vietnam War ended. The rate of increase became steeper in the decade that followed the collapse of the Soviet Empire—the end of the most potentially destructive military confrontation of all time. In part, I



think of the growth of what Nils Christie calls “the crime control industry” as an aftermath of U.S. “victory” in the Cold War—part of a process of “economic conversion” that began as bases and assembly lines producing military hardware closed down. The marketing and production of military hardware for security against “offenders”—all the way to building and privately operating prisons, jails, and juvenile detention centres worldwide—have had awesome growth.

In the wake of attacks on the World Trade Center and the Pentagon on September 11, 2001, foreign infidel “terrorists” have become the dominant enemy, and in Iraq especially U.S. troops are mired in guerrilla resistance. The U.S. national budget, particularly the defence budget, has soared. In the process, as subsidiary government budgets have become squeezed, some states have actually begun to reduce prison populations the past several years or so; incarceration is becoming less affordable. As of this writing, the State of Indiana, which has been my home for half my lifetime, has two newly built prisons that it cannot afford to open and operate. Making prisoners pay for their own room and board and the privatization of prisons can only slightly relieve the financial burden of “corrections.” And so, as long as the U.S. military remains weighed down in foreign combat, we may see history repeat itself. U.S. incarceration rates overall may be about to fall for the first time in more than thirty years.

Corruption can be expected to proliferate as people scramble to survive or even thrive in times of economic hardship. As Bill Chambliss has documented in his book *On the Take: From Petty Crooks to Presidents*, from local to international levels, organized crime—as in drug, sex, and arms trafficking—has long since become symbiotically tied to political regimes and factions. Chambliss concentrates on the shifting fortunes of Democrats and Republicans and the allies of each in the United States. He points out, for example, that when Republicans control the White House and Democrats control Congress, congressional staffs unearth dirt on Republican ties to organized crime, and federal prosecutors (who serve at the will of the president) concentrate prosecution of politicians and organized crime figures in cities controlled by Democrats.

Among the theories of who was involved in killing President Kennedy, and why, are that the military and its contractors, who had been allied with Republicans in Eisenhower’s “military-industrial complex,” were threatened by the Democratic president and his secretary of defence, Robert MacNamara, and that their organized crime allies, such

as Jimmy Hoffa (who bolted from the Democrats to support Nixon in 1960), were threatened by the president and his attorney general and brother, Bobby. This after Chicago-based organized crime boss Sam Giancana bragged that he had stuffed the ballot boxes in Chicago to deliver the presidency to Kennedy over Nixon in 1960.

There come times of political reckoning. Nixon won the presidency in 1968 and by a landslide in 1972. Still, Democrats controlled Congress. Nixon was impeached and resigned in disgrace—the first U.S. president to be forced out of office in mid-term. One year later, in 1975, the U.S. military was humiliated in its final withdrawal from Vietnam—the first time in U.S. history that the military had lost a war. The year after that, Republicans lost the White House to Jimmy Carter just as the U.S. incarceration rate reached a historical high.

Early in 1980, I was a guest, as a young Chinese law specialist from the United States, of Taiwan's shadow foreign affairs ministry at a conference on "Mainland China." I enjoyed lavish hospitality. Most of my fellow guests from the United States were heavyweights, including present and former CIA covert operatives, military intelligence folks, and university-based consultants to the Pentagon. In 1979, President Carter had had the audacity to instruct his United Nations ambassador to cast a vote to replace Taipei with Beijing as Security Council permanent representative from China. I was struck by how tight and long-standing friendships and outrage alike were shared by elites in Taiwan and in the U.S. intelligence-military-industrial complex. These folks badly wanted Carter and the Democrats out of the White House. There was even mention of how the Atlanta-based Carter had given the Chinese soft-drink trade agreement to Coca-Cola, while Nixon, who had appeared with the Pepsi president at the famous "kitchen debate" with Khrushchev in Moscow in 1956, had as president given Pepsi a U.S. monopoly in the Soviet Union. Even soft drinks get imbricated in high-stakes international drug trafficking. In sum, a number of interest groups shared a determination to drive Carter out of office. Meanwhile, Carter, a former nuclear submarine commander and nuclear engineer graduate of the Naval Academy, was, in one more irony, the most knowledgeable and undeniably militarily independent president since Eisenhower.

The Cold Warrior elites in Taiwan in 1980 also kept reassuring each other that the Soviets would clean up in Afghanistan, which that idealist Carter had made into a human rights issue when he denied

U.S. athletes permission to compete in the 1980 Olympic Games in Moscow, in protest against the Soviet coup and invasion of 1979. I was alone in expressing a conviction that Afghanistan would inevitably prove to be a Soviet Vietnam. When will we learn that conventional military occupation cannot ultimately prevail over indigenous guerrilla struggles for national liberation? Not yet, apparently. In 1980, as today, there was a lingering resentment that, if the White House had just had the political gumption, Vietnam would not have been lost. Parallel to complaints that civilians were handcuffing the police were those that civilians had once again been allowed to handcuff the military and its "assets." In 1980, the forces backing Ronald Reagan's candidacy for the presidency were virtually crying, "Never again!"

I distinctly remember election day later that year. The American Society of Criminology's annual meeting was due to start the next day. Some eight or ten of us from Indiana University and friends had just arrived for the meeting in San Francisco. We decided to go out for an early supper. We had come from more eastern time zones and were hungry. I remember that I was about to make a quick call home to my wife, Jill. My roommates turned on the TV. The election was announced to have been over hours before the polls closed on the West Coast, let alone in Hawaii and western Alaska.

A pall fell over the entire meeting. I distinctly remember how quiet it was in the corridors and even in the bars. We were stunned. Ironically, this was just as recognition of "radical" or "critical" criminology was reaching its peak in ASC, leading to board recognition of critical criminology as an ASC "division," whose dues would be collected by the national office. Compounding the irony, the central criticism of ASC politics and publications was that criminologists were servants of the state, yet I sensed that the preponderance of feeling about the presidential election, even among one of the supposedly "conservative" criminologists, was one of mortification and despair. Today at ASC, I sense that the balance of political sentiment has shifted dramatically.

In 1982 in the nation's capital, the ASC president took me into the hallway outside his formal reception to ask me privately whether a rumour was true. He had appointed me to the ASC executive board as a "radical" criminologist who was willing to talk with "positivists" or "empiricists," who seemed tight with the "critical" crowd. In several hours, after presidential banquet guests had had a chance to get to dessert, Attorney General Edwin Meese would give a keynote address. Was it true that I was organizing a mass walkout as a protest?

This was before awareness of sound bites caught on, but even then I don't think it took me longer than ten seconds to convince my political sponsor that I had no clue what he was talking about. At this, in retrospect the pinnacle of my political career as in organized academic criminology, I am also in retrospect re-impressed by how stressed out my friend on this occasion seemed to be about something that to me seemed so trivial.

*I conclude that failure in war and national hegemony in the mid-1970s drove Republican-allied forces into a frenzy of fighting for personal honour and for honour to country and to "our" god(s). The frenzy was strongest in the heart of world empire, in life inside the castle, as U.S. global hegemony became threatened.*

As a star's collapse accelerates, so it appears to me that chauvinism attracts a military empire's populace more strongly as that empire begins to decline and fall. When an empire begins to shrink, private and public elites in the heart of empire feed fear and try harder to avoid being replaced or supplanted by pointing the finger of blame at foreign and domestic public enemies.

*All in all, unprecedented national humiliation inside the heart of an empire, at its peak in the mid-1970s, accelerated interclass support for wars of unprecedented ferocity on stereotypical criminals at home and enemies abroad.*

I was entranced by the Watergate hearings during the summer of 1983. I was glued to the television screen even harder when ex-President Richard Nixon waved from the Marine helicopter on the back lawn of the White House in 1974, on his way to his last ride on Air Force One, the presidential plane. Even then I felt uncomfortable gloating at political victory over my most prominent political enemy. Looking back from the twenty-first century, Nixon's humiliation was karmic: multiple losses for Nixon and for the military establishment strengthened political commitment to fighting and winning military and political victories at all costs.

I have learned that political victory carries a price. Making losers of Republicans, the U.S. military and its allies in the mid-1970s only enhanced their determination to vindicate their hegemony but scared everyday citizens into believing that their fatherland was losing its grip and needed greater deference and support. At times like these, I can now see how natural it is for subordinates to unite with national

elites to defeat politically convenient “enemies.” As the humiliation of German capitulation in World War I created room for the defence of Aryan supremacy and popular support for Hitler, so, I infer, defeat of Nixon and of the U.S. military in Vietnam fed across-the-board national determination to defeat crime, communism, and terrorism. When the collapse of empire threatened, the U.S. national body politic tended to lash out at domestic and international scapegoats.

The United States was founded and expanded to its global limit on military supremacy. As the country began to lose its military grip in unprecedented ways in the mid-1970s, the domestic military operation represented by incarceration heated up in response. The dramatic widening of the net of criminal justice since 1973 is to me a sign of U.S. imperial decline and fall. Tragically, in such times, those who are attacked and punished are more likely to be innocent and powerless, while the attackers and punishers by definition accumulate more blood on their hands. All in all, life throughout all social layers in late-imperial centres becomes more punitive.

## DICHOTOMIES THAT HAVE PROVEN FALSE

When in our 1973 session Robert Maynard Hutchins said that he detected a whiff of anarchism in my views, I had virtually no clue what an anarchist was. A few years later, in print, I labelled myself a “communist-anarchist.” By now, I have come to think that political categories of individual actors don’t mean too much. Here are some ways in which getting trapped in political categorization of friends and foes, self and other, has distorted our understanding and distracted us from dealing with what the U.S.-centred current tidal wave of incarceration has turned out to be about.

The problem is not about being a Democrat or a Republican. Democratic presidents took us into both world wars, the Cold War, Korea, and Vietnam. By the time President Clinton recovered the White House in 1992, he was a new brand of Democrat who was so tough on crime, so committed to capital punishment and the drug war and tough sentencing and paying for a hundred thousand new local police, that he outbid Republicans’ “toughness” on crime. Rather, the problem of being tough and punitive transcends relationships among categories of people. In this case, the incarceration wave has manifested itself in a growing determination of national Democrats and Republicans to outbid each other.

Time has already revealed to me fundamental misconceptions under which I myself laboured in 1973 (besides not knowing I was an anarchist). Chief among these is that it matters whether you are relating publicly or privately, formally or informally. What matters to me now is whether relationships tend to become safer or more violent across social realms, from person-to-person to transnational levels. In particular, I notice that, in the United States in criminal justice, popular wisdom evolves in parallel, from childcare to the prosecution of murder and rape.

Here's one clear example. In the latter 1970s, in a flash, "determinate sentencing" got legislated and regulated into national and state practice. Politicians conceded that there was no point in trying to rehabilitate offenders (although this point has never been conceded and now enjoys a revival among criminologists). To hold a social order together, we should instead concentrate solely on whether the punishment fits the crime, on demonstrating that each offender received her or his individual "just deserts."

As of the 1980s, I noticed a corresponding shift in rhetoric from my students and from my child and her friends. A recipe emerged as a mainstream among child management experts of the 1980s that a disobedient child should be given a one-minute "time out" (shades of hockey penalties too) for each year of age. In his latest (2005) book, *Unconditional Parenting: Moving from Rewards and Punishments to Love and Reason*, Alfie Kohn traces "time outs" to Skinnerian behavioural research from the late 1950s on reinforcing desirable behaviour. I find the translation of "time outs" into a "science" of "progressive" child discipline nonetheless to be related to the "just deserts" movement of more recent times. The arbitrariness inherent in the "just deserts model" of criminal justice is on its face comical, in its results harsh and tragic. (Does it matter whether the disciplinarian in this case keeps accurate track of seconds or minutes? I won't propose that anyone apply for a grant to answer this question.) It appears to me now that a science and practice of cold-blooded punishment has evolved in parallel across boundaries between the state and the people, formally and informally, side by side. I no longer believe as I did in 1973 that the challenge of making peace lies in choosing between state and informal control. Instead, I find that parallels, like that of doling out punishment in units of time, cross social levels. For all the ways we might call people to account for harms they do, we focus on how to control offenders' time,



to take their free time away. This comes at a time when improving “productivity” and “efficiency” becomes touted as essential for national “growth” in the public and private sectors alike. Time is at a premium. Parents are enjoined not only to accomplish more for pay outside the home but also to make the moments they take out to “spend” with their children “quality time.”

The second U.S. war in Iraq continues as I write. The most widely reported, highly powered domestic political opposition to the president’s prosecution of the war at this moment is a demand for a “timetable” for U.S. withdrawal. Control of time is paramount for survival and “growth” or “living up to your potential,” from private personal relations to Wall Street to Washington, D.C. In 1973, in his book *Small Is Beautiful: Economics as if People Mattered*, E. F. Schumacher noted the irony that U.S. citizens and inhabitants were on the whole the richest nation of people in the history of the planet yet had the least leisure time of any other nation’s people.

All the signs are that the pressure has only intensified since. At the poverty level, where single parents are forced from “welfare to work,” often at minimum wage with no daycare or transportation to and from work provided, you find so many people, for instance taking care of our elderly people in nursing homes, who work two full-time jobs, eighty hours a week, just to make half the median family income—falling further and further into debt just to pay rent and feed children. At the other end are the rich and powerful who put in eighty hours a week just to avoid losing their jobs, now haunted at home by the Internet and on the road by cell phones, where “success” and “importance” are measured by the value of the time one gives and the time of subordinates one commands. At one extreme, the U.S. president is ranked by the size and opulence (including not least the size and power of his weapons of mass destruction) of the workforce he “commands.” Is it any wonder that the career success and importance of a warden or “corrections” commissioner might be measured by the size of the prisoner population she or he controls or by the security level of a prison population where length of sentence plays a large role in “classification” of prisoners?

We are preoccupied with giving and taking time. As economic inequality and concentration of wealth increase, the subtext is this: however much time you are giving, it may not count for much; you too can be replaced and abandoned. As of 1974, we learned in the United States that even the president could be replaced and abandoned. We

have since learned that mid- and even upper-level professionals and executives may in waves suddenly be laid off before their pensions vest, when they are too old to get hired elsewhere, especially in sectors being “downsized” to “become lean and mean” in a highly competitive global political economy. As one passes down socio-economic levels, the odds of hanging onto or obtaining jobs with steady paycheques and benefits have declined more and more steeply, except at times in “service” sectors at minimum wage with no benefits and no prospect of advancement. Across political and religious spectra, hopelessness about our personal, local, and global futures, including apocalyptic visions, becomes more vocal and seemingly more pervasive. The future is up for grabs. The prospects of continuing to live as (as we are constantly told) the luckiest people in the history of the planet appear more and more threatened. Perhaps, as the saying goes, the bigger we are, the harder we are destined to fall. In sum, anxiety and tension keep growing among all those, in public and private, formal and informal, living inside the castle in the late period of U.S. global hegemony.

The primary challenge to me of what I call “peacemaking” is to find ways in which people can become genuinely more instead of progressively less socially and personally secure. In this volume of reflections on violence and its transformation, I seek to lay out ways to strengthen social and personal security in the face of the decline of the U.S. Empire.

I think I was on to something at Santa Barbara in 1973 when I proposed conditions under which state services might be offered to people in trouble without extending “state supervision” of personal lives. I now recognize that negotiation of boundaries is important in all our relations. I think I was naïve to suppose that any social service could fail to set conditions on availability or continuation of services, but I continue to believe it important that we offer services confidentially and without accumulation of records about each other that are not already in the public domain. For now, suffice it to note that political and economic leaders tend to play on fear rather than to make people feel more secure.

Since 1973, I have learned to recognize and respect psychological defences. I have spent a lot of time since the early 1990s learning from those who have been trapped in violence in childhood while in the custody and care of their supposed protectors. When you are trapped, scared and hurt with no way out and even no way to be heard and



believed, you struggle between blaming yourself—thinking you deserve no better—and dissociating. It becomes stupid to fight back when you only stand to be even more brutalized in retaliation for talking or complaining. One way to survive and retain one's sanity in an unrelentingly insane situation is to project and displace one's anger, fear, and pain onto others. In terms Sigmund Freud gave us, projection means making others manifestly suffer the victimization you cannot acknowledge in yourself and feeling rage on behalf of those who are recognized as crime victims (while distancing yourself from other human suffering). Displacement means blaming people who cannot fight back as proxies for having to respect and obey one's true assailants and abusers.

In my sophomore class on "alternative social control systems," as an example, I often find that journal writers who at other stages write passionately that "criminals have lost all their rights" also defend how important it was for parents like theirs to have inflicted beatings and taught them crucial lessons in obedience to law, order, and respect for others. "There is no excuse" and "saying you're sorry doesn't help" are other popular responses to misbehaviour. I cannot help inferring how many times those who hold these views have had them laid on themselves, often unfairly, with no choice but to salute and accept this social reality. In criminological literature at a point in the 1970s, projection got translated into political groupthink as "the principle of least eligibility." Prisoners or parolees did not deserve paid jobs unless all free-world job seekers got jobs first. Implicit in such views I infer an inner if not explicit voice: I had to work hard to overcome unfairness and adversity without complaining, and so the people I'm told are "really" guilty of offences deserve no more breaks than I got. I reserve my sympathy for their victims. I may not have time to support the victims' own recovery, but I can support punishing their offenders on the victims' behalf.

Punishment of those whom it is politically convenient to label "those-who-deserve-punishment" also gives us people on whom to take out our silent and repressed anger. That's displacement. Displacement substitutes politically convenient stereotypes of those who threaten, oppress, and abuse us for the ones who hurt us personally, whose violence and blameworthiness we dare not acknowledge, even to ourselves. Those up to and including the U.S. president, who know they can be replaced come what may, make subordinates feel their pain.

Ultimately, the poorest and weakest among us have the opportunity to kick someone or something else around.

That's where we seem to be spiralling toward in my home country as I now write. Typically, at all social levels and ages, we work harder to get up in the morning (and to keep on working thereafter through the night). Time becomes more precious for any of us to be anything personal rather than "objective." As we deserve less sympathy and time of day, so do the offenders and other rebels. Rebels include "hyperactive" children who won't sit still in their chairs long enough to learn how to get more answers right on state-imposed measures of child performance. We become obsessed with "giving consequences" for disobedience and for failing to "measure up."

So long as violence and vengeance remain untransformed by forces that find and create countercultures of honest, open confrontation and negotiation of difference and of response to harm, "penal abolitionists" like me project that we all lose safety and social security. In what some of us penal abolitionists term "retributive justice," as Robert Martinson famously concluded in the 1970s, "nothing works."

I have come to recognize that tension mounts precisely because we project and displace our own immediate, interpersonal issues and feelings of anger and fear onto enemies and outlaws in channels our leaders point us toward. We still have to ignore, at best, or smile and be pleasant with, at worst, those who in our defencelessness continue to abuse their power over us.

Members of Murder Victims Families for Reconciliation ([www.mvfr.org](http://www.mvfr.org)) report that members of victims' families who have seen their murderers executed remain angry, bitter, and empty—after perhaps a moment of triumph more socially alienated than ever. There is no way that fighting vicarious battles can win wars with what in any social moment really threatens us. I infer that this phoniness about "solving" our problems has, in the explosion of incarceration and associated punishment, just fed our hunger for more pounds of somebody's flesh to feed our ever-more-gnawing hunger for honest, open, social security. I find it hard to point fingers at particular villains in the escalation of global warmaking. Leaders feel emotionally threatened as profoundly as those who are struggling simply to find food, clean water, and shelter. In terms of one's own lifelong economic security or avoidance of being killed, just look at all the barriers around the White House in Washington, and notice that the president and vice-president

are as scared for their lives as someone in the most homicidal ghetto and no more secure about whether they will be well remembered, if remembered at all, by future generations. I presume that we are all born equally hungry for social security, equally susceptible to being driven by fear, suspicion, and deception on the one hand and by compassion, trust, and honesty on the other as we decide how to negotiate our lives incarnate. When I get mad at the biases of mainstream journalists in framing the news, I remind myself of how often I hear people spouting the same lines throughout my other social circles. Why should I expect journalists to be more adventuresome than even my colleagues in the criminological research elite? Why should I expect proletarians to be my infantry at the forefront of positive change?

At this time and place in human history, those of us who live inside the U.S. castle live in escalating despair in which we try harder than ever to make might become right. I have just read a scene in a novel in which a submarine in World War I gave a cargo boat's crew ten minutes to get into lifeboats and row far enough away to avoid the forthcoming vortex as the ship sank below the waves. That image (in Anne Perry's *Shoulder of the Sky*) expresses the feeling of growing desperation and self-defeat I find in my country today.

My primary question as a would-be social engineer in 1973 remains: how might we and all humanity best avoid going down with the U.S. military-industrial ship?



## CHAPTER 4

### PATRIARCHY AND THE POLITICS OF FEAR

#### I ENCOUNTER RADICAL FEMINISM

In the spring of 1986, I returned to Norway, this time on a research Fulbright at the Institute of Criminology of the University of Oslo. In 1961-62, I had spent my last year of secondary school as the only foreigner in Trondheim's Cathedral School. In 1986, I proposed to learn about "peaceful societies." Following Jerome Skolnick and William Chambliss, I was the first U.S. criminological visitor at the institute to speak Norwegian.

My thinking was this: I was tired of just plain being critical of U.S. criminal justice policy and practice, and my students were tired of my negativism too. I thought my students' challenge was legitimate, especially in the big course required for criminal justice majors I teach to this day on "alternative social control systems." Okay, prof, so how do *you* propose to solve the crime problem?

There was nothing new about my urge to engineer a better world. By the time I was twelve, I wanted to become either a lawyer like Clarence Darrow or a diplomat. Happily for me, I have had the Walter Mitty experience of getting to dabble at the world of police patrol, of courtroom politics, and of life inside the U.S. State Department. I now call myself a "recovering lawyer." My students struck a chord that resonated with my own desire to imagine and help create a less violent, more peaceful world.

Norway last sent soldiers to fight outside its own territory in 1821 as the Napoleonic Wars ended. For twenty years thereafter, Norwegian

incarceration rates skyrocketed up to a rate equivalent to that of the United States in 1960. Then the Norwegian rate plummeted by two-thirds at the end of the nineteenth century and has stayed roughly there since—and even with what to Norwegians are significant increases remains today among the world's lowest. Norway is home to PRIO, the Peace Research Institute of Oslo, established by Johan Galtung, pre-eminent in peace studies scholarship at the time of a 1969 article in which he distinguished “positive” from “negative” peace: namely, how to address structural inequalities instead of picking out villains and relying on violence to subdue them. The Nobel Peace Prize is given in the main auditorium at the University of Oslo ... and so forth.

I returned especially to spend time with and learn from a criminologist, Nils Christie, whose book *Crime Control as Industry* has become a model of clarity and understanding for people in criminology and criminal justice worldwide. Nils and my parents reminded me that we had been his dinner guests in 1962. With no conscious memory of that event, I had fallen in love with his analyses of trends in punishment. In 1983, regarding a possible side trip during my sabbatical in Sheffield, England, Nils played generous host once again. In 1983, back at the same home as in 1962, he introduced me, my wife, Jill Bystydzinski, and our daughter, Katy, to Birgit Brock-Utne and her husband, Gunnar Garbo, a national political and diplomatic figure in his own right.

In 1986, Birgit mentored Jill and me and turned our responses in profoundly new directions. She gave us a copy of her 1985 book, *Educating for Peace: A Feminist Perspective*. She introduced Jill to Jill's snowball sample of women involved in politics in Norway. The interview data Jill collected during our 1986 stay resulted in her book *Women in Electoral Politics in Norway*. Jill speaks for herself on how Birgit has informed her understanding of what matters. For her part, Birgit was at the forefront of the International Peace Research Association's inclusion of women's issues into previously white-male-dominated peace studies networks.

At Jill's suggestion, I began offering (and continue to offer) a seminar on “feminist justice.” In *Educating for Peace* and in her 1989 book that followed, *Feminist Perspectives on Peace and Peace Education*, Birgit argues that feminism comes in many forms. In her most recent work on literacy, especially in Africa, she continues to be what she, as of 1985, labelled a “radical feminist.”

## RADICAL FEMINISM AS I UNDERSTAND AND EMBRACE IT

Birgit and Jill together drew me into a dialogue in which it is taken for granted that the root template on which violence is organized is patriarchy. I'll just speak for myself. I focus on the root word, *pater* or "father," in patriarchy. In my childhood, an actor who later became Marcus Welby, M.D., was at the top of the cast on *Father Knows Best*. That's how Birgit, Jill, and others, such as Riane Eisler in her (admittedly controversial) *The Chalice and the Blade*, describe the history of the idea that some people ought to be in charge of others. As Eisler suggests, from the time, for instance, when the text of the Torah was being chosen to represent all the important stuff that people in the "West" ought to know, misogyny emerged. In the text the founding fathers of the Old Testament selected, Eve had crossed the line to commit the "original sin." Adam had had to deal with it. Even God had turned out to be a guy, a father. So appeal to the idea that you can't get along unless you put yourself in some physically dominant person's or force's protection rests on a historical template in which we need to find the father figure who truly knows best how to lead us out of danger and disorder.

I identify with what Birgit says it means to be radical—recognition that power *over* (as against *with*) others *is* the problem. As she and other radical feminists of the time put it, women who desire to be equal to men lack ambition. These "liberal" feminists might want a bigger share of the pie, while radical feminists seek to change the recipe of the pie. Power should be shared, not imposed.

The "feminism" in radical feminism recognizes that fathers being in charge is the historical template through which power over others is exercised and legitimized. As a U.S. schoolchild of history, I was taught about our "Founding Fathers." First Nations such as the Cherokee were forbidden from having their own women chiefs sign treaties with the White Father in Washington. I notice some progress. In my classes, I am no longer challenged that someone has to be the boss in a nuclear family. Maybe women and men can share partnership in life together and in parenthood. But the pressure is on to recognize that the "natural" God-given "nuclear" family unit is heterosexual and, implicitly, male dominated. "Family values" is a code phrase for having a strong fatherly presence in each child's life. Feminists have long since pointed out that power differences, inequality, and military

empire accumulate where supreme gods are believed to be exclusively male, in what anthropologist Peggy Reeves Sanday, for example, has called rape-prone, as against rape-free, societies. Across religions and cultures, people are named after and seek religious intercession from their fathers.

## LOVE OF THE FATHERLAND

As a child of the Cold War in the 1960s, I remember defending my own patriotism as I criticized U.S. warmaking. In retrospect, I think this underlay my 1973 analysis of problems and prospects of U.S. criminal justice. Today I hear it said, as I myself in times past have claimed, "I criticize my government because I love my country, because I am a patriot." Today I recognize, to paraphrase Birgit Brock-Utne, that we lack ambition when we seek to become patriots.

The problem of patriotism is its root, *pater*, "father."

When the first U.S. invasion of Iraq happened in 1991, and cheering stadium crowds celebrated victory, a Norwegian criminologist and friend, Per Ole Johansen, was visiting for a term in Bloomington. Per Ole told me that if ever a Norwegian prime minister of any party waved a flag and proclaimed Norway number one, she or he would be out of office forthwith. This is because by doing so they would be resurrecting memories of World War II, when Germans "liberated" Norwegians as fellow Aryans—exalted male warriors.

"Patriotism" literally means "love of the fatherland." I now see wars on foreign and domestic enemies as patriarchal extortion rackets: do what the properly constituted male-style authority figures tell you, or else you may endanger social order for everyone. Embrace your protector/father figure. Join your father figures' fights against common enemies.

Howard Zinn's stories and insights have considerably broadened my perspective on "diversion" since I met Zinn in 1983 and began using first his *People's History of the United States* and later his *Declarations of Independence* as texts in my alternative social control systems class. A recurring thesis in Zinn's people's history is awe at the resilience and popular acceptance of, or acquiescence to, patriarchy that bodies politic of the United States have shown. When I put what Zinn writes together with histories focusing on U.S. crime and criminal justice, I



move from suspecting state supervision per se to a larger awareness of how cycles of fear-mongering weave back and forth from military adventures abroad to concern for threats posed at home by have-nots, from Indians, slaves, women, and wayward children.

I think the late-nineteenth-century French sociologist Emile Durkheim had it almost right when he proposed that one way to maintain social stability was to punish people who didn't follow prevailing social norms. Crucially, however, Durkheim overlooked that those who held power, because they held the greatest firepower were at least as violative of their own laws as the enemies they killed and captured at home and abroad, while the people they killed and captured at the front lines were predominantly powerless classes—women, children, and underclass young men of colour, those killed, crippled, or captured as enemies and prisoners. That's the theme that Paul Jesilow and I harped on in our mid-1980s book *Myths that Cause Crime*—the theme of that ever-marginal group of criminologists who recognize crime control as it is normally practised to be inherently racist, classist, sexist, chauvinist, and ageist. In the end, all that classically patronizing and paternalistic social control demonstrates, while it survives, is that might makes right. In *A People's History*, Zinn quotes U.S. Fellowship of Reconciliation co-founder A. J. Muste as predicting in 1941 that "The problem of war is with the victor. He thinks he just proved that war and violence pay. Who will now teach him a lesson?"

From punishing "sedition" and "libel" during the first years under the Constitution of the United States through to the current "war on terrorism," the surest way to gain and retain power in this country has been to mobilize people to unite against foreign and domestic enemies. By the end of the nineteenth century, from sea to shining sea, Hispanic and indigenous people's resistance had pretty much been wiped out, blacks were fair game for lynching when they got uppity and didn't work for the white man, and white male North European hegemony was pretty much in place. In *A People's History*, Zinn quotes a letter "in all confidence" to a friend by Teddy Roosevelt in 1896, two years before he would charge up San Juan Hill in Cuba in military triumph, having moved up the ladder from being New York City's police commissioner, stating that "this nation needs a war." By the time he became president in 1900 upon President McKinley's assassination, the United States had essentially established its imperial hegemony over the entire

Western Hemisphere and was on its way to colonizing the “gooks” in the Philippines as they killed resisters by the hundreds of thousands. (Malaysia in the 1960s was the last time colonists or postcolonists overwhelmed domestic guerrilla resistance.) The United States became “America,” and its citizens became “Americans,” as though they spoke for all Americans, from the Inuit in the North to Tierra del Fuego in the South.

Unemployment during the “Great Depression” of the 1930s stood stubbornly in double digits until that infamous day in 1941 when Congress declared war on an earlier “axis” of evil. As a result, we know President Roosevelt II as an architect of national recovery from the Great Depression of the 1930s. When World War II ended, at a small college in Iowa, Winston Churchill pronounced that our new enemy lay behind an “iron curtain.” By 1947, President Truman, in the country that for the time being was sole possessor of weapons of mass destruction, had joined the “cold war” against a global communist conspiracy led from the Kremlin in Moscow. The CIA was created to carry on covert military operations that the Office of Strategic Services had built during overt wartime in World War II. In his acceptance speech at his party’s nominating convention in 1948, President Truman emphasized the threat of “terrorism.” So did Eisenhower afterward, and, counterintuitively perhaps, so did retired nuclear submarine commander-cum-populist peanut farmer Jimmy Carter in 1976.

Calls to war keep working for U.S. politicians all the way up those who control and work with the White House, just as being tough on crime—as by becoming a crusading prosecutor—continues to pay off for state and local politicians. This time it is survivors of childhood sexual violence who give me the greatest insight into how this strategy of gaining and clinging to patriarchal power works. I wonder, how can people be so misled into believing that they can rely on these folks to make them safer, when they keep stirring up wars and inciting resistance and making social life more dangerous? How can so many people support warmongering politicians when they manifestly represent economic powers that have impoverished and exploited so many of their supporters and have profited from prior collaboration with virtually every public enemy number one the politicians name, up to and including Osama bin Laden and Saddam Hussein?

## LOVE AND LOYALTY TO OUR MANY FATHERS

Some people call it the Stockholm Syndrome. I see it as a culture of conviction that ultimately father figures—who know best—had best be followed, loved, and pampered for the sake of their subordinates' personal security.

In all the time I have spent learning about sexual assaults on children, I have observed worldwide that the taboo against publicly criticizing one's parents is far, far stronger than supposed incest taboos (the routine, largely covert breach of which seems to be massive worldwide). This applies especially to criticism of "legitimate" or biological fathers. For all the fuss these days about how awful child sexual abuse is, we are only marginally extending legal recognition to increasingly marginalized groups such as Catholic priests or, classically, boyfriends of drug-addicted welfare single moms. It is virtually unthinkable for a prosecutor to lay child sexual assault charges against a well-established biological father and extraordinarily rare for child protection workers and family judges to believe children who allege they are being sexually abused by their fathers, especially by fathers who otherwise have impeccable community reputations. There is strong pressure, on the contrary, up to and including federal legislation, for "family re-unification" in cases of alleged child abuse and neglect. "Family values" has become as politically unquestionable as motherhood and apple pie were once said to have been. The subtext is the particular importance of having fathers in the home. This includes courts across the country routinely granting unsupervised visits of children with fathers, including stepfathers, after mothers have just escaped from routine battering by these men in front of their children.

This vulnerability of children and women points to something I only barely recognized in 1973—that state-sponsored supervision could be a godsend and literally save many lives from private violence, centrally from family violence. I have since come to refer to the escalating mobility rate as "ultimate nomadry." We have moved from the level of "nuclear" families moving apart from relatives generation by generation; we have come to the point at which children have a fifty-fifty chance of having their parents split apart. It appears to me that this process in the United States was led by the women's shelter and rape-crisis movements springing up in 1973. As women received more support for getting away from batterers, their children, I infer, began

to feel safe and removed enough, on occasion, to reveal either to their mothers or to others, such as teachers and counsellors, that they too were being assaulted by the batterer. While legal functionaries largely have refused to "substantiate" these reports and attendant evidence, survivors of battering and their children have begun to be believed in various ways by a number of professionals and to support one another. Many survivors of battering have begun to feel safe enough to remember and report having been what we politely call "incest victims" themselves.

Now, long after 1973, I focus not on whether social control is public or private, formal or informal, but on distinguishing patriarchal from power-sharing forms of relations as they reflect and reinforce one another across levels and settings for interaction. Now I concentrate on looking for how people manage to give up on loyalty and obedience to father figures at all levels. That to me has become a major impetus for peacemaking.

Ultimate nomadry threatens social security at the same time that it offers escape from entrenched patriarchal violence. It is a mixed blessing. One result is that those whose nuclear familyhood is undependable will look for other father figures. When Sigmund Freud's patients began to treat Freud as though he were the loving father they longed for and had missed, he called the phenomenon "transference." When therapists in this situation used this adoration to feed their own hunger for love and acceptance, Freud called it "countertransference." I think transference and countertransference are precisely the mechanism by which U.S. politicians play on and get rewarded so heavily for their image as would-be protectors from foreign and domestic enemies. On the one hand, in a state of ultimate nomadry, you really don't know whether you can even count on your father or mother or anyone to take care of you; betrayal of dependence and trust might come from anywhere. Manifestly, social order is threatened at its core. All the more need, then, to rely on grand, public, mystical rituals such as nominating and electing politicians to give us highly motivated would-be father figures who promise to protect us. This is the Stockholm Syndrome transference writ large, transference and countertransference on a grander and grander scale, a culmination of the military and economic growth of the fatherland and the father figures who first and foremost find and subdue our greatest enemies, foreign and domestic. This, as I see it, is the mindset that underlies the enduring, broad domestic support for U.S. political institutions that Howard Zinn finds so remarkable.

## THE GROWTH IMPERATIVE

Material growth is the primary criterion of public and private success of father figures and their households in a patriarchal world. Conquerors of old measured their growth by the land area their soldiers occupied and the tribute they received. Those who rise to the top of the political and business orders today are “winners” who routinely circulate back and forth from government to private enterprise and, increasingly, across national boundaries. Over time these days, we tend to measure success as growth in “net worth.” Success is measured by the estimated global fungibility of one’s material wealth. For leaders driven into exile, one measure of their success and political “capital” is how much in globally stable cash they have stashed for themselves, their families, and other entourage members to command there. The same applies today in the United States in terms of how many dollars and sound bites are commanded by one presidential candidate versus another. Today present and former U.S. presidents and aspirants are routinely rated by how much money they can raise for themselves.

Across multiplying news channels across multiplying media, I find more uniformity in routinely reporting U.S. government economic reports, fundamentally in reporting growth in “gross domestic product” (formerly “gross national product”) and more recently in “consumer confidence.” At the dawn of the twentieth century, sociologist Thorstein Veblen observed the rise in the United States of “conspicuous consumption”—showing off one’s new wealth. In these latter days of the period of the U.S. Empire, it is as though the slogan we in the United States are bombarded with is “Consumption is the health of the state.”

For at least twenty years, since well before the emergence of a global consensus (not counting the current U.S. political administration) that the planet’s air is “warming,” commentators have pointed out that human life could not be sustained if the other ninety-five percent of the world’s people grew to the level of consuming as lavishly and wastefully as people in the United States, who continue to consume about forty percent of the world’s resources even as “balance-of-trade deficits” and “national” and “personal” debt skyrocket. Globally and locally, growth must have its limits. This cannot go on forever.

## CONCENTRATION OF COMPETITION INTO CONFORMITY

It is in the nature of successful patriarchy that, while it continues to grow, its wealth becomes more concentrated. When patriarchy reaches its territorial limits, the only way to show that it is wealthier remains relative to the wealth of others. The absurdity of this standard of personal worth hit home when, even after I asked for a free place to hang out on sabbatical the spring of 1991, the University of Dar es Salaam, Tanzania, paid me at the highest level paid to a law professor there, the equivalent at the time of U.S.\$500 per year. My family income has consistently been in the top ten percent of the five percent of the world's people who as a group command some forty percent of the world's wealth. Obviously, I am in no position to complain. And yet, I confess, I have found myself pushing, on "equity" grounds, even as a matter of duty to family after discussion, for "equity" raises.

On Mother Earth, especially in the United States, this is the era of the glory of the developer, successor to the railway investor of the late nineteenth century. What are you going to do as a successful developer other than continue to grow, to "develop" by bulldozing, paving, and building? Developers' constitutional right to get "fair market value" back for property protected against "private development" prevails in the courts.

In this system, the only way for the rich to get richer is for the poor to get poorer. The only way for anyone's "rate of return" to "exceed inflation," overall, is to take advantage of all one's social relations, to get more than one gives away, in capitalist terms to "profit" from the exchange. The longer a "successful" national regime remains in place, the more wealth and power become concentrated, at home and abroad.

Competition becomes more intense, from the level of fending off starvation and getting killed and maimed to the stakes resting on who wins at the top, where stakes as in which team wins the U.S. presidency or the major military contract become more expensive, more concentrated. At the level of the U.S. presidency, for instance, we have a contest in which the only two national party players, Democrats and Republicans, are driven harder and harder to identify and occupy the "undecided" or centre ground and occupy it before one's opponent does. In the 2004 election, opposition candidate John Kerry campaigned as representing a team that would be tougher on terrorism than



incumbent President Bush. Bush stood primarily on the same issue of what it takes to “defeat” terrorism and by three percent of votes cast won a “mandate” to carry on.

When Bill Clinton won the election in 1992, he took the law ‘n’ order issue away from Republicans. Clinton made a symbolic point of going back to sign off on a death warrant and sit there by his phone, crying as the big black guy who had shot a cop (and then lobotomized himself in a failed suicide attempt) was executed, between his address to the Rainbow Coalition and the first presidential primary in 1992 in New Hampshire. A major initiative of President Clinton’s was to put 100,000 more police on the streets at the nation’s expense. One explanation for why people on opposing Republican teams concentrated so heavily on President Clinton’s sex life is that Clinton had always led the way in being tough on crime. In 1995, in what looked to me like a re-election ploy, Clinton flamboyantly supported and signed off on “welfare to work” legislation. At the top, leaders compete for the same niche in the market. For members of the electorate who have no personal economic or political stake in the outcome, differences among major party candidates for office at all levels have become narrower.

In everyday political discussion, it seems to me that the same applies. Admittedly, I myself felt “polarization” deeply enough to vote straight party in 2004 for the first time in twenty years. Sadly, I had little to vote for. At the global level, my candidates wanted the U.S. government to become even tougher on terrorism. At the local level, my candidates agreed on the need to build a juvenile detention centre and open more jail space. My biggest hope for my vote was that votes like mine would help to show the rest of the world that we dissent from this president and all the forces that are with his quest for conquest.

I noticed when I came back in 1985 from my first visit to Poland that people there, under martial law, questioned authority far more openly and frequently than did people around me back home. I sat in cars with friends in Warsaw who openly told off police who stopped them and got away with it. Poland was alive in revolutionary art and grassroots labour activism, so deeply and genuinely that the authorities were forced into retreat. I would get back to class in Indiana to find people spouting the latest terms of national news and local talk-show media, all talking about the same issues.

In a world and a nation of multiple issues, at this time, it became noticeable to me how supposed direct competitors such as *Time* and

*Newsweek* would just happen to come out, week after week, with the same cover theme, which by this time routinely coincided with the White House message of the week.

The irony of competition is that whether you win or lose depends on whether you conform to the rules better than your opponents. You have to be bigger and tougher than the current U.S. president to defeat him. In the classroom, you have to show the teacher that you agree with what she or he knows to be true or false better than others in order to win the grading competition. You have to train harder and restrict your diet harder in order to become a legitimate athletic hero.

"The person who conforms best wins" is the first law of competition. We who live in this highly competitive culture have trouble even conceiving how to escape. So, for instance, we may say that an alternative to competing is "competing with yourself" or "being the best you can be." The idea of perfection, which by definition connotes conformity to a standard, of being one's "best," is inherently competitive. The idea of becoming more secure, fairer, safer, and more sustained with others becomes more and more elusive in this environment. Wealth and power become more concentrated, from global to local levels. One result, as criminologist Jeffrey Reiman has put it, is that *The Rich Get Richer and the Poor Get Prison*.

## THE LIGHTNING ROD EFFECT AND THE ART OF DEFINING ENEMIES

### COLOUR AND OTHER SOCIAL POSITIONS

As competition becomes concentrated and heats up at the top, the heat moves at higher voltages as lightning seeks its ground. Social heat moves along avenues of least social resistance, of political convenience. The anxiety of patriarchs at all social levels gets passed downward.

Personal duels of honour aside, this is how the competition and attendant anxiety and anger get channelled by patriarchs. At war fronts, the soldiers who fight and die are on the whole poor and marginal—the women and children who are raped and killed poorer and more marginal still. On home fronts, historically, criminal justice is a state-run protection racket. The sovereign will collect taxes and military service to protect you from foreign enemies and dangerous classes at home. From the outset in U.S. history of the great prison experiment in the science of "penology" and the birth of the asylum to mainstream criminology



today, it is axiomatic that criminals are poor, young, and of colour. They are mostly men who at other moments or fronts may be infantry privates. Increasingly and in steeper increases than for men, poor young women of colour are entering prisons and the army. Increasingly worldwide, children are given lightweight automatic weapons and forced to become merciless soldiers themselves. Increasingly, the weakest and most marginalized among us are becoming the ones we most need to watch, shoot, search, and detain on sight and the ones we send to war fronts. Those who most suffer violence because they can least fight back become those most vilified for violence, most highly profiled and punished as public enemies. This is the lightning rod effect of war and violence.

In criminology, the deepest and most enduring myth is that violence is most associated with poverty. For reasons I explain more fully in the following chapter, the more stories of victimization I hear, the more I question the myth, which even in 1973 seemed nonsensical to me. I considered U.S. government warfare in Vietnam to be unconstitutional because it violated two constitutional “supreme laws” of the land: the United Nations Charter (as a U.S. treaty) and the constitutional provision that Congress should be the body to declare war. That would make war orders of the president, issued from the White House, violations of U.S. law. Under the penal code of the District of Columbia, unlawfully ordering anyone killed would make one guilty of first-degree murder. All the murders attributed to U.S. prisoners could scarcely begin to match the number of Vietnamese victims of White House murders. Regardless of whether a sitting president is subject to prosecution as against impeachment, the point remains: those who command the most firepower and the most money are odds on, “under law,” to be bigger murderers and thieves because of opportunity alone than the rather pathetically weak figures we normally put in prison and burn out of bunkers.

Nonetheless, where patriarchy is concentrated, particularly in the heart of a military empire, the least questioned premise is that poverty and foreignness (associated with “darkness”) cause crime.

In World War II, the enemy became an “axis” of power. After that war, the enemy in the U.S.-centred war became “global” communism. (“Better dead than red.” Now, in an ironic and publicly unquestioned twist, states that vote Republican are known uniformly across mass media as “red states,” while Democratic states are coloured in royal

blue. The Republicans have taken over redness.) After the collapse of the Soviet Union and the triumph of “democracy” and “free markets,” the supreme enemy that remains is “terrorism.”

### **TERRORISM AS A PERFECT ENEMY**

I grew up during the McCarthy era in the 1950s. I felt my academic parents’ fear of being publicly associated with communists. In 1962, I was home from college, sitting in front of the black-and-white television, watching Soviet Party chair and government premier Nikita Khrushchev arrive for a summit with our president in New Jersey. As the premier walked off a plane onto U.S. soil, a band—perhaps even the U.S. Marine band, I don’t remember—played the Soviet national anthem. I remarked to my father—from a family of musicians—that I thought the melody of the Soviet national anthem was more beautiful than ours. Even years after McCarthy’s demise, my father responded, “I would be careful what I say, son.”

The Cold War ended when the Soviet Union collapsed. In 1992, the last year of the reign of President Bush I, the Project for a New American Century was born. It has its own Web site, where you can read its founding document, the premise of which is that the U.S. body politic need yet another new foreign enemy. Founding members of this “think tank” are major players around the administration of President Bush II. Bear in mind that “terrorism” had been posed as a threat to U.S. national security as early as 1948 in Harry Truman’s acceptance speech to the Democratic national nominating convention. After September 11, 2001, terrorism became the perfect enemy for U.S. politicians trying to survive and rise on the promise of patriarchal protection. The timing was even immaculate, because 911 is the national number for emergency assistance, and this was even the first 911 of the third millennium.

I trace the history of mounting fear and surveillance in the chapter that follows. I note there how selective interpretations are, even among the most radical of my compatriots, regarding what to label and explain as “terrorist.” As to 9/11, for instance, do we explain the deed by understanding what is peculiar to the life histories of those onboard who turned planes into weapons? I wonder. Long ago I stopped believing that young African Americans on street corners and in ghetto drug hangouts, those overwhelmingly incarcerated for drug offences, told me anything about who really planned and executed

drug marketing. Nine-eleven hit people who lived in the United States at a time when U.S. leaders, as Teddy Roosevelt in 1896 and the Project for a New American Century nearly a century later put it, needed a new cause for war.

What a perfect enemy “terrorism” is. If you can’t tell who they are, you can’t tell how many of them are still out there. If they play by guerrilla rules and represent a movement against you rather than being a state with a leader who can surrender and thereby end resistance, there can be no—as people used to hope after the world wars—war to end all wars. President Bush II is the first president to declare a war that he tells us has no foreseeable end. Terrorism has become an eternal enemy.

The War on Terror is immaculately dressed in racist, chauvinist, and apocalyptic religious terms throughout public discourse in the United States today, even in discourses I have with avowed “liberals.” It is to the credit of many of us in the United States that we recognize historical grievances people in the Middle East and Muslims have against Christian Crusaders. It is unfortunate that we in my country so readily accept the “terrorist” definition of the enemy.

There are many incidents that might have been labelled terrorist but have not been. Consider the anthrax scare that began as President Bush II was trying to push the Patriot Act through Congress, with anthrax powder even showing up in the mail room of Senate Majority Leader Tom Daschle. Mail rooms, especially in the D.C. area, were closed as mail workers and others died of anthrax exposure. A couple of years later a white U.S. scientist was heavily and publicly searched and investigated by the FBI, but to this day the terrorist or terrorists responsible for these attacks remain unidentified. Is it perhaps politically inconvenient that they might not be Middle Eastern Muslims?

There are unexplained derailments, plane crashes, explosions, mass shootings. Sometimes, as when a passenger train derails, assurance is quickly given that terrorism is not suspected. That would not fit the assurance given after 9/11 that Al Qaeda under Osama bin Laden’s direction was the enemy and the Taliban and southern Afghanistan therefore the legitimate military target. It is remarkable how quickly authoritative sources and the media who report them know what is and is not terrorist and how conveniently “terrorists” turn out to be associated with “fundamentalist Islam.”

I could see it coming in the late 1980s, and by the time *The Geometry of Violence and Democracy* was published in 1991 I foresaw that an East-West divide would be superseded by a North-South divide, where the emphasis would be on division between a white Christian North and a coloured Muslim South. Sadly, that shift in the axis of identification of global enmity has since come to pass. Terror is the latest race- and religious-based class enemy to have been portrayed to the U.S. body politic. It is a globally epic, mythic confrontation between what President Bush II baldly and crusadingly labels God-blessed and “evil.”

I have come to look for a conceptualization of enemies of social security that transcends the identification of personal enemies. Chapter 5 describes my how alternative concept of “violence” has emerged.

## CHAPTER 5

### VIOLENCE

In 1973, my problem of interest in criminology was still “crime” or the “treatment of offenders.” Today my problem of interest in “criminal justice” is “violence” or being driven by fear rather than by empathy. Today I find, as I have described, that patriarchy is the prime historical template on which violence is organized and legitimized. In his *Structure of Scientific Revolutions*, Thomas Kuhn has termed this a “paradigm shift.” In this chapter, I begin by describing violence across a sample of “all our relations,” as the Lakota, for instance, would say.

#### VIOLENCE IS STRAIGHT RATHER THAN CROOKED

In 1973, I made what I have since come to see as mistakes, idealizing examples of “peaceful societies.” It was Norwegians themselves who warned me against taking for granted that there was less violence in Norway than in the United States. What I have since come to see are more and more parallel manifestations of violence across the planet, in the daily lives of the rich and the poor alike. We are, as the saying goes, all connected. As I think of describing to you at this moment what “violence” means to me, images float back to me, beginning with flashbacks to something besides the radical feminism I learned when I was back in Norway in 1986.

As I recall, it was early in May 1986 that Nils Christie took me to the village of Vidaråsen. I remember that it was warm and isolated enough for me to go off into the woods and, without fear of discovery, strip naked on an embankment over a ravine and soak up the sun. Vidaråsen

lies about an hour south down the fjord from Oslo. It is a Rudolf Steiner village.

Steiner was a prolific author and “clairvoyant” who founded a way of life he called “anthroposophy.” Perhaps his most pervasive legacy are Rudolf Steiner schools, particularly at the primary level. Beside that legacy are villages for what Nils calls “special people,” whom today in my country are called “mentally challenged,” who lived in formally anarchic arrangements with state-supported staff in something remarkably close to self-sufficiency.

Nils took me to stay in one cottage (while he stayed in another) for a couple of days. While we were there, an anthroposophical hydrologist visited the sewage treatment facility he had designed for the village, which in Norwegian state inspection had turned out to be way above the standard for drinking water purity (which in Norway is saying something).

I can still vividly remember the gentle hillside in which untreated sewage water emptied into custom-designed concrete mouldings that looked like half-sections of kidney. Water sloshed with a steady, gentle whoosh from one chamber of each kidney to the other and out the other end to the kidney below it. The kidneys were set into the hillside at a slight downward angle. Back and forth the water ran from one stone to the next, at least half a dozen in all, then into a pool. At the front end of that pool, there was a grass-covered dam over which the water flowed at a depth of barely several inches into another pool below, the village’s water supply.

The designer gave us a slide show in the village, describing the anthroposophic principles upon which his water treatment system was based and showing us auric photos, among other things. I remember most vividly his photos of the Rhine River in Germany before and after it had been straightened. The meandering river had been alive with fish and other lifeforms and clean. The straight Rhine was dead and dirty. Looking back, this is when I got the message that moving in straight lines instead of meandering is violence in all our relations.

By the time I took my sabbatical in Dar es Salaam, Tanzania, in 1990, I found myself giving a guest lecture at the university on how “improving the infrastructure” of the country would simply drive the country deeper into debt. I notice that in Santa Barbara in 1973 I had already warmed to Jane Jacobs’s finding in her 1961 book, *The Death and Life of Great American Cities*, that New York neighbourhoods

with short, twisting streets became less unsafe as thoroughfares were built through them and as businesses became less diverse so that, for instance, there might be no businesses open on a block at certain hours of the night. I understand that Tanzanian roads are vastly improved since 1990 and that foreign goods are plentiful to those who can afford them, although inequalities have grown—the broken-glass-covered, guarded walls around homes of people of means are as ubiquitous as ever—as Tanzania has descended way deeper into international debt and ownership.

By 1988, in an article I reprinted in 1991 in *The Geometry of Violence and Democracy*, I wrote on something else I had learned in Norway (this time by translating my English thoughts into Norwegian for a series of lectures). In “Violence as Unresponsiveness,” I wrote of having come to see violence essentially as going straight. Ironically to me, as I now conceive violence, in U.S. parlance “going straight” means that an offender is becoming law-abiding. I take the view instead that when we assume responsibility for the harm we do to others, we meander, like the stream that cleans the waste water in Vidaråsen.

### LETTING GO OF COUNTING “CRIME” AND “CRIMINALITY”

As I look back, my journey of living and learning about crime and the treatment of actual and potential offenders has meandered considerably itself. How appropriate. As I write, I am a student of violence and peacemaking rather than, as I was in 1973, a student of how to deal with “offenders,” a polite word for “criminals.”

As I recall, I was twelve when for Christmas my parents gave me a copy of the collected works of Clarence Darrow, *Attorney for the Damned*. I know that his words inspired me to want to become a lawyer like him. I think he is the only private defence lawyer to be featured in two well-known movies, one about his defence of two rich white kids, Leopold and Loeb, to save them from a death sentence, the second in defence of a schoolteacher prosecuted for teaching his Tennessee schoolchildren that evolution was a theory worth considering. The special prosecutor in the latter case, where Darrow won an acquittal, was ironically the great Democratic populist candidate for U.S. president in 1896, William Jennings Bryan. Darrow put Bryan on the stand. Darrow’s examination of this legally “hostile” but proud opponent, over biblical



interpretation of evolution, is legendary. Bryan went back to his hotel after that encounter, and his heart literally stopped. At the time of the gift, I didn't have a clue what "socialist" might mean, let alone that in these times Darrow continued, at no fee in many cases, to stand openly for caring more about how we relate with and respond to one another than about who was good and who was evil. As a child, I resonated to that call to public service.

In 1966, I got my highest law school grade my first year in criminal law. I became a student public "voluntary defender" the following year. A year later the reports of the president's Commission on Law Enforcement and Administration were issued. That spring I took a course on "crime and society," team-taught by the executive director and senior author of the main commission report, *The Challenge of Crime in a Free America*. The commission director was James Vorenberg, a lawyer. By his side was Lloyd Ohlin, chair and senior author of the commission's *Task Force Report on Assessment*. I got one of my two Cs in law school (the other being in a course on corporations, about which I cared little at the time).

I subsequently got to know Ohlin on first-name terms as a candidate for a postgraduate research job, where he was a most generous host. I thoroughly respect the compassion that guided his quest to explain that what "delinquents" were doing was what any of us would do in their situations.

In class in 1967 in open Socratic dialogue, I confronted Mr. Ohlin with my view that, when his task force led off by reporting a steep rise in crime in the 1960s, police-reported trends they cited might not reflect what was "actually" happening on the streets. I recall trying to be polite but emphatic.

We had only two questions to answer on the final exam for the "crime and society" course, as I recall, perhaps a choice of two of three. The first question I chose asked me to imagine that I was administrative assistant to a member of Congress who asked me what significance he (I don't think anyone at the time was talking about "she") should give to the rising crime trends cited in the report of the Task Force on Assessment. My answer, in summary, as I remember it: since we don't know anything about the connection between police reports and what is actually happening on the streets, we have nothing yet to act on and ought simply to hang loose. I continue to believe that answer earned me a C for the course.

By 1973, I had left law school and finished my doctoral dissertation in sociology, on how police patrolmen returning calls for service decided whether to make offence reports, which in most cases would become crime statistics. My results (as I describe in Chapter 1): police crime-recording decisions depended most heavily of all on whether they were dispatched to check out offences in the first place.

In the early 1980s, I did a study of police crime reporting in Indianapolis from 1948 to 1978 with colleagues Phil Parnell and Bill Selke, under the auspices of a Justice Department-funded Governmental Responses to Crime Project, covering ten cities, directed from Northwestern University. In that project, I found that the great increase in crime recording of the 1960s had been set off in Indianapolis in the late 1950s, when the police got two-way radios in their vehicles, when a dispatching system was set up, and when the public was encouraged to help stop crime by reporting offences more readily. By the latter 1960s, this progress in crime reporting had set off what I came to call a “roller-coaster effect.” When crime reports went up, the rate of police crime solving—of “clearing” crimes as by arrest—naturally declined. When this happened, there would be a year or two in which arrests went up, while recorded crimes dropped. Then complaints would surface in the press—for instance, that the police would not take reports when responding to burglaries, or investigative journalists would report on sudden spurts in “unfounding” reports by detectives. (In one of these years, the police reported clearing 105 percent of murders known to the police.) Arrests would decline while offence reports rose ... and so forth.

In the nationwide system in the United States, police report “crimes known” to them for seven “index offences.” They are supposed to be the most serious violent and property crimes. On the other hand, most arrests are for public order offences. When the police are concentrating on being “proactive,” on stopping crimes before they happen or finding their own offences and offenders, they are essentially in a different realm from the reactive one in which they take offence reports. One general phenomenon in U.S. crime reporting, therefore, is that when police are concentrating on street enforcement and therefore making more arrests, their offence reporting falls off. New York City pioneered a system in 1993 called Comp-Stat, which exaggerates this effect. In conjunction with a campaign to clean up the streets to make them safe and attractive to tourists, police precinct commanders were given weekly printouts of

offence-reporting trends and told that if crime did not go down in their territory, they would be replaced. Even reports of criminal homicide began dropping by double-digit percentages (although criminologist Roland Chilton found that in the first year of this dramatic decline, reported suicides increased by forty-one percent, as described by Bill Chambliss in *Power, Politics, and Crime*, 43). The Comp-Stat system has since been adopted “successfully” by departments across the country. With the aid of computer-mapping technology, police patrols across the country have also been concentrated on reported crime “hot spots.” Arrests go up, and lo and behold recorded crime goes down.

It is a truism in criminology that “murder” reporting is rather complete and reliable. I disagree. First of all, the authorities generally want to find a body before they report a “criminal homicide.” I know too many survivors and have seen too much corroborative evidence to doubt that there are intergenerational groups across North America, Europe, South Africa, and Australasia practising ritual homicide who take elaborate precautions to destroy evidence of their crimes. Some, for instance, use portable crematoria, or bury and then rebury remains, or put remains in plastic bags in big dumpsters.

If bodies are found, death may be attributed to natural causes or causes unknown. If, for instance, a John Doe is found dead on the streets, the authorities may or may not bother to have a medical examination done. (Years ago in Cincinnati, a medical examiner gained some renown in the world of forensic investigation by initiating routine autopsies in several categories of cases, such as people found dead in cars or in bathtubs, and found quite a few homicides in the process.) And if the death is a homicide, it may not be deemed criminal. The FBI’s reporting rules add that someone killed in the course of committing a felony is not to be counted, which could apply, for instance, when the corpse is carrying illegal drugs.

In 1983, I did a study of a decade of police-recorded crime trends in Sheffield, England. Police in England and Wales report a much wider variety of offences than do police in the United States. One year the theft rate was raised by double digits by a single case. At the time, it was routine for milk to be delivered directly to customers. A young fellow was caught taking a bottle of milk off a doorstep. Under questioning, he confessed to having done the same thing more than 500 other times. The milk company confirmed the losses. The offender was formally “cautioned” by the police rather than prosecuted. Generally, trends up

and down could be explained by changes in police organization, rising, for instance, when a large number of newly trained constables were put on the streets. It occurred to me then that even when reporting rates were rising or falling significantly, it would be as unnoticeable to the police doing the reporting as the role of the police dispatcher was to Minneapolis police. So, for instance, when New York police are responding to the pressure by lowering their likelihood of discovering and reporting offences, they may not be at all conscious of what they are doing.

In 1980 in *Crime Control Strategies*, I had reviewed literature on all major indices of crime and criminality. There I had concluded that two other major ways of counting crime and criminality were equally problematic.

National victim surveys began in the United States in 1973. Those rates had already begun a rather steady decline in the 1970s. In the survey process, each time an interviewee recalled having been victimized by one of several offences, the interviewer was obliged to complete a six-page form detailing the incident. I hypothesized the wearing off of a Hawthorne Effect—the surveyors started out with a burst of enthusiasm and marginally, gradually, became slightly less probing and likely to catch and record instances of victimization.

Self-report studies began in the 1940s. Early researchers were astounded at how many offences people reported having committed for which they had not been caught. The first major modern self-report study was conducted by Travis Hirschi in 1969 on *Causes of Delinquency*. In that case, he had even asked students whom he surveyed to put their names on their questionnaires as they gave them to their teachers. He grounded his “control” theory that children who were closer to parents and in less trouble in school were less delinquent than others. In subsequent research, reverse record checks confirmed that those self-reporting the most delinquency were those most likely to have gotten into trouble with the law.

Even where care is taken to convey to informants that their responses are confidential, it seems natural to me that those who have been in trouble with parents, school authorities, or law enforcement personnel will be more likely to remember, report, and even exaggerate the commission of offences, while those who are “good kids” who are “doing well” will tend to be more in denial about their wrongdoing and more cautious about reporting offences or other rebellious behaviour they do remember.

By 1987, in an article reporting data from Sheffield, I was ready to call for a global moratorium on counting crime and criminality. It took me a bit longer to decide what I wanted to count instead, what I now call “violence” and “peacemaking.” In that process, my understanding of what is wrong with measuring crime and criminality has deepened.

I have mentioned that since 1993 I have come to know many people whom I believe to be genuine survivors of “ritual abuse.” These data came to me by way of parents facing loss of custody for asking that their children be protected from what they and medical professionals believed to be sexual assault while with their other parent. I have testified, borne silent witness in courtrooms, and borne vocal witness on the streets, in conferences, and in classes to countless—to me credible—accounts by those who have in the broadest category survived what in polite company we call “incest.” I have also encountered countless cases in which those who later reported having recovered repressed memories of one form or another of sexualized childhood violence have turned out to know things such as physical layouts of places where they were hurt that they otherwise could not have known. Add to this my learning from countless sources that “covert” or “emotional” incest, which might entail physical coldness and distance, could prove to be as debilitating to its survivors as the doing of anything even remotely illegal. Leave aside whether any of the stories I have heard of homicidal ceremonies is true. Effects of a problem characterized as “incest,” including the shame and fear of being trapped in “crimes,” dwarf the trauma represented by all the personal violence reported in victim surveys, which in turn far exceed police reports.

When I returned from Norway in 1986, I was already ready to label “the violence of silence” to be the most sinister form of personal violence of all. Norwegians themselves had helped to drive home that message to me when I told them I was back to study their “peaceful” society.

I have since learned from survivors of incest in childhood that those blamed for crime and violence may be false substitutes for those who really have hurt them. Mother blame comes to these survivors more readily than father blame. Why didn’t mother keep me safe? Why did she look away or call me a liar when I tried to tell her? This happens even in cases where women have taken their children to shelters to escape from officially documented “battering.” Canadian Phyllis Chesler inspired state, provincial, and local groups across North America in *Women on*

*Trial* to confirm and reconfirm that women lose child custody seventy percent of the time when men challenge it. More poignantly, in these circumstances, many victims act out first against their mothers in many cases I know even where children later acknowledge that (step)fathers were their abusers. Mothers as hoped-for protectors are the safe outlet for anger, fear, and resentment due to violence by others. One mother and her children whom I have been close to found out about apparent child sexual violence only because her elder daughter was kicking and biting her and screaming at her. The mother took the child to a therapist (who diagnosed the child as having been molested by the father—evidence the court would not hear) because the mother wanted to know what she was doing wrong and fix it. The court subsequently accused the mother of having vindictively turned the child against the child's father—a response that Leora Rosen and Michelle Etlin find to be the rule rather than the exception in their review of hundreds of cases in their 1986 book, *The Hostage Child: Sex Abuse Allegations in Custody Disputes*.

As of 1984, with Paul Jesilow in our *Myths that Cause Crime*, which I for my part composed in Sheffield while the police there gave and consulted with me on crime printouts, I had come to label criminal justice the “state protection racket.” That is, in the way crime and criminality statistics were presented, politicians would flaunt whatever statistics or horror stories they could muster to show their constituents that they needed tougher laws and enforcement and thus to scare taxpayers into footing the bill. Cases in which people have been jailed, as for protecting their children from their own batterers turned child abusers, have shown me that even victims become “offenders” in overly zealous law enforcement.

Whatever one believes about the reality of these oft-silenced tales of violence in custody disputes, the main lesson I draw is that some of the most horrendous personal violence we do to our most helpless victims may be particularly unlikely to appear in any of our crime and criminality data.

Back in 1973, I had a colleague who invited me and Jill to an evening of some form of group healing experience. Jill and I got split into different groups. In my group (and as I recall in Jill's as well), we were invited to think of something significant about ourselves that we had never told anyone else about. This was advertised as a trust-building exercise, a way to build bonds among ourselves. When my turn came



to report back, I somehow had the presence of mind to say, "Are you kidding...?" I think back on that as a metaphor for the problem of trying to count crimes and criminals.

At a seminar in Oslo in 1986 where we were discussing one of the studies where research "subjects" were introductory psychology student volunteers, the criminologists assembled there kept echoing the sentiment that the study was "unscientific" because the researchers did not know any of their subjects. "They don't know them. How do they presume to know what they mean by their responses?" That conversation reverberates whenever I see crime and criminality counts. Police and victim and self-report surveyors have scant foundation for inspiring trust, honesty, and depth of self-exploration. They get thin slices of human complaints.

The first European and U.S. crime counts early in the nineteenth century were censuses of convictions. In keeping with U.S. addiction to growth, the prevailing wisdom in criminology has been that more inclusive measures are closer to being real, to closing in on the "dark figure," than lesser ones. Arrests are the most inclusive official record of ages of alleged offenders. To this day, U.S. news headlines report whether "juvenile crime" is up or down by trends in arrests of young people. Bingo! If the police arrest more young people, then it must mean young people are committing more crimes. If arrests fall off, then police deserve credit for more aggressive enforcement.

I marvel at the faith people inside and outside criminology place in mass categorization of events by those who scarcely know those involved. This even applies to knowing that those convicted of crime are truly guilty as charged or as convicted. Plea bargaining is the norm. Charges are routinely added in to begin with and then dropped or modified in the bargaining process. As has been found, for example, by the Innocence Project, those who are innocent may plead guilty either to get out of jail or for fear that if tried they will still be convicted and receive harsher sentences. Nor can one take for granted that an acquittal or dropped charge means that those charged are innocent. In sum, any relation between patterns of conviction and patterns of crime in the outside world is purely coincidental. If that counting process is so unreal, then why should the first report, such as an arrest report in official data, be taken as dispositive of the characteristics of a single "offender," let alone be lumped into aggregate group counts of trends in "juvenile crime"?



## WHY IS CRIME A PROBLEM?

In 1939, in his presidential address to the ASS, the American Sociological Society, Edwin Sutherland argued that social injuries settled by administrative agreement with regulators by big businesses ought to be treated as “white-collar criminality.” In 1970, as I entered the professoriate, white-collar crime was enjoying a resurgence of criminological attention. The first texts I used in my first criminology class in the winter quarter of 1971 were Richard Quinney’s newly published *Social Reality of Crime* (its thesis: all “crime” is a social construction) and the lead report of the then four-year-old president’s crime commission. In the spring quarter, I began teaching a class on white-collar crime, where I used Gil Geis’s just-published book of readings on the subject as the text. Shortly thereafter, Hy and Julia Schwendingers’ 1974 call to substitute “social harm” for “crime” as the subject of criminology became a common topic of discussion in the field.

In an early chapter of my first book, in 1976, I argued that in the spirit of Sutherland, the “harm” we should recognize as most basic was “appropriation” — keeping others from using a resource when one was not using it oneself. I argued that “appropriation” amounted to “exploitation.” Implicitly, I argued the old anarchist-communist mantra that property is theft. Not too long after that, a colleague, Barton Parks, recommended a short book, Alexander Berkman’s *ABCs of Anarchism*. Barton, Berkman, and the two founders of “anarchist criminology” in the late 1970s, Dennis Sullivan and Larry Tifft, taught me that, yes, I was a communist anarchist. I spent a period writing several pieces calling for a communist-anarchist criminology. In his response to my talk in 1973, Robert Maynard Hutchins had turned out to be right when he detected “a whiff of anarchism” in what I had said. I just didn’t know what anarchism was until a few years later. Now I am an anarchist, although my conception of the problem has shifted significantly from “appropriation” to what I now define as “violence.”

I was never satisfied with defining the problem underlying crime as “harm” or “injury” because of the inherently political biases I saw built in to distinguishing owners and heroes from the have-nots and the villains. Take killing, for instance. Cold-blooded murder is supposed to be the worst personal crime we can imagine, and yet we give war medals to heroes who respond to their training so that they unflinchingly do exactly that. Understandably, the families of their

victims feel otherwise. Who is right? Then there's euthanasia. Even as I wrote about "appropriation" I recognized that inherently every possible legal definition I could imagine would implicitly separate who's who from what's what. As I got to know people who were and had been in prison, I became equally ambivalent about whether they or their captors were the worst offenders at hand.

In the spirit of Clarence Darrow that had brought me to criminology, I could not let myself define my problem of interest by who's who. If I were a criminologist where a political revolution took place, and suddenly owners were recognized as criminals, as in China in 1949, was I prepared to follow the political wind and define "victims" characteristics as those of "offenders"? "Appropriation" was my first attempt to think outside the prevailing criminological paradigm.

"Violence," the problem of staying straight, came to me in the wake of that 1986 spring semester in Norway. Stimulated by the fresh perspectives I got there, I searched more deeply into myself about what "harm" I really wanted to understand and deal with as a criminologist. I kept asking myself: why did I enter this field convinced that "crime" was a problem worth understanding and dealing with, determined to find a truer way to measure it? What was, and what is, the underlying problem I care about? It certainly had originally been based in my case on incredibly naïve stereotypes of who criminals were and what they were like. And yet there remained to me something basically wrong about "crime."

I came back from Norway in 1986 thinking of that wrong or harm as analogous to dredging a river to run a straight course. I was thinking about what it was that made me and others get so mad at or afraid of criminals even if we did not know them. Regardless of the reality of what "convicts" turned out to be like, what had I thought, and what did others think, was so dangerous or threatening about them? What made them so "bad" or "evil"?

I think we care most about what we perceive to be their motives. In the global movement now known as "restorative justice," a cardinal principle is that the focus is on harms done rather than on blame and punishment for rule violations, as in "retributive justice." I get back to restorative justice in the following chapters on "peacemaking." For now, as to how I define violence, motives matter most when images of "real criminals," "psychos," or other categories of archvillains threaten us. It's the inference that "offenders" just don't care about whether

their “victims” suffer or, ultimately, about whether they live or die. “Offenders” are on their own missions. Their “victims” are either part of the solution or part of the problem.

The anthroposophist’s distinction between straight and meandering water flows came back to me. It is being an expendable part of someone else’s agenda that threatens. It is being up against an actor who is hell bent to accomplish an objective—someone who is in effect headed in a straight line instead of changing course as the actor meets resistance.

When I hear students paint portraits of people whom they have never met who have “broken the law and therefore have no rights,” I see portraits of people who just don’t care about anyone else. “These people” will kill you or rape you and don’t even deserve to live. On the other side of the fence, I have been in steady correspondence with prisoners since 1973. Among prisoners I have noticed a hardening attitude toward what one black long-time pen-pal of mine, placed on potentially endless twenty-three-hour lockdown some years back, calls the “KKKops.” In groups, “they” (who implicitly have nothing in common with “we”) are on their own missions. They’ll use and abuse you on their own agendas.

Regardless of which side of the social fence we are on, “their” interests, objectives, and needs are totally divorced from “ours.” This independence of social agendas and objectives defines all our enemies. “They” are trying to get “our” purses or wallets or possession of “our” bodies regardless of “our” feelings. “They” want to get their jobs done without concern for “us.” From the victim’s perspective, the most haunting and threatening offender of all is the one who moves most relentlessly in directions unaltered by or unresponsive to the feelings and interests of others.

Having become a criminologist focused on controlling crime and criminality, I now focus on the problem of people moving in their own courses unaltered by others, in effect in straight lines, the problem I call “violence,” and consider how violence in all our relations might be defused rather than diffused and further multiplied.

## DISCIPLINE AND PUNISH

(Some readers will recognize this section heading as the English translation of the title of Michel Foucault’s *Surveiller et punir*.) It doesn’t matter to me whether goal or agenda fixation is legal or illegal. Violence,

defined as fixation on substantive outcome at all levels of human interaction, hurts me and others around me just the same. If I am right that violence is what most separates people, divides their destinies, and destroys trust and honesty, then it is a broader and deeper threat to social security and solidarity than whatever sample of violence happens to be labelled “crime” or criminality anywhere, anytime. I notice legitimized violence all around me.

For example, by the time I began meeting survivors and victims of child sexual assault and their advocates in the early 1990s, I had already concluded that children are the ultimate underclass. Oppression can of course be compounded by race, class, and gender—the most vulnerable status into which to be born is to be a poor girl of colour. It appears to me that if we ever came globally to transcend racism, classism, and sexism, we would still face ageism. As Mike Males points out in his books on the scapegoating of young people, adults of middle age exceed adolescents on every index of rate of social pathology we use, and yet practically every criminologist I know believes that adolescent young men of colour are the model violent criminals. More fundamentally, I am confident that most people the world over, young and old alike, presume that children need to be disciplined and, among other things, taught right from wrong by their elders, because adults know more than children. There is no more fundamental justification for patriarchy and paternalism than chronological age and experience. It is refreshing to read Alfie Kohn’s challenge to this premise in his latest book, *Unconditional Parenting*.

The premise that children know less and are less capable than adults is patently false. How many children take care of sick and crazy adults? I expect it is as likely that a child may catch a parent crossing the street in front of an oncoming car as that the parent may catch the child doing so. When I hear people saying that a parent has a duty to punish a child to teach that child a lesson about having almost crossed the road in front of a car, I wonder what duty a child has if the parent is the one who doesn’t see the oncoming car. If the child needs to be spanked to teach her or him a lesson, then does the parent need to be hit that much harder on account of size? If not, then the only principle I can see being taught by the spanking is that might makes right. It is not “enlightened” or “rational,” let alone fair or right, that a parent or other adult authority figure should tell a child what to feel, believe, or remember any more than that a child should be able to dictate the same to a parent.

In one of my favourite books, *For Your Own Good: Hidden Cruelty in Child-Rearing and the Roots of Violence*, renegade psychoanalyst Alice Miller uses a series of case histories, including those of Adolph Hitler and of a serial murderer, to argue that the primary cause of violence, including theirs, lies in the premise under which they were raised as children—that adults know better than children what is good for the children. By this premise, “for their own good,” children need not only to behave as adults think they should but also to learn to feel the way adults think they should. Obedient children don’t get angry or cry when punished because, from the adult perspective, there is nothing valid to feel angry or bad about; instead, the children should be grateful. As a corollary, obedient children do not enjoy or want things the adults do not. They learn to repress their own feelings. In countless ways, children under this regime learn that might makes right. They learn that it is normal for holders of power to displace their fear and anger onto their inferiors and normal too for those who can muster the might to project onto others what they want and feel. This is the mentality, for example, represented by people saying of those whom they have raped that they “wanted” or “asked for it.”

To me as a parent, the most insidious part of this premise is that it is the duty of good parents to make children into their images of ideal people. If they were not punished for their misdeeds, then our children would grow up spoiled and self-centred. If we did not force them to value and learn things that did not interest them, and push them to excel at competitive endeavours such as academics, then they would grow up unprepared to succeed in adulthood, and it would be our fault. It is not only archvillains such as Hitler who feel entitled to punish people. In this child-rearing system, it becomes a virtue to accept punishment and discipline by one’s superiors and a duty to engage in and support punishment and discipline of one’s inferiors.

## EMOTIONAL INCEST

Therapists call the phenomenon of making children into parental images “emotional” or “covert incest” because the same symptoms are presented as those of incestuous sexual assault, although there is no overt sexual acting out. In fact, it is common in severe cases for “offending” parents to be both physically and emotionally detached, to be unable, for instance, to say “I love you.”

Emotional incest means making parental approval depend on whether children meet the parents' emotional needs, including attaining the kind of success parents wish they themselves had enjoyed and bearing the brunt of dealing with parental anxiety. "For your own good" is just one cover among many for parents in all their own insecurities and failure to be loved unconditionally themselves, to make their children take care of their emotional needs rather than the reverse. Emotional incest is what brings ACOAs, Adult Children of Alcoholics, together.

Alice Miller and others who recognize repression as a problem would label the underlying social harm "dissociation." In order to get by, we so get into trying to gain approval from people who count that we lose conscious awareness of how we ourselves feel. When we persist in trying to inflict pain and punishment on those who "deserve what they get" as substitutes for resisting and reacting directly to those who have actually hurt us, dissociation enables us to carry on. In so doing, we echo the voices of our parents, who told us they were hurting us for our own good because we deserved it. Instead of responding to the person at hand, we implicitly reach out to gain love and approval from our parents on their terms.

In the 1970s, it was camp social psychology to discuss the "imposter" phenomenon. Sociologist Erving Goffman had described the phenomenon in his book *Stigma*: if people I encounter in everyday life *really* knew me, they would reject me. I would be discovered to be an "imposter." I can't let my true self show. If I have a soft spot for a "criminal" or "enemy," I can't let on. The only cover I have is to be on the socially acceptable side. And as sociologist W. I. Thomas put it, "Things that are defined as real are real in their consequences."

I learn a lot from what students say and write in my classes, as when they say, "Criminals have no rights." As years go by, I also find them more and more willing to consider exceptions as I grant them respect for speaking their minds regardless of whether they agree with me, their parental figure of the moment.

I also learn about displacement and projection from talking with other teachers. From the time I began teaching, I have heard a constant refrain. The polite or "liberal" view is that students these days are coming to "us" less academically "prepared." The more "conservative" position is that students these days are just not interested in learning, are lazy, or are unwilling to read or work. I confess that, seeing violence



as I do, I'm as likely to respond abruptly and a little angrily when I hear this in supposedly polite conversation.

As I introduce myself to students in each class and talk about how my grading system departs from convention, I tell them that I consider most of them to be victims of an educational system in which teachers, textbook writers, and test writers had all the right answers. They have in general, I presume, been taught that their own opinions don't matter. "It's just an opinion" is a common way of dismissing what someone has to say, the speaker included. I recognize that perhaps my greatest challenge in the classroom is to get students to believe that their opinions matter immensely. It follows that the ways they arrive at their conclusions and reasons for their feelings matter; their ability to communicate what they in their own hearts and minds feel and believe, and why, matter. I present myself as responsible for accounting for what I am learning from our conversation during the semester. For a grade and in ungraded discussion alike, I ask them honestly to describe and account for their own reactions to class material—what they really feel and think rather than what they think I want them to feel and believe. While I ask myself to assume responsibility for my own learning, I ask them to assume responsibility for theirs.

I go further into how I structure my teaching and the results I get in the chapters that follow on peacemaking. For now, the point I am making about violence is that people who are forced to strive for other people's goals or to serve other people's agendas are driven to dissociation, which manifests itself in abdicating personal responsibility for persistently and unrelentingly inflicting pain on others. Dissociation is a personal foundation from which punishment and enforcement even become a duty. Failure to perform this duty even when "this hurts me more than you" threatens social ostracism and rejection. Prosecutors and legislators dare not be soft on crime. Power holders may even hate the jobs that they are doing and justify themselves as driven to set and uphold standards of right and wrong. I lost my first two teaching jobs in part because colleagues thought I was not enforcing "quality control" in the classroom. Fear of rejection or retaliation drives people to support and sustain violence, including the hubris that the professor has all the right answers.

As dissociation separates us from our own honest selves, so it manifests itself by its use of separation as a primary tool of social control. Excellence in teaching entails being a tough grader. (I once told



a senior colleague who asked how many Cs I was giving that I wasn't giving any because I was teaching the class too well. He didn't laugh.) Separating offenders from victims (lest victims "take the law into their own hands") and from "law-abiding citizens" becomes regarded as the primary obligation of those who "protect and defend" public safety.

Whether violence is even considered legal or political duty or deemed criminal, having to live out other people's agendas or serve their competitive objectives separates us as much from ourselves as from those we condemn. An implicit message is that the only acceptable way to live is to hide one's own vulnerabilities or failures. As I write, we are told that the U.S. president has learned that being "presidential" entails never saying that he is wrong or sorry. If you let on to vulnerability or emotional softness (i.e., qualities under patriarchy known as "feminine" or as "weakness"), you may be fired, you may get laid off, you risk rejection as an unloving partner. At any time now or in the future, you may be "discovered" to be socially undeserving or, worse, deserving of punishment, death, or history's (or your gods') eternal condemnation. We are liable to suspect that no one will care when we die or that, even if materially we are highly "successful," people will dance on our graves. As individuals, social winners and losers, bosses and subordinates, we all feel isolated. We call the resulting culture one of "individualism." Ironically, in our attempts to set and reach lofty objectives and enforce agendas like those set in penal codes by legislators, those who wield power over others—their subjects—and those whom they would protect and defend all end up feeling more and more isolated, angry, fearful—in a word, more *insecure*. In this system, everyone becomes a victim.

## MEANDERING

I return to where I began this chapter, being shown that water lives and cleans itself by meandering and dies and kills life within itself when its course is straightened. As I described turning from rivers and sewage treatment to crime, and celebrated the insight that being straight or straightening others out was the thing that most separated rather than connected us, I mentioned that I originally had thought I had simply and truly defined the "violence," legal or not, in all our relations, as being set by one person's or group's agendas or substantive objectives, for those who set the agendas and objectives and those forced to follow

them alike. I still hold to my 1980s' paradigm shift to identifying and combatting "violence" rather than "crime" or "criminality." In recent times, I have moved on and significantly qualified what I mean by "violence."

In retrospect, as with graduate associate instructors in class and in seminars, I was experienced in acknowledging that simply being crooked was as destructive as simply being straight. Norwegians whom I know best are remarkably direct verbally about openly doing a presenter such as me the favour of showing me I can't possibly be as smart as I think I might be. They reflect a Norwegian tradition I first encountered in 1961 of telling you to your face in front of witnesses what they feel, on the spur of the moment, you can't really mean if you think about it further.

In March 2004, I gave a talk at the University of Oslo in which I argued that going straight ought to be substituted for crime and criminality as their problem and mine. Nils Christie asked me to suppose I were the captain of a boat close to port. Would I not want my crew to be disciplined and focused on the objective of docking the boat safely? This is not the first time Nils, among other Norwegians, has moved me to re-analyze and redefine my problems and how I respond to them.

In my talk, I had failed to acknowledge that quite plainly, in all kinds of everyday situations, our lives depend on co-operating in attaining a goal (reaching port) or enforcing an agenda (getting there safely, efficiently, and effectively). At the time, I acknowledged to Nils that he had me and that of course I myself depended on working with others toward common objectives. At that moment, I told Nils he had awakened an awareness I had begun to acknowledge in my teaching, that the problem was somehow one of *imbalance* between getting jobs done, such as collecting waste and having food on shelves or on farms, and openness to changing direction (from levels such as deciding who gets to shift course on the way to port to deciding whether to stay on this ship or what future course it should set or cargo it should carry).

Every time an unstraightened river meanders, it turns a bend and goes in a straight line for an interval before bending again. It balances straightening and changing its course. It slows its flow, its wattage, its power when it pauses safely and openly to run a straight course, after accelerating its flow as it has turned. If the model of what makes us safe and sustains our lives generalizes to human interaction as I postulate, I now see violence as *imbalance* between goal attainment and changing

what we at all intra- and interpersonal levels are after. The difference between perspectives of rapists and victims on what victims want or deserve is a classic criminological illustration. He doesn't notice her pain and fear even as she infers that he may be about to kill her. Coordinated definition of and response to social needs becomes enhanced social jeopardy for all involved when people don't take time (a) to listen to pain and fear from those whom their own agendas affect and take time (b) to reflect and reconcile their own agendas with others, as Nils might put it, for the moment, in the same boat. If people are really abusing us, then appeasement admittedly contributes to the problem.

Many are the images across cultures and in languages that "justice" or "fairness" entails balancing interests or that "violence" is "imbalance." I now regard imbalance between going straight and meandering as the essence of violence. It is imbalance between time for self-expression, time for listening, and mutual accommodation and bending within and among all concerned that now represents "violence" to me. I think of "peacemaking" as meandering rather than simply being crooked. Tactically, effectiveness and efficiency are vital to the peacemaking process in their own turn. Strategically, goal and agenda fixation promotes pain, fear, heat, resistance, and danger for all concerned when it becomes unrelenting.

## NON-PARTISAN CRIMINOLOGY

In "violence," I have found a definition of social harm that transcends the political arbitrariness of defining harm as "crime." It doesn't matter whether being stuck on following someone's or some group's agenda is legal. It doesn't matter whether a person or group is setting that agenda or being forced to follow it; everyone involved in the process becomes more isolated, more insecure. It is in the nature of violent relations, driven as they are by fear of "deviation," that fear and its companion, anger, feed on themselves and amplify their power among all who interact there, regardless of class, although at any moment, by definition, subordinates get the brunt of the blame and pain for violence. (Otherwise, they wouldn't be *subordinates*.)

I think of violence as karmic. It may take generations, but unless violence is relieved in the peacemaking processes I describe in the chapter to come, the pain and bloodshed that go around will come

around. The Dalai Lama does a nice job of laying this theory out. By definition, growing wealth and power entails growing inequality in human relations. No wonder the U.S. White House has become a fortress. I have been criticized as a sheltered, pampered, privileged white man (which I am) for saying so, but I believe that as people rise in wealth and power, they too become terrified by the process. That terror gets passed down. In the United States today, for example, predominantly poor, rural, white men typically guard predominantly urban men of colour. Poor rural communities compete to have prisons built in their towns because family farms are failing and plants are moving out of the country. As a reward, guards and prisoners get to end up taking their common subordination out on each other.

These are the circumstances under which, like so many others before and beside me, I try to find non-violent ways to respond to violence. Without non-violent expression of the pain, fear, and anger we suffer, we are trapped together in a social pressure cooker that heats up all our relations.

Redefinition of criminology as the study of violence rather than of crime and criminality enables me to study a common phenomenon across legal, cultural, class, race, gender, and age boundaries. Come political revolutions such as China's in 1949, I don't have to redefine my basic research interest once again. "Violence" transcends partisan political positions.

## **VIOLENCE PROMOTES IRRESPONSIBILITY**

Violence promotes irresponsibility in many ways. Here are a few of those ways I have noticed.

In criminal justice, "holding offenders responsible" is an oxymoron — a contradiction in terms. Oxymorons abound in the language of violent social control. "Criminal justice" is one oft-cited example. In the case of "holding" people "responsible" or "accountable" for their actions, we have a pretext for taking over responsibility for people's lives. But how in actual practice do we show we are "responsible"? How do we in practice become "accountable"?

In 1986, when I was translating things I had been thinking about in English into Norwegian, I became conscious of the fact that in Norwegian there is a single word for "responsibility," "accountability," and "liability." The Norwegian word is *ansvar*, from the same German

root as “answer” in English. As I break the word down, I come out thinking that the most direct English translation is “responsiveness,” and I think of the adjective *ansvarlig* as “responsive.”

In English as in Norwegian, “responsibility” or “being responsible” connotes trustworthiness. When people become responsible, by implication, you no longer need to control their responses to be safe with them. They have shown themselves to be responsible by making honest, well-considered choices on their own, without having to be told what to do.

When we hold offenders responsible by imposing sentences on them, we make their choices for them, for their own good, and presumably for our own good in the process. Prisons are designed to take choices away from captives. One kind of paralyzing fear people talk about facing when they come out of long terms in prison is that of making their own choices, beginning with when to get up and what to eat in the morning. They are situated to be more handicapped than students of mine who feel they don’t know enough even to have an opinion on a major social issue. They have learned that they are incapable of making their own choices.

Today in my country, it is commonplace to believe that those who break rules, beginning in childhood, need to be “given consequences.” As advocates of restorative justice (as in victim-offender mediation) point out, if we want people to assume responsibility for their actions, we want them first and foremost to recognize, as from their victims, what consequences, what harms, are already at hand and then to create and participate in efforts to repair the damage. When we give consequences, we draw people’s attention away from how they have affected others to what we are doing to them. Effects of the harms we do on others take a back seat to focus on ourselves.

“Accountability” literally means acknowledging what one has done and answering any questions those affected have about why as well as about what. It means explaining oneself. When instead I hear people talking about holding people accountable, they typically don’t want to hear anything from their offenders. I hear them say, “I don’t want any excuses” and “Saying you’re sorry doesn’t help.” I hear them say they want to do the accounting—to tell offenders things the offenders need to know about themselves and what they have done rather than letting the offenders account for themselves.

At a higher level in criminal justice, the idea that legislatures and supposedly impartial judges and juries decide what consequences flow

from violent acts further undermines responsibility and accountability. In the lead article in the *British Journal of Criminology* in 1977, Nils Christie famously wrote about “Conflicts as Property.” He focused on who “owned” conflicts. Did parties to a conflict have a say in defining issues at hand and in negotiating settlements? Not, Nils argued, when the results were set by law, as in the criminal justice system. That is perhaps a little extreme. The accused is offered an opportunity to argue how to fit the evidence into the law’s terms, and in many jurisdictions those affected by a crime have an opportunity to be heard on sentencing. But the idea that results of the process are considered a matter of “the law taking its course,” as determined by disinterested parties, implies that the affected parties have no share of responsibility for the results, and rules of evidence sharply limit the capacity of interested parties to account for what has happened in their own terms.

## VIOLENCE INHERENT IN INCORPORATION

Talk of ownership takes me to violence beyond the criminal justice system, to a realm where no one has ownership, the realm of corporations, particularly of for-profit corporations. While criminal justice processes themselves strip parties to disputes of responsibility and accountability, incorporation is a legal term, literally, for a state grant of limitation of “liability” — the third English equivalent of the Norwegian word for “responsiveness.”

Adam Smith’s 1776 book, *The Wealth of Nations*, is widely considered to provide the theoretical foundation for what in nineteenth-century England was called “liberalism” and today is called “free-market economics.” Smith argued, I think quite astutely, that, when people’s personal livelihoods depended on the quality and honest value of their products, an “invisible hand” would operate to give customers maximum value for their money.

What most fans of *The Wealth of Nations* overlook (but not criminologist and *Myths that Cause Crime* collaborator Paul Jesilow, for instance) is Smith’s focus on incorporation as the primary threat posed by state regulation in the late eighteenth century to the operation of the invisible hand. I admire and appreciate the clarity and cogency of Smith’s analysis throughout the book.

To Smith, the threat corporations pose is that investors can *limit* their liability. By the time he wrote, investors who did not know each



other were already getting state charters to limit their liability for any misdeeds or bad products and services to whatever they invested. Incorporation was the great enabler of absentee ownership. It was a realm in which the goal of maximizing profit for all investors overrode all personal responsibility and accountability for what was done on behalf of the corporation. If you worked there, you might even work yourself out of a job by becoming too highly skilled and careful about the product you made and honest and attentive to the needs of would-be customers. If you were the corporate boss (today “CEO” or “COO”), your job tenure depended on making money. If you were a shareholder, your stake in whether the business succeeded was limited by state charter. Everyone’s responsibility in the production and sales process was “limited.”

Incorporation has blossomed since Smith wrote. Forms of incorporation have multiplied, including blends of public and private ownership such as the only positive social service guaranteed to people by the U.S. Constitution—the United States Postal Service ([www.usps.com](http://www.usps.com)). At the global level, the power of incorporation has taken another great leap forward in the establishment of the World Trade Organization. A national/transnational split persists on whether to raise or lower national trade barriers. I am reminded of a Native American prophecy that Eurocentric domination here will begin to collapse after half a millennium. An American Indian friend points my attention to how U.S. sovereignty is being eroded by transnational capitalism—by corporations establishing that they have the power to get nation-states to compete for their services, just as communities compete to have private companies build and fill prisons for them.

By no less authority in the United States than our Supreme Court, corporations have all the constitutional rights of “persons.” In the traditional and still largest category of incorporation, this means that doing one’s corporate duty is reduced to maximizing shareholder profits. Life is a crapshoot for every single human being involved in a corporation, where, as far as membership is concerned, survival depends on serving corporate growth. Duty to corporate charters and expectations from absentee owners demand service to what has become a term in common usage in the United States today, the “bottom line.”

To belong in the corporate world is to serve the profit of an inhuman monster. Smith was prescient. The invisible hand, economic responsibility, gets destroyed by dependence on corporate welfare



and performance. Today I see that I was wrong in focusing on state control as *the* social problem in 1973. Publicly and privately, side by side, what matters more to whether we endanger or secure ourselves than “socialism” or “privatization” is whether people in any realm of interaction share or are deprived of equal ownership of and responsibility for the task at hand. Publicly or privately, incorporation is a blight on personal responsibility, tends to reduce accountability, and limits liability no one in fairness or for the common good should be excused from sharing. Worker/customer democratic ownership and operation comprise is an option I explore under the heading of “Peacemaking in Practice” in Chapter 7.

## DRUG WARS AS PROMOTIONS OF IRRESPONSIBILITY

You don’t have to be “self-medicating.” Now doctors, including psychiatrists, routinely order patients to take mind-altering drugs. In my time as a criminologist, President Nixon first declared a U.S. war on drugs during his tenure. First Lady Nancy Reagan subsequently led what became a global “anti-drug” cheer: “Just say no!”

It has proven to be yet another oxymoron, if not bald-faced hypocrisy. Several years ago manufacturers of drugs licensed for prescription gained U.S. government permission to advertise. I infer a consistent message: do take mind-altering drugs. The one and only contribution your life can make is to take whatever your doctor and professional associates prescribe for you and to avoid “dependence” on drugs you yourself choose to take.

I have two primary issues with contemporary drug wars. One is that they reduce social problems to “yours” rather than “ours.” The other is that they encourage people to put their mood or mind control in the hands of professionals, as in taking prescribed “meds.”

The rise of “zero tolerance” and “staying straight” during my criminological career has highlighted the double message of drug control. On their face, drug wars are about discouraging the use of mind-altering substances. On the other hand, the best thing your “doctor” has to offer is his or her own prescription of a certified-safe mind-altering substitute. In the United States, where the drug war is being fought so hard, mind-altering drugs are being openly and “legitimately” pushed harder than ever. The question is not whether to handle one’s problems with drugs; it is whether you or your professional is better qualified to decide how you use drugs.

The drug war contains two messages in one. First, insofar as it takes hold of political dialogue, it reduces social problems to personal problems. Second, it implies that if you are having personal problems, you aren't qualified to decide what to do about them. Instead, take the drugs your personal physician and pharmacist prescribe. If you have a problem, defer to the proper authorities, who will tell you what to do. Take only what you are told to take.

Of course, wars on drugs are not the first and only wars to try to tell people they are suffering because they, personally, are not obedient enough. Wars on drugs are a drain on responsibility — another oxymoron in selling violence to “solve” violence. In the guise of telling people to take control, they admonish them to “take their meds” as “physicians” prescribe. The “solution” to this most basic social problem is for people to take what their betters tell them to take in the guise of taking care of themselves. Patriarchy reigns again. “Professionals” become the patriarchs. Drug wars are exercises in individualizing blame for social problems and surrendering responsibility for decisions about oneself to those who know better than oneself what is for one's own good.

### **“SOLUTIONS” ARE INHERENTLY VIOLENT**

When I propose what I call “peacemaking options” as alternative social control systems in a course required for criminal justice majors (and taught by others in their own independent and creative ways, which take the heat off me for being resented as the only way to meet the requirement), listeners commonly grow impatient with my criticism and challenge me, asking, “What's your solution?” Inwardly, I feel the question is unfair. Outwardly, I recognize that, in all our conversational media these days in my part of the world, I hear demands and sales pitches for “solutions” all the time. I cannot blame the questioners. “Solutions” are demanded of all of us who propose changes in social direction. In this cultural syllogism, it follows from not having a solution that you are irresponsible to waste human time together complaining about what you can't solve and not doing as the proper authorities tell you to do.

The question strikes me as unfair because our “proper authorities” don't solve our problems either. The War on Terror is the perfect enemy because the “enemy” cannot be identified, let alone conquered. Advocates of reduction in incarceration rates, like me, were disappointed

when voices that supported and sustained increased incarceration won supposedly rational arguments so handily, concluding the very fact that “crime” was going down warranted still more subjection to the powers that be. The same happened after U.S. government forces “won” the Cold War against “godless communism.” The authoritarian lesson: we are so successful in providing security against foreign and domestic enemies that we need to redouble subjugation to the proper authorities.

I don’t pretend to prescribe solutions to human problems any more than anyone else. Hitler was right; the only solution to any human problem is human extinction. Once we all die, none of us is ever criminal again.

As we meander through life-supporting human interaction, we depend on straight runs where human beings produce and maintain dependable structures. We want to build and maintain bridges that don’t collapse under the loads we carry over them. But no bridge lasts forever, and, as we see, some bridges are abandoned or converted to “trails” as time goes by. The most solid bridge is not in the social run a “solution” to any human problem; it is a carefully thought-out way to address a problem in the moment. Suppose instead, in something like the mobilization of corvée labour that built the Great Wall of China, larger and larger percentages of us were employed in building bridges. We don’t ask bridges to be “solutions.” We ask that, when we build them, we don’t destroy too much, make them as safe as we can, and assume responsibility for modifying them as needs arise.

More problematically, we have not solved the problem of defending life by, for instance, preventing abortion of unwanted children. I share the ultimate earthly commitment to promoting human life and security. But death is the only “solution” to any human problem. Defending life and harmony entails letting go of pretensions to getting rid of problems in favour of living with and accommodating human conflict.

If a law could solve a problem, then there would be no need for law enforcement. If punishment of offenders could solve our crime problem, then we would find less need to lock our houses and less call to lock up some among us. If giving offenders consequences solved the problem they presented to us in the free world, then people coming out of prisons would be deemed at least as reliable and trustworthy job candidates as others and, perhaps because of “special deterrence” or “treatment,” regarded as even better risks than applicants who had never done time and been taught serious social lessons. If punishment

and separation solved victims' problems, then I would not know so many survivors still struggling with the rape and other torture their long-dead fathers and mothers had inflicted upon them.

I once entitled a chapter I contributed to a book "A Pessimist Looks at Punishment." I have no solutions to offer, but, truth be told, neither do defenders of top-down "solutions" to human problems. This being the case, consider what a demand for "solutions" does to openly, honestly, compassionately experimenting with change. The message is that if you question authority and don't have a solution, then you don't have a serious claim on anyone else's time. No wonder students who challenge me to offer solutions also believe that their opinions, and implicitly their actions, don't matter unless they go with the flow and "succeed" therein. Nobody, including Hitler, has a solution to any social problem. Demand for the impossible, for solutions to human problems, feeds fatalism. Death is the only solution to human conflicts.

When I think of "solutions," I think of images of how perfectly soldiers goose-stepped in perfectly straight lines in mass parades. This image went with my early thought that violence means going in straight lines.

When I think of "solutions" in the "applied" world, I think of machine parts designed to just keep on performing obedience to the same routine world. I share Schumacher's premise in *Small Is Beautiful* that room for human creativity matters. From that axiom, Schumacher derives a postulate that individual behaviour is in principle unpredictable. The violence of framing discourse in demands for "solutions" is that if people are really learning from each other as they go along, they can foresee what neither they themselves nor anyone else will end up wanting to do next.

I've come to be relieved that there are no solutions. If we moved in a straight line of material consumption, then humanity would soon starve itself into extinction. Where there's life, there's hope of getting off any "solutions" bandwagon. It's also liberating to recognize that I have no greater obligation to propose solutions than does anyone who might transform violence into greater social safety.

It's not only that I don't have to solve problems. There are some other things I cannot and need not know. I've already argued that I cannot and need not know whether crime and criminality are going up or down. I cannot and need not know what sentence anyone "deserves," from minutes of "time outs" for children to years in prison or "death by

lethal injection." I'm arrogant enough to think that neither I nor anyone else is equipped to deal out our karmic medicine on behalf of a higher power.

I believe, as I did when in 1973 I responded to Robert Maynard Hutchins's comment on my "whiff of anarchism," that it is violent and disruptive to abolish or forbid things by fiat. I have since recognized that the law plays an important role in limiting violence. Nobody could be "necklaced" (tied up, set on his knees, a tire filled with gasoline set afire around his neck, something that had happened several doors down from me several years before in my quite safe Tanzanian urban neighbourhood in 1990) on my street in the United States and get away with it. The U.S. Supreme Court has just ruled as I write that over seventy people must be let off death rows because they were younger than eighteen when they committed their crimes. The greatest strength of the U.S. Constitution is that it sets limits on state power. In the common-law tradition upon which it draws (alongside Iroquois law), the Constitution sets tighter boundaries on what we can legitimately do to one another. Drawing and quartering are out. We have made progress. Legal limits on retaliation for violence reflect underlying cultural resistance to violence. Have we made progress? I hold out hope. I consider, for example, globally how much rarer the death penalty is in my lifetime or locally how many women and children have found shelter from battering and worse since I began teaching. Layers of violence emerge to the social surface under legal protection. So do stricter limits on retributive violence. In his *Changing Lenses*, Howard Zehr explains that the biblical law of "an eye for an eye" also tried to set a limit on violence and vengeance. *Lex talionis* means do no more violence to others than they have done unto you. Victims' families are called upon to limit retaliation rather than to engage in all-out vendettas. I join Zehr in celebrating *lex talionis* as a limit to retaliation rather than as a licence to it.

The problem we face in the United States is that the legal limits on punishment keep being raised, to "solve" this problem or that. We act as though legislators, prosecutors, and judges can dictate "just deserts." "If you do the crime, you gotta do the time." Which human body knows better than those who are directly involved in the "crime" which "deserts" are "just"?

This way of thinking amounts to what Anne Wilson Schaef calls "process addiction." Schaef invented the term "co-dependency" as

an alcohol and drug counsellor. In her subsequent book on whether “society” is an addict, Schaef observes that, upon further reflection and observation, social habits or “process addictions” have turned out to be deadlier than substance addictions. Process addictions such as making the punishment fit the crime amount to tremendous human arrogance in believing it “just” that the law “requires” punishment. How many years in a cage does a “burglary” of a specified “degree” merit? The answer is inherently arbitrary, not morally commanded from some higher “rational” authority. Law works where it sets limits on responding to violence with violence, not where it justifies returning violence with violence.

### WHAT IS “JUST”?

“Social justice” is at best a superhuman endeavour, beyond human pretension to make happen. I have reached the conclusion that justice happens to us rather than because of us. As I see it now, we do violence when we participate in a pretense that we belong to some higher understanding of right and wrong. I am agnostic about a higher plan for how long we live and how much we prosper. I offer no “solutions.” However, I do see that attempts at giving offenders and other enemies their just deserts promote separation and distrust rather than settling of conflict. It is arrogant, and violent when pushed, to believe that one knows what “solution” to human problems is “just.”

Granted, inequalities result from violence and reflect institutionalized and interpersonal unfairness. That does not imply that anyone, however caring, wise, and wonderful, can solve the problem. Nor is anyone, from lawgivers on, in a position to create safety for victims and offenders better than victims and offenders can create their own safety among themselves. The problem of power over others cannot be solved by political revolution—by rewarding friends and punishing foes in the name of “doing justice.”

I would substitute a focus on peacemaking or democratization as a response to violence for a crusade for justice. I’m not saying I haven’t received what I’ve deserved. Privileged as I happen to have been born and raised, in my case the reverse is true: I’ve received more. I have never stopped believing I am a logical candidate in a political revolution for classification as a class enemy, ultimately up against what literati in the nineteenth century called the “dangerous classes” or Marx called



the “*lumpenproletariat*” — those who were dangerous because they were exploited more than the rest of us. For no fault of their own, they were brought into this life owning nothing, not even wages for their labour, and therefore owing privileged people like me nothing but resentment and retaliation for exploitation they never deserved.

I distinguish the task of building safety, security, trust, and peace from the task of doing justice. Doing justice connotes setting wrongs right. That pit turns out more readily to be bottomless the more recklessly one jumps in. The rule of law, making consequences of our actions predictable rather than surprises from which we can learn, is the pit we fall into more deeply the harder we try to dictate what “justice” demands.

It’s fine with me if “justice” means fair and open negotiation of social conflict. However, when “justice” becomes a claim of someone’s superior knowledge of what others deserve, “justice” becomes “violence.”

## THE TERRIFYING WORLD OF COMMAND AND OBEDIENCE

Being a part of the solution rather than a part of the problem is the only choice open to those who believe that social control lies in loyalty to “the proper authorities.” The legitimacy of patriarchal control by fear rests on accepting that someone or some body of people has the right answer for others, on getting people in line and forcing still others in line into serving one substantive mission. This path implies political solutions to social problems. This attitude toward social control leads people to straighten out roads and rivers and to “improve infrastructure.” This is the logic of power over others in action. “Solving” social problems by “straightening people out” is violence in action, whether that action is legitimized or criminalized. Violence promotes distrust and social insecurity regardless.

Trust cannot rest on making people follow orders as violence requires. As soon as the controller in this system lets down a guard or turns a back, obedience declines. Obedience depends on command. Command means that people do what is needed because they are made to do so rather than because it is their choice to do so. Control rests on vigilance rather than on trust. Making rivers, roads, and people march in lines according to orders destroys trust, honesty, and



personal responsibility. Getting others in line and straightening oneself up are an approach to social control I call "violence." It is axiomatic in my paradigm that "violence" is the most basic social problem of all, replacing "crime" and "criminality" as my principal professional problem.

## CHAPTER 6

### THE NATURE OF PEACEMAKING

#### WHERE LEARNING AND TEACHING BECOME ONE

Norwegians prize speaking simply, plainly. I try to rise to their standard. I am a teacher, most of my life a criminal justice professor. While Norwegians use the equivalent of “education,” *undervisning*, for what higher educators do, in primary and secondary education a teacher is a *lærer*. A “teacher” is literally a “learner” in Norwegian. The word for teaching and learning is the same; it’s just a matter of whether you are “learning from” others or “learning to” them. In pan-American Indian talk, I hear respected elders conclude every sermon they deliver with “I am still learning.” My primary aim as a teacher is to keep learning. I aim to alternate learning from my students and associates with intervals accounting for my own views and bringing literature and guests to class. In the classroom, as in victim-offender mediation and just plain everyday life, I seek ways to become more honestly and openly secure in my relations.

Students generally rate me as an enthused teacher. I rate them likewise. In all these realms, what promotes my security and others’ is openness and what in diplomats’ language is called “frankness” — negotiating when they or I bend and when they or I move in some straight direction. I have tended to move from evaluating myself or others as individuals to evaluating relationships. At an earlier time in my life, I was openly confrontational and in a “peacemaking primer” called for oppressed groups to “dump up.” I have since taken a major bend in my own life’s journey of learning. I now focus on sharing what

each of us thinks she or he ought to do next to draw out and embrace conflict to make relationships safer rather than on apportioning and laying blame for violence. I want to learn what works and how to make it work rather than figure out whom to blame, to shame, and to “hold responsible” for our problems.

I entered law school aspiring to be the kind of person who orally or in writing could engineer solutions to disputes. My focus has shifted from what outcomes of disputes should be to how people negotiate and create their own outcomes.

In 1987, I sent Richard Quinney a draft of what became a 1988 article on “violence as unresponsiveness” (reprinted in *The Geometry of Violence and Democracy*). Richard then invited me to join him as co-editor in a volume of mostly original works on “criminology as peace.” I responded that I had come to understand “peace” not as a state of human affairs but as an immanent and unending process of learning how to build peace a step at a time, as has happened, for instance, in the global recognition that racism is a human rights problem. Kevin Anderson took charge of organizing several years of sessions at the annual American Society of Criminology meeting on “peacemaking criminology” to solicit contributions for our volume. Most of the chapters in the 1991 book *Criminology as Peacemaking*, which Richard and I co-edited, started as papers in those sessions.

Criminological attention to “peacemaking criminology” surprised me. At the time, Richard was still among the most cited living criminologists. I think attention the book received depended heavily on interest in what Richard was writing and on the fact that the book was his idea. “Peacemaking criminology” emerged as a “school” (and people asked whether it was really a “theory” or not) in criminology and criminal justice texts, which cited that book.

I heard from other criminologists more than once that they also found the volume refreshing because it talked about what we *could* do rather than just finding fault with offenders or with responses to offending. Indeed, I myself felt heartened by the many constructive ideas and experiences represented in the book. To this day, my enthusiasm is directed toward learning what *to* do rather than toward what *not* to do.

I long ago recognized that criminology is all about how to stop people from doing things. A perfectly crime-free world would be the one where we were all dead. At one point, my mother took to asking

me why I tortured myself by staying in this field of doom and gloom. I continue to take heart from studying what kinds of relationships might be encouraged instead.

## PEACEMAKING AS A GOAL

My goal as a would-be peacemaker is to find safe, fair, honest, open ways for people to let off steam about conflicts they face. While the use of violence to achieve social control focuses on separation and isolation, peacemaking, when it works, embraces conflict and encourages honest, open social discourse about it. I often say to my students that, as I see it, peacemakers know the world to be a lot more violent than warmakers dare let themselves imagine. The more people are able to share and receive valid recognition that the things that hurt and anger them are real and therefore of importance to others, the more, as it were, we lift the weight on top of the pressure cooker of heat that violence produces and allow our conflicts to let off some steam. In the process of cooling off, we have a chance in our own ways to learn from our conflicts and deal with them. Rather than being bent on proving that we already know what other people's problems are, our object in peacemaking is to learn from one another what we don't already know about what new things to include in our own agendas. Peacemaking to me is a commitment to placing learning how to work *for* more secure and trustworthy relations rather than *against* villains.

## ENTROPY AND SYNERGY

According to Isaac Newton's Second Law of Thermodynamics, the higher the rate at which you put order into any closed system, the more disordered the system becomes. This disorder is called "entropy." In physics, entropy literally manifests itself as heat or so-called wasted or lost energy. For instance, entropy takes the form of friction among machine parts. The higher the wattage taken up in a curling iron, for instance, the faster it heats up, and the hotter it becomes.

Violence is inherently entropic. The more violence is met with violence, the more social heat—breakdown of social relations—results, as when prisoners are separated and alienated from "the free world" as punishment and when their victims become mere instruments of prosecution. In economics, entropy manifests itself as scarcity: more for some means less for others as actors compete for shares of resources.

In Chapter 5, I conceded that human survival rests on a balance between holding to fixed agendas or goals—getting jobs done—and changing course as actors accommodate one another's divergent interests. At the same time, when people hold to fixed agendas or goals, the law of entropy predicts that tension or heat among actors will mount. Again, as I suggested in Chapter 5, in effect goal and agenda fixation produces the same result as heating water in a pressure cooker. Periodic accommodation and shifting or meandering of agendas and goals among actors amount to letting off steam—easing the pressure and allowing the temperature in the cooker to cool down. To me, peacemaking is in effect the mechanism that permits us in our relations to let off steam and so relieve social entropy or disorder.

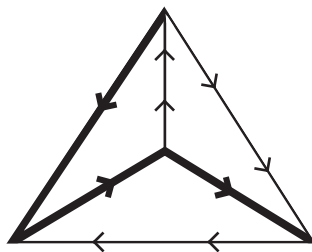
I construe peacemaking, when it happens, to be synergistic. Synergy is the opposite of entropy. Instead of being subject to laws of scarcity, it means that the power output of a closed system is greater than the power put into it. Information sharing has the capacity to be synergistic. Information is the one material commodity that grows the more openly and honestly it is shared and exchanged. Information sharing defies economic laws of scarcity. If I give up information and get a response from someone else, then neither of us loses the information she or he gives up. Instead, each of us has a chance to compound that information we give by letting it interact with the information we get. By exchanging information, learning to do and focus on new things during the construction process, two people have a chance of building a structure more than twice as fast as either of them would have done alone. That is synergy. It amounts to cooling off of heat, of fear, of anxiety in our relations. Synergy manifests itself as a building of a sense of trust, of safety, of security in our relations. The big peacemaking question to me becomes how to open that exchange and keep it balanced and honest. To me, the positive science and practice of peacemaking is about how to connect with rather than dissociate from any and all of our relations.

Buckminster Fuller's two-volume work *Synergetics* inspired me to see peacemaking as synergy in action. Fuller is probably best known for designing geodesic domes. Such domes have the remarkable characteristic that, the more weight they bear, the stronger the geodesic structures become. That is, geodesic structures are synergistic.

The basic unit of a geodesic dome is the tetrahedron—a pyramid with four faces, each of which is a triangle. Fuller observes that, among other things, the carbon atom, the building block of all life forms as we know

them, is tetrahedral in form. Mathematically speaking, tetrahedrons are synergistic. Fuller proposes that all naturally occurring triangles are open. That is, at any corner, the ends of each triangle do not exist in the same place, plane, and time as any being that interacts with them, commonly known today in physics as the Heisenberg Principle. As Fuller illustrates in his volume, and as I illustrate in Figure 1 and in *The Geometry of Violence and Democracy*, if you lay an equilateral triangle that opens in one direction over the same-sized triangle that opens in the opposite direction, you get a tetrahedron consisting of four triangles. That is, in this case,  $1 + 1 = 4$ ! That, Fuller proclaims, is synergy. I think he is on to something.

**Figure 1: A Tetrahedron**



1 open triangle + 1 open triangle = 4 triangles

In the 1991 book *The Geometry of Violence and Democracy*, I depicted each side of each of the two constituent triangles of the tetrahedron as a moment's motives by each of two actors in a relationship. Each actor might be an individual, a group, or a social institution. The logic of the interaction would be the same regardless. Movement from one side of each triangle to the next represented a shift in each actor's agenda or goals, in each actor's "motives." When actors related synergistically, their motives orbited around and responded to corresponding shifts by their counterparts. At no time was either actor headed in the same direction as the other, but each shifted in response to what the other's motive had been or might become. I used the word *democracy* to describe this relationship. In contrast to "violence," in which one or more actors remained fixated on a goal or agenda, tetrahedral interaction implied

making order out of social disorder—“responsiveness” or “democracy” out of “violence.” I continue to envision this as the foundation of peacemaking processes.

I lay these two triangles as Fuller presents them over the sound, sight, and rhythm of waste-water treatment that works in a Norwegian village (which I used at the beginning of the previous chapter to explain how I came to see “violence” as going straight), and I get a pattern to try to identify in all my relations. I find myself thinking in terms of a blend of what makes synergy work and of what makes water live and clean itself and all its relations rather than becoming more and more contaminated as the social flow increases.

Fuller and a visit to a Norwegian village have combined to enable me to see synergy work in all relations. The way water flowed over the kidney-shaped stones that the anthroposophical hydrologist set in a hillside to treat waste water looked positively tetrahedral to me. I also learned that people’s eyes glazed over when I tried to explain this paradigmatic lens through which I selected and analyzed data.

What follows is a set of principles for making interaction synergistic that I have inferred, from intrapersonal to global relations, since I started looking through that anthroposophical, tetrahedral lens. To me, peacemaking has come to mean transforming entropy into synergy.

### **APPLYING GANDHI’S FIRST PRINCIPLE, SATYAGRAHA, “HOLDING TO TRUTH”**

Those who tell me their lives are most influenced by Mohandas Gandhi’s work recommend his autobiography and the work Gandhi himself entitled *Satyagraha*. He translated the word into English as “holding to truth.” Others have conceived of *satyagraha* as refusal to cooperate with violence (as by non-violent protest). In his early chapter in *Criminology as Peacemaking*, Kevin Anderson, an internationally celebrated translator and interpreter of Marx’s writings, analogizes Marx’s ideal of human liberation to Gandhi’s of speaking truth to power. To me, as I gather it was to Gandhi, Marx, and Anderson, progress in transcending violence in all our relations ultimately depends on being honest with one another about our differences and problems with each other and orbiting around one another as though joined together in tetrahedral interaction.

In primary school, I learned a story about the power of honesty. It was a story about the father of my country, George Washington. The



word was that little George was mindless, as children will be, with an axe and chopped down one of his father's favourite trees. When confronted by his father, George replied, "Father, I cannot tell a lie. I chopped down your cherry tree." The moral of this fable: George's dad did not punish his son because young George had told the truth. If you want people to tell you the truth, then don't punish them for being messengers.

## **PUNISHMENT THREATENS PEACEMAKING**

Trust and safety among ourselves cannot be built on lies. Peacemaking requires that what we tell each other be done freely rather than to avoid being hurt. In and of itself, punishment—meaning "giving [painful] consequences" to those who confess to causing an offence—is pointless and destructive. I see no point in punishment. I seek instead to promote honesty in its place for the sake of peacemaking.

## **SYNERGY VERSUS POWER**

As a foundation for his law of entropy, Isaac Newton defined acceleration of movement of a mass through a distance in a given unit of time as "power." For instance, a watt is a measure of power, of how many amps (mass of electrons) multiplied by the voltage they travel through a circuit or "closed system" (rate of force with which the electrons flow, that is, accelerate) through a distance (as through the circuits in a home). The higher the wattage passing through a circuit, the greater the heat or entropy generated.

In Newtonian terms, "power" is a measure of how much matter (e.g., how many electrons) passes through a circuit or system with a given force (e.g., voltage). The amount of matter times the force with which it passes through a circuit or system is "energy." That is, "power" is how much energy one gets per unit of time. A more powerful machine or system is one that uses more energy in less time—and therefore is a more "efficient" user of energy.

In the realm of synergy, power is transformed. The amount of energy that passes through a circuit or system in any actor's moment may accomplish more than all the energy passing through the actor's lifetime. In mundane social terms, the value of a single burst of synergy in human relations may exceed eons of similar investments of human

energy in entropic relations. “Efficiency” and “effectiveness” such as measures of reduction in “recidivism” are Newtonian measures of human accomplishment. By contrast, there’s no calculating in advance how much will be accomplished in single peacemaking moments.

I have come to believe that as Newton’s law of entropy works with electricity and other machines, so it works in the machinery of human relations we know today as “social control.” The harder we in the United States fight wars at home and abroad, the more casualties we suffer, the more prisoners we find we must take, the more securely we lock our premises and shred our paperwork. As I write, winners in U.S. politics continue with more power concentrated in military and “correctional” expenditure than ever to accelerate fear among voters.

I don’t think of this acceleration of human punishment and separation as some mechanical top-down conspiracy. When I read *New York Times* science reporter James Gleick’s 1987 best-selling book on chaos theory, it wasn’t chaos theory as a body but certain things that explained the entropy I saw, centrally in my profession, in crime control. As I explained in my 1991 book *The Geometry of Violence and Democracy*, I drew the greatest validation or metaphor for what Gleick described as “scaling”:

Scaling became part of the movement in physics that led ... to the discipline known as chaos. Even in distant fields, scientists were beginning to think in terms of hierarchies of scales, where it became clear that a full theory would have to recognize patterns of development in genes, in individual organisms, in species, and in families of species, all at once. (116)

Yes! “Scaling” led me to see heat, separation, and suspicion mount all around me at all social levels at once as incarceration took its course in U.S.-centred wars on crime. Newton’s Second Law of Thermodynamics applies to all levels of human relations. Take a cross-section of social life, and you will find that the practices prevailing at the microlevel mirror those at the macrolevel. At all levels, the explosion in U.S. incarceration echoes and amplifies fear and being driven by fear. I haven’t seen so much fear in my homeland since the post-World War II U.S. wave known as the “McCarthy Era,” but the fear that goes around eventually comes back around.

In all my daily relations, I find that the drive to control by fear accelerates, fuelled by technological investments in “security.” Whoever

set off “9/11” got what they wished. More and more in our daily lives since, we do the “terrorists” work by accelerating our fear-driven responses to “9/11” attacks, terrifying ourselves still further. Are our children safe? Are our planes safe? Are our companions safe? Are our jobs safe? Is an international pandemic at hand? Will there be another tsunami? Where will the next earthquake strike? Will my assets rise or drop in value? What enemy might use a nuc-u-lar weapon against us? What stranger might abduct my child and rape and kill her? What member of the clergy or scout leader might molest my child? Where might I encounter the next “terrorist”? All these messages and social control practices heat up together. The machine of global growth and domination combines with these responses and questions to escalate fear and violence, from top to bottom, across the planet. I would be hopeless about contributing to peace were it not for the parallel rise of synergistic relations.

My choice of criminological paradigm rests on the premise that quality of life is more important than quantity. When I get the enjoyment of someone thanking me for making a difference in her or his life, I think of people who may live to a ripe old age without being told they have ever mattered to a single someone—a phenomenon social psychologist Karl Weick has called “small wins.” I think of people whom I have met in nursing homes late in their lives who are essentially alone (in part because they have lived longer than their peers) and who are full of hate and fear of dying. In these encounters, I feel that in my three-score years I have, by comparison, lived many lives in love, in synergy. The potential of transforming moments of power into moments of synergy is incalculable—its limits beyond calculation and human imagination. Who knows how much security and well-being will emerge from synergistic moments we invest in peacemaking? The potential of peacemaking to defy Newtonian laws of efficiency and effectiveness keeps me trying no matter how trivial and brief each moment of interaction with others might appear in advance.

As I invest in peacemaking without the promise of a Newtonian return on my investments, lo and behold it turns out that my major gains in sharing feelings of safety and security with others exceed my expectations. Time and again I am pleasantly surprised by outcomes of synergistic dances I perform with fellow humans, in the spaces in which we transform games of human power. I do so, for instance, insofar as I succeed in giving away power over what students “need to know” in

our times in classes together. When at any moment a student comes to me to tell me about a difference the class is making in what she or he knows, I get something then and there that I believe many people have never received in entire lives longer than mine. One person may get more sense of security and worth in a synergistic moment than others who live longer ever get to enjoy. In synergistic relations at any moment and any level, I have discovered the “anti-crime” I sought when I chose a career in criminology.

Reflecting on Nils Christie’s question (as I reported at the end of Chapter 5) about how I would reconcile heading a ship straight to port in light of my definition of violence, which includes being fixated on a goal, I now recognize that I have set my own professional course and am fixated on my own choice of paradigm, wherein I place discovering synergistic ways of addressing social problems ahead of discovering which answers to the problems are right and wrong. I am fixated on how to perfect a process of *how* we make decisions in place of arguing *what* decisions should turn out to be. What arrogance it is for a body of legislators to decide how many years all the offenders they will never meet “deserve.” The important thing is how what you or I or anyone else does with offenders gets decided.

## GETTING TO YES

This is the title of a 1992 volume law professor Roger Fisher and associates wrote on how to negotiate settlements of international warfare. Their thesis is that a mediator’s most effective role in negotiating peace among warring parties is to get them to move “from position to interest.” To use the level of three- and four-letter words, I interpret their advice to mediators and parties at hand to be, in mutual self-interest, to move away from “who’s who” to “what’s what.” I translate this in criminology to moving away from who offenders and victims are and what to do with them to recognizing them and others as personally interested and invested parties in conflict or disagreement and giving them a chance, free of all rules of evidence, to hash out their feelings and interests face to face, and safely so, in the hope of creating what diplomats call “confidence-building measures” — a process in which mutual trust and safety transform violence and mutual distrust. My primary question as a criminologist has become how to synergize our relations.

A paradigm includes both choice of variables and choice of research question. I focus on how decisions get made, replacing a quest to

discover right and wrong outcomes for myself, let alone for others. To me, the question is not what we should decide to do in any case of violence; it is who should be included in making that decision and how—most honestly, openly, and safely—they can make that decision together.

## SYNERGISTIC ATTITUDES

I first read what purported to be a “Navajo” saying on the door of the room of a friend with whom I was staying. I have since seen it described as an American Indian saying. A couple of Navajo whom I asked said they have never heard precisely these words, but, yes, they might have been said by a Navajo:

1. Show up.
2. Pay attention.
3. Tell the truth.
4. Don’t be attached to outcome.

In my post-Newtonian frame of mind, I don’t conceive of these having to go in any particular order in any actor’s life. Just as the amount of time actors spend on each issue becomes insignificant in synergistic thinking, so does the order in which actors alternate from one of these four elements to the others. Rather, as the Navajo tell it, transformation of violence entails *hozho*, sometimes translated as “balance.” As life’s moments go by, it is up to each of us who would contribute to synergy to decide which of these four elements of interaction to focus on next. As I put it to students in the alternative social control systems class, I figure the big question among us is whose turn is it to talk next and whose to listen? To explain how I picture synergy in action, I will move back and forth, up and down, across social levels, based on my adoption of chaos theory’s postulate of “scaling.” I begin with the importance of balancing these four “Navajo” principles.

## SHOWING UP

Failure to appear is the highest obstacle to make peace I face as a volunteer victim-offender mediator. Failure of students to attend my classes remains a major concern of mine. Whether it is the poignancy of a victim’s or offender’s fear of revictimization, or a student’s reluctance

to speak out in open disagreement with me and drop out, I recognize that confronting rather than hiding from one's conflicts and one's demons is a fundamental starting point for peacemaking.

European friends have repeatedly pointed out to me how afraid we are of open disagreement. I look on making open disagreement on fundamental issues safe in one another's face as a preferred channel for deciding how best, in the moment, to respond. Getting parties of a conflict to show up and talk face to face is a prime requisite of synergy.

One puzzle I have posed to students about alternative social control is whether we would have been better served, by trying to open back-door channels or whatever it took, for the U.S. president and Osama bin Laden to show up to try to negotiate an end to terrorism on all sides. I think violence turns to synergy as we seek to open mutually safe and open avenues to take ownership of response to our own problems together.

I resist grading attendance or participation in class. To me, that's Newtonian, entropic, as such a source of social heat and disorganization. I do try to seek ways in which those who have been violated on any occasion can safely and easily confront their offenders in caring, responsible company insofar as they choose. I try to make two promises for confronting our differences credible—against retaliation or revictimization for confronting each other with our divergent points of view and indicating that confrontation might lead us all to a better place.

Peacemaking can't happen without honestly, openly showing up to discuss and deal with our problems. As a victim-offender mediator or teacher, for example, a primary challenge is to give people caught in violence reasons to bother facing one another. Showing up is hard to do, but when it happens there's no telling what might follow on three other planes.

### **PAYING ATTENTION**

To me, paying attention means "listening." I think of "listening" as a broad term for tuning in via any sense to what someone else is experiencing across senses. As Birgit Brock-Utne taught me, in Newtonian conversational space in patriarchal society, men talk more and listen less than women. Another of these four pillars of synergy is taking the time to listen when you have shown up.



### BEING HONEST

I hold trust in the power entrusted in me to spread information given to me sacred. I don't have to be a priest. I do not seek research income dependent on clearance by human subjects committees, but I am vitally concerned with not betraying the trust my informants show me in revealing their deepest, darkest truths. Without honesty, without truth telling, there is no building of trust, no safety. To me, eliciting honesty—telling one's own truth—has become another pillar of peacemaking. Collective human security rests on being able to share our differences, including, most of all, the violence that has most hurt us, as safely and rapidly as possible, at negotiating "tables" we might create in any realm of discourse, local to global.

### LETTING GO

I have defined "violence" as being fixated on a substantive agenda, notably on predetermining outcomes, also known as setting and reaching goals or as "attachment to outcome." Synergy happens as actors let go of that attachment to the Newtonian power of using information to gain advantage in our relations with one another.

As a victim-offender mediator, I am committed to turning over control of the outcome of mediation to parties at interest. I am delighted when parties create a settlement during mediation that I could not have imagined beforehand. Predictable results are signs that one or more parties learned nothing noticeable from the confrontation. From follow-ups done by victim-offender mediation staff, I infer that offenders' passivity in the process of reaching agreements is the greatest danger sign that the agreement will not be carried out or that an offence will be repeated—a sign of false settlement.

Synergistic results cannot be predicted, because by definition synergistic interaction creates unforeseeable results. Yellow and blue interact to produce green, a colour that cannot be predicted in advance of their interaction. When mediation synergizes disputes, parties dream up a settlement that no legislator or other legal actor could have imagined, let alone legislated, in advance. The process of inventing interim dispute settlements is inhibited by pressure to respond as has been prescribed by those who never knew the disputants, let alone the dispute.



## SETTING A COURSE WHILE SHARING THE HELM

When in 2003 Nils Christie asked me whether bringing a ship to port would be “violent” to me, I thanked him for pointing out that survival and community depended on reaching some ports or goals. All I recall being able to say on the spot to address the issue focused on a balance between meeting goals and how tactical goals were met. I’ve thought a lot about Nils’s question, including, as a “criminal justice” example, how I try to bring disputes to settlement as a volunteer victim-offender mediator.

When I am lead mediator, I open with my own version of an invocation in a three-part “prayer.”

1. Parties leave feeling the issues that bring them together are settled. For instance, if two guys who have had a public fight in a school hallway have become a victim and an offender before me, I tell them I want them to be able to meet each other in the hall without feeling any threat.
2. Issues can only be settled when everything important anyone in this room (which includes co-mediators and observers) thinks needs to be said has been said. I, for one, as (co-)mediator volunteer to reschedule if we need to get this goal accomplished.
3. Our jobs as mediators are to keep honest dialogue safe. There are just two basic rules I care about to keep things safe: neither interrupt one another nor call one another names. I normally add with a smile that I won’t let anyone climb across the table that separates putative antagonists.

Yes, Nils, as lead mediator in these circumstances, I assume the role of captain of the ship of mediation. In the event, “settlement” is the “port” I offer while opening the opportunity at any time for anyone to jump ship without penalty; I seek only true volunteers, okay, everyone? This is how I as ship’s captain propose that we in mediation set a course together. One surprise I receive is how readily settlements, in the parties’ own words, get reached as I learn to make this invocation clear and simple to people whom I praise and thank, at the beginning and end of my invocation, for the courage to face one another and assume responsibility for their own problems. The ingenuity and joint planning in working out mediation agreements between victims and

offenders gratify me mainly because I would never have anticipated such agreements before the parties create them.

At this moment in my reflection on distinguishing security, which comes from dedication to meeting goals, from fixation on goals, which impairs security for one and all, synergism requires that (1) when we work hard toward meeting common goals such as bringing in the harvest together, (2) we have chances to let off tensions safely face to face, as by periodically redefining our problems. A paradigm shift amounts, in Christie's terms, to finding safe opportunities to reconsider each ship's course. Let the ship reach port. Let those who sail it help to determine where next it goes. Listen and look for signs of social friction ("friction" is another word for "entropy"), and bring them to the social surface. Synergy is the feeling of security we gain when indeed our relationships change course because we learn something new. We don't contribute to synergy by interrupting the completion of jobs upon which our lives depend. We don't gain security by winning power to bend our enemies to our will.

I've never worked on a ship, but stories of how sailors yearn to get to port and blow off steam are legendary. So are stories of mutinies against violent captains and of captains who have sunk their ships and crews. In Norway, there is a considerable "industrial democracy" research literature that features living together safely at sea. The more the crew has a fair and open say in how to run the ship, the more smoothly the ship runs.

Jumping to a context where I do paid work, Alfie Kohn, in his 1996 book, *Beyond Discipline*, argued that, in his experience as a K-12 teacher and from studying teachers renowned for having well-performing students, the most successful teachers he found were those who let their students take the lead in defining what should be studied, how it should be studied, and, in moments of conflict, working it out among themselves.

In any case, insofar as we would-be teachers limit ourselves to trying to teach what we already know, we cut off chances to learn new things that separate our understandings from those of others. When conflict heats up, letting off steam most requires that parties with conflicting views learn to accommodate one another's sense of what social reality matters most.

When violence openly manifests itself in disputes, in what gets called "violent crime," or in wars of any sort—on a nation, on terror, or

on drugs, for example—attachment to outcome is the primary obstacle to negotiating settlements. It is bouncing ideas and concerns off one another that allows parties to find or create ways to live safely together instead of pushing for a preordained result.

#### FOUR SIDES OF SYNERGISTIC AGENCY

I think of all human interactions as conversations. We alternate between talking to and listening to one another. Often we do this in a fugue state, as in highway hypnosis, by reflex, by habit. We call habits that separate us from one another “addictions.” I call ritual forms of interaction that connect us instead “synergistic.” I call shifts in actors’ agendas that change during connection “responsiveness.” In an introductory lecture on my “peacemaking” as an “alternative social control system,” I simply say that I pledge to assume responsibility for what I learn from our conversation during the semester and aim to give grades as recognition that students are assuming responsibility for what they learn. I contrast a warmaking premise about what someone else needs to know or do with my peacemaking premise that what matters most is what I myself choose to do next. Building trust and safety rests on, in Gandhi’s terms, telling one’s own truths to power. Peacemaking rests on doing what I want because it feels right rather than doing what I “have” to do. It substitutes mutual yet ultimately personal discovery of things to know and do next for finding who has had the right answers—a prophet whose answers to our problems we need to honour, obey, respect, and mimic.

I enter this segment of my reflections thinking, first and foremost, how do I describe the process I have followed when I have enjoyed synergy as a result? How do I describe how I tell myself whether to listen or talk next in a sequence of human interaction? How do I try to remain responsible and accountable, notably in professional life as a professor in the classroom? How do I become responsible for the choices I continue to make, so that I can explain “hard” choices to people face to face rather than avoid uncomfortable issues I hear people raising? To paraphrase one of my favourite songs of the 1960s, from the movie *Midnight Cowboy*, when everybody’s talking (me included), how do I get beyond acting on mere echoes in my mind, like a robot? I might be kidding myself, of course, but here is how I try to respond, to create and expand spaces where actors take turns playing all the roles, where all actors make their choices as I make mine.

At moments when I feel the glow of being connected with others rather than the heat of separation and isolation, I notice that, in the event, I have paid attention not only to what others are saying but also to what is going on inside me. I notice my conscious awareness shifting internally in four directions. I spend time with myself, on awareness of how I feel about and remember the past and of what I think should be done next. I spend time with others, sometimes listening, sometimes talking.

I come back to Buckminster Fuller's tetrahedron as a form within which to envision synergy happening. In this instance, look at feeling, thinking, listening, and talking as the four corners of a tetrahedron. In alternating currents and circuits, I find myself trying to give myself time, in reflection and action, to shift my inner attention according to the relative urgency of these poles inside me.

As I have mentioned, a tetrahedron is a four-sided pyramid with four triangular sides. I envision my responsive, responsible self as balancing my attention with the four faces in which I interact. Each triangle on the face of the tetrahedron is a unique blend of two of the other three elements on the face in which they connect, where they flow directly together. I see four faces as I choose which face to visit next.

### **TALKING, LISTENING, AND THINKING**

This is the prevailing current of the U.S. professoriate among whom I live and work today. Given my professional commitment to being a professor, that current runs strongly in me too. To be a responsible academic, I need to base what I say on listening to others and accounting among us for why I do and don't "find" the same as they do. That's known as making one's findings testable.

At the height of recent "theories" of how to develop one's capacity as a responsible thinker, Lawrence Kohlberg's "moral development" and Marguerite Q. Warren's criminological predictor, which she called "moral maturity," had common ideas of what responses made people rank highest on their lists: taking the perspective of the other, separating one's awareness of one's own needs and truths from awareness of the distinctiveness of others' needs and truths. One foundation of being true to oneself is encouraging those who most might think differently to disagree openly to give one's own thoughts pause, to make one think again before responding.

I have labelled "dissociation" a feature of "violence." On this plane of responsibility and accountability, I find that I most have to learn

from what makes others' thinking different from mine rather than from agreement. I find that I and others transform dissociation into its opposite ("association" perhaps) insofar as we are able to develop separate and equal understandings of distinct social constructions of reality. Transforming dissociation on this plane of my internal existence entails turning from explaining other people's problems to them to letting them explain themselves in their own terms, while I focus, in turn, on explaining my own differences in terms I think they might at least understand if not accept. For me and others, I think participation in synergy on this internal plane comes from individuating ourselves — demonstrating how we learn from our differences in our own ways rather than trying to establish what "we know."

I don't think any of my serious scholarly criminologists would disagree that paying attention to comparing what we hear and what we say or write in purely "rational" or mechanical terms is important. When you are captain of that ship or professor of that class, whether you end up in a place that is safe and satisfying for all depends on bringing contending ideas to the surface and dealing with them in logical terms. Being "proven right" doesn't make you or anyone else safer if the exchange of learning ends there.

### **LISTENING, THINKING, AND FEELING**

In plain English, empathy means "feeling with" some object. In spaces where synergy happens, the empathy that Kohlberg and Warren celebrated on a "rational" level needs balance. Calculating where others are headed and how to make them change course needs to be balanced inside oneself by conscious awareness of how what they say and do matches with how they express their feelings, as by body language in face-to-face meetings. This is what distinguishes the "psychopath's" use of someone's honest expression of where she or he stands and feels from synergistic analysis in which one looks for dissociation. Why, for instance, does she think of mentioning how wonderful her father is when she is expressing such sadness and outrage over child abuse? For synergy to take its turn inside myself on this facet of listening to another person's feelings, for starters, I have to be able to distinguish her telling me what she thinks I want to hear or will believe from what she is feeling. For instance, how do I pair my child's wilful refusal to obey me or to follow my loving, caring advice with how he explains to me what he does ... or doesn't? How do I set aside my feelings about

what he does to try to figure out how, if I were in his place, I might be doing what he is doing for the same reasons?

Many researchers associate “empathy” with “remorse.” I don’t. On the contrary, I am moved by many stories, including those of women seeking shelter in between “honeymoon” cycles with their batterers, that remorse is an unreliable guide to the safety of anyone’s claim of responsibility for his or her actions. Being sorry is a feeling about oneself. On the synergistic facet of taking time to listen to and consider the other person’s feelings, I find an option in myself and many others to let go enough of how this or that makes me feel, to listen and look hard at how the person is really feeling when she or he talks to me. Empathy means many things to many people. I think of empathy as a time when I let go of how I’m feeling—and of what I think the other party ought to be feeling, thinking, and doing—enough to understand as clearly as I can where the other party is coming from in her or his own terms and to show the other party that I am in this listening mode.

It is remarkable to international friends of mine and me just how afraid people in the United States generally are of talking about and expressing feelings. I’d add that we tend to be unusually afraid of even thinking about our own, let alone anyone else’s, feelings as they are rather than as we wish they were. It’s a cultural handicap we suffer from living in the heart of global imperialism. In criminology, feelings become “unscientific.” In journalism, they fail the test of “objectivity.” In the courtroom and when we punish our children, we take offence at tears. In journalism, we suspect reports of good news more than reports showing that suffering is the universal human condition.

I look for spaces where I can safely think about that which my “enemies,” or any people with whom I am in conflict, can just take turns talking and listening. Legitimizing to oneself, let alone to others, that feelings matter and ought to be open and honest is a big cultural hurdle where I live and work.

For example, when in class I have raised the topic of acquaintance rape, I have asked people how they would respond to someone who told them, “Someone I know raped me last night.” Answers fall into two categories. In one category, people want to know what happened to know whether it was a crime. They want to advise “victims” to report and preserve evidence of the crime.

Survivors of childhood torture in particular have taught me that the best I can do in such a circumstance is to begin with as little as “I’m sorry” and then pause to listen to whatever she or he says next. Taking



time to listen and test-echo what one hears are the best one can offer in a dispute. When I do victim-offender mediation, I don't want to read any case files in advance. Learning across social divides takes place as we become able to hear where our antagonists are coming from, as we exchange feelings as freely in our discourse as so-called pure rationality. Safety thrives on building trust that we will assuage our inner demons rather than suppress open dialogue about our feelings—first and foremost our fears and suffering. Accelerating fear of conflict results in separation and isolation.

### **FEELING, TALKING, AND THINKING**

These days I hear feelings traced to “the limbic system” in the brain. I also hear feelings traced to one's “heart.” In Shakespeare's day, carnal allusions to feelings would have dwelt on bile emerging from one's liver or perhaps on an imbalance between liver and heart functions.

I believe I am not alone in finding that acknowledging the legitimacy of one's feelings to oneself is a deeper problem than sharing problems with others. Call that downward pressure on sharing of feelings, whatever kind of “-pression” you will—oppression, repression, or suppression. In any human circumstance I encounter, release of synergy depends on each actor's awareness of the emotions that drive the actor. To live with and learn from my decisions rather than hide from them, I depend on hearing that those whom I interact with really differ from what I feel and believe and on having chances to negotiate our differences. On this plane, I figure out where I stand and am prepared to explain what I'm doing to anyone who asks as a prelude to talking back.

### **TALKING, LISTENING, AND FEELING**

Where my energy contributes to social safety and security, where my energy makes peace, all that I accomplish by what I say is guided by the way in which what I say and hear guides my actions. In this fourth plane of my tetrahedral planes of attempts to transform violence into synergy, I discover most what I need to know next by giving myself time to spend on whichever of these four planes I am least aware. Internally, I think of making peace as shifting plane to plane among these four planes of connection, in which I make choices as to whether to listen (or what to ask about) or to say something next, and about how I (and others too I suppose) decide to frame in listening and talking in like manner.



When I get to this innermost stage of personal reflection, I ask myself first and foremost where I feel the greatest need: to prove my point or to listen to someone who has a problem with the course of action I have set for myself. Synergy requires at root that each of us actors takes care of her or his own needs and cravings, especially those of the moment. I can't do anything for others unless I have the physical means to live and the time thereupon to make social or political choices. Insofar as my material needs of the moment are met, I gain agency to make social and political choices. At that point, I also need to know that I am valued by others in order to be able to value others. I need to escape from the threat of physical and emotional homicide to survive. I need to survive in order to have time to set a course to meeting my own emotional needs. It has taken me years of support and patient teaching, as in "therapy," to reach an inference that to empathize with others, the empathy each actor is able to enjoy is the source from which empathy for others flows.

As we as actors balance deciding what to do next among these four facets of internal and external interaction, we gain the capacity to make choices about what to say or what to listen for next, transforming the violence of being locked into fixed social and political agendas.

## **SYNERGY AS HARMONY**

I have observed that patriarchy is the historical template for violent attempts at social control. My template for synergy is musical harmony. My father and his family were heavily trained musically; I was not. Still, with their encouragement, I learned to love to sing and teach myself to play chords, first on a ukulele and then on a guitar. I still play and sing along with the guitar my parents gave me for Christmas in 1964.

As the modern war on crime broke out, as I was moving from law school to graduate school, I found that many prominent sociologists were accomplished jazz performers. Meanwhile, for some years, I had been at parties where people broke out their instruments and sat in a circle with everyone and had a "hootenanny."

In our hootenannies, we who had instruments would first tune up to each other. Then, typically, someone with an instrument would lead off. Two things were up for grabs after each song: (1) what are we going to sing next, and (2) who wants to borrow this or that instrument? It was considered rude to show off and do stuff others couldn't join in

on beyond one song in a round. To me, it felt like a potlatch: there was honour and respect in giving others their own chance to lead and shine. The reward was the creative harmonies and solos that resulted. In all cases, when someone led off, anyone else who knew the tune was welcome to join in. The question would come up about who knew instrumentals to go along. Singing along was the height of pleasure in the experience for me, not necessarily to sing loudest or lead but to blend. As singing and playing progressed, this love and participation blended dissonance (creative input on a song never before rehearsed together) into a growing resonance. To me, this was the height of affirming that I belonged in a group without having to control the group's agenda more than a song at a time. Obviously, no two hootenannies were alike. The whole point of the experience was to introduce new dissonance and create new resonance among ourselves.

Most liberating of all to me, safest to me, in the memory of these singalongs is that there was no boss. As the more gratifying sessions wore on (until those who hung on wanted a break), nobody felt the need to be boss. The choice to hang around and continue in the hootenanny rested on whether the session was somehow meeting her or his needs. That, as I observed in the late 1970s, is by definition an instance of people being controlled in a purely anarchist-communist regime—where choice of song and opportunity to sing and play work because they are freely shared, because the object has become having a good time together rather than trying to perform and gain public acceptance.

The hootenanny is my template for evaluating whether other forms of human interaction are synergistic or entropic. As I recall, in the late 1980s I was describing "responsiveness" as "harmony" in musical terms in some of my writing. Now, in retrospect, I see that my own analysis of what works in social control is shaped as much by this musical lens as attitudes supporting violence are shaped by the search for the perfect father figure, the perfect boss.

I note a sign of cultural progress. By the time I got to college, talk of whether every home needed a boss was in dispute, and by the end of the 1960s that premise was in serious dispute. Today my students disagree with me more openly than ever, but our discourse has moved to whether parents (including strict mothers) know better than children. I hear scarcely any talk anymore of whether every household needs a boss. Still, the premise that someone needs to be boss to get the job

done runs strongly throughout various local-to-global facets of our interactions, of all our relations.

I have become aware that whenever I evaluate whether responses to violence or crime or any problem leave us safer and synergized rather than more afraid and angry and heated up, I think of how to free ourselves as bosses and subordinates from having to dictate what we sing and play together next and from debating who owns and gets to dictate use of the instruments we have at hand to add to our voices. This is how I see things differently as I shift from a warmaking to a peacemaking paradigm, as though my problem is performance and the hootenanny experience my aim.

### **TURNING WRITING INTO A HOOTENANNY**

Currently in a second-year college class, I require that students turn in the equivalent of at least forty double-spaced "journal entries" of at least 200 or 400 words apiece to get an A for the semester. Hardcopies of journal entries are due in a discussion section each week, or they receive no credit. Since I have instituted this system, grades have declined some. Requests to take the class again to improve performance have increased. While I think of myself as being an extraordinarily demanding grader of writing, students report signing up for the course because I am known as an "easy A." Although for privacy reasons I don't want to offer you what students write, I do show colleagues in my department samples of journals students write and invite them, as I invite you, to experiment with getting writing that really makes them, as graders, think and rethink.

These days I get more exciting reading than ever from what students write for credit, and so do associate instructors who do the grading in the second-year class. People make it clear that they would like to try, and want to stay with, this experience until they teach on their own, although they do hours of work each week recording points, reading, and responding with an intense consistency. I ask them to respond, as I do, collectively to what students are writing. Time and again they go above and beyond what I ask by responding individually, substantively, to what students are writing. Sometimes students write well over 100 pages. They are too excited to do otherwise. They seldom complain about the burden. We laugh together at many moments in the process. I see this experience as synergistic.

I join Paolo Freire in believing that people learn to write faster when we respond to what they say rather than to how they say it. Freire, recently deceased, was a Brazilian Jesuit priest who became famous for teaching adults functional literacy in just forty hours. He taught poor farmers primarily to read and write. His thesis: people learn reading and writing fastest when what they are reading and writing matters to them and which they take seriously.

My mother and my fifth-grade teacher were demons on grammar in writing and speaking. They taught me a great deal, including a foundation for learning new languages. At the same time, my mother was interested in what I was writing about when I shared my writing with her, and so was my father. I am a product of model parental attention to my “three Rs” (including mathematics, for my mother’s father was a math professor).

My most intense writing experience as a student was in an ungraded high school. There, to get credit for each class, I “cleared” or met my contractual obligation to turn in a certain amount of work satisfactory to my teacher. To “clear,” I turned in a self-evaluation of what I had learned that term. My teacher added an evaluation. In my senior year, my teachers from across the years got together and added their collective assessment of my strengths. My school sent these evaluations to colleges in lieu of transcripts. Founded in the 1930s, University School at Ohio State University operated on John Dewey’s principles of democratic education. I graduated in 1962. The school closed in 1967. Alumni have a Web site. In that school environment, among other things, writing became safe and rewarding for me. I think that this was especially because the school espoused Freire’s (and Dewey’s and others’) principles of democratic education.

Looking back, I learned there that what mattered most was that people were attending more to what I was saying than to how I was saying it. What I said or wrote mattered; therefore, I cared. As a graduate student, I resonated to what prominent sociologist Peter Berger had written in 1963 in his *Invitation to Sociology*:

As sociologists tried to develop their scientific rules of evidence, they were compelled to reflect upon methodological problems. This is why methodology is a necessary and valid part of the sociological enterprise.

At the same time it is quite true that some sociologists, especially in America, have become so preoccupied with methodological questions

that they have ceased to be interested in society at all. As a result, they have found out nothing of significance about any aspect of social life, since in science as in love a concentration on technique is quite likely to lead to impotence. Much of this fixation on methodology can be explained in terms of the urge of a relatively new discipline to find acceptance on the academic scene. (13)

Much as I have benefited from correcting my grammar and spelling, I think my writing suffers as much as anyone else's when I become preoccupied with writing technique. Technique matters, though, because when you are saying or writing something important, you want people to have as easy a time as possible knowing clearly what you mean. What matters above all is having something important to say or write. That's the whole reason for speaking and writing—to be taken seriously for *what* one is talking about. The whole point of serious writing is inserting something you seriously care about into public discourse.

I infer that writing gets better and better for me and my associate instructors the more freely students turn from telling us what we want to hear to telling us what they want us to hear. I find that the clarity of writing improves dramatically over several weeks as students let go of writing as performance in favour of writing as personal expression, in the manner of writing a diary you dare to show others without being dumped upon for how you do it. Time and again, more often, I gather, than my colleagues who meticulously correct unclear writing, I find that the writers themselves are the greatest asset I enjoy. The more important they feel their words are, among others to me their professor, the clearer, the simpler, the easier to read and understand their writing becomes.

I think back to hootenannies. Suppose, after each song, that we had paused to critique one another on whether each of us had stayed on pitch. Suppose that the person who most clearly stayed on pitch was thereby deemed the most qualified to decide which orchestration would make us sing and play our next song best. It is one thing for me to sing as resonantly, as true to key, as I can in the hootenanny. It is one thing for me to write as clearly and "correctly" as I can in the classroom. I have received more exciting, clearer, more improved, flowing, and stimulating prose as I have turned my focus from grading to the substance of what we are trying to tell one another.

As a result, I keep getting better and better, more and more exciting, writing. As a consequence, I find myself spending more and more time between classes thinking over what students say in class and write in journals in order to decide what next to “assign” in class. I get caught up in the experience. I know and try to let others in my classes know where I am starting our hootenanny and why. A colleague has accused me of not teaching because I share so much of my “lecture” time with guests and with class members themselves. In the process, I am constantly learning from other class members what I most want to learn and say next.

In that process, we all learn to love to write because of *what* we want to share with others. We study harder how to communicate clearly the more reinforcement we receive that what we say matters to our audiences. For what we share to matter, we can’t know what comes next until it happens. If student input matters, then it has to affect what we talk about, including which issues and sources of information we turn to in lectures to come. Hence, to me, an important part of encouraging good writing is letting the course of what we study in each class emerge as a product of what people say in what they write for credit. I think this attitude pays me, fellow instructors, and students in my classes. In the process, it appears to me and associate instructors that all of us in classes learn to write better. Writing improves when we are in a hootenanny.

## MEDIATION

None of us is a perfect peacemaker. There is always so much more to learn about how to transform violence into peacemaking. In the midst of violence, none of us deserves it; each of us has a human right to protest and refuse to accept being violated. In the midst of violence, each of us does a balancing act. How much in the next moment should I resist? How much room do I have for accommodating the most threatening and oppressive enemies of my right to co-exist?

There are times when I feel so threatened that I respond to fear with fear or anger. In a “peacemaking primer” I wrote early in the 1990s, I advocated “dumping up.” I still do that. I acknowledge the right and the need to stand up to bullies. And yet I am informed by Gandhi’s admonition that one should always be willing to negotiate with one’s adversaries and prepared to embrace them as friends and loved ones



on occasions when the bullying stops. These moments are occasions for celebration of synergy.

In moments of conflict in which I have the luxury of balancing my listening and talking with reflection, where I am able to assume what I call a peacemaking attitude, I find myself thinking of my role in all my relations as one of mediation rather than adjudication. My goal is to learn about and focus on the process of how we make decisions rather than on which decisions should be made. I concentrate on developing the art and science of how we make decisions rather than on what the substance of our decisions should be. One of my great teachers, Leslie Wilkins, a renowned criminological statistician, taught me that, in terms of what matters in real life, *how* we learn and act is the more important question to address than *why* we do so.

### **MEDIATION IN THE CLASSROOM**

In my peacemaking moments, I see myself and others alike in our interaction as mediators rather than judges and dictators. I try to find those spaces and moments in all my relations. For instance, in the classroom, I accept my responsibility to set the terms upon which we will interact and upon which grades will be set. I do so in the hope that what I and everyone else in class learn, each for him or herself, will be a surprise.

I am caught in the same dilemma I faced over whether I spoiled my child by refusing to discipline her as she grew up in our household. One beloved late colleague used to chide me on not teaching because I had so many guests and planned so little lecturing in advance. In my peacemaking attitude, I reject the idea that there is anything that criminal justice students have to know. I trust instead in nurturing their ability—and mine, in tandem—to discern what each of us wants to discover as we go along.

Speaking spontaneously is so rare in today's professional world that it has turned out to be easy for me to win gratification from audiences at professional meetings, for example, as a panel discussant by weaving papers together on the spot that I have not seen in advance. I remember a period in my alternative social control systems class when I felt my lectures were brilliant. I suffered continual disappointment that students reported being lost in my brilliance. The last time I taught the class students were lamenting that I did not lecture more. I ask myself, why the difference? I conclude the difference lies in my attention to what matters to students who dare to speak out in class. On the one



hand, I discover many students who have felt and believed much as I do but have always thought they were crazy. On the other hand, I learn what matters to students about the things that matter to me—a matter of active listening. One result of students recently asking me to lecture more is that I let go of my attachment to many topics and issues I had thought students “had” to know. That was a blessing. A class is a three-month moment in our lives together. At best, we can learn more by learning to love how to learn with others after the class is over rather than ending a semester concluding that we already know what, on the subject of the class, is more important at each moment in our conversation.

The feeling of being appreciated is apparently shared. Many students write far more than is required for the grade. They take each other seriously in discussion and written exchanges. Where once I heard complaints about students talking too much, now, for instance, student presenters get ranked as among those who have taught others the most during the semester. In journals as the semester progresses, I see a lot more openness to “radical” ideas such as enabling “serious” offenders and their victims to face each other in open exchanges. I try to take even statements I consider to be clichés seriously, and as I concentrate on doing that I find that writing and comments in class become more interesting, complex, and individualized. I keep being stimulated to address new issues and think new thoughts myself. If I have a problem, it is that in this system I find myself thinking about issues arising in classes almost without a break. Classes are intense! I find that students and I are both learning more as I move away from a fixed agenda of what we discuss in class, let alone from grading the rightness or wrongness of what students say and write.

One of the things I announce early on is that I aim to assume responsibility and account for my own learning, and I ask other class members to do the same. The primary challenge of peacemaking is to give a sense of ownership to each participant in interaction, to engender in each participant a sense of responsibility for how the interaction progresses. When I am thinking of transforming patriarchy and violence into synergistic relations, I think of myself as a mediator of power differences. My primary reflection in the midst of interaction, as in class, is whether it is my turn to talk (and, if so, what to say) or listen (and, if so, to whom concerning what) next, for the sake of balance in our conversation. This entails, for instance, noticing in small groups the person who remains silent and trying to draw weaker voices into

the conversation before louder voices (including mine) take new turns. Where I am in a power position, as I am in class, I find myself mediating between myself and others, where it becomes as important that I take my turn at shutting up or finding out what others are thinking and feeling as deciding what to say next. I once thought I might like to be a judge. Now I seek to learn the art and practice of mediation in all my relations. Mediation is to peacemaking as adjudication is to law and order.

## DIFFERENTIATION AND INDIVIDUATION

Visiting a class at another university recently, I asked what we might have had to lose after 9/11 by trying to open back-channel communications with Osama bin Laden or his allies before bombing Afghanistan. Fortunately, there was a climate in the class such that, although I was advertised as a peacemaking criminologist, a student who had remained silent until invited to speak responded by telling me there was no point in talking with “terrorists” because “they” were on a mission to destroy “us”—a religious mission at that. Another class member wondered whether we as a people and national government were not stuck on following the principle that we will not negotiate with terrorists or hostage takers. She was quite eloquent in the way she put the dilemma—how can we seek out and be willing to talk with people we don’t trust? I responded that we do so, secretly, all the time. Even my first responder agreed with that. So here, I said, is our bind: I recalled reading the words of a Pashtun elder on the Pakistani side of the border with Afghanistan: “For every terrorist I kill, I create ten terrorists.” I added that indeed the lie that we do not negotiate with terrorists is what stops us from trying to build trust.

I recalled what I had learned from a guest in my class on alternative social control systems, Julia Duany (whose book can be found easily on the Web). Julia was born in southern Sudan, a Dinka. There, following custom, she married cross-tribe and became a Nuer. She and her husband and their children fled to Bloomington, Indiana, in political exile. In 1994, to collect data for her Ph.D. dissertation in higher education at Indiana University, she returned to southern Sudan. She went to a land in which Nuer and Dinka men had raped, killed, burned, and stolen, much as is happening in western Sudan as I write. Initially united in a civil war against the government in the north, by 1994 they had killed each other by the hundreds of thousands.

Inspired in her own religious way to return to her home to do activist research—to find ways with Nuer and Dinka women to make peace among the two groups—she returned with two big suitcases full of vegetable seeds, in the planting season. She tells of how she began just by taking seeds and going to meet with women, a village at a time, on riverbanks. (Theirs is a fertile land in the upper region of the Nile—all the more tragic that people were dying of starvation.) There the women agreed that they would call a village meeting and tell the truth, that their own husbands and fathers were killers and rapists and thieves and destroyers fully as much as their enemies in the other tribe.

Julia tells us that this approach fell back on a Nuer/Dinka tradition that women were the truth tellers. What good thinking! After all, they were the ones whose parents and brothers were in one tribe and whose husbands and children were in the other. They had a stake in transcending enmity. Men, on the other hand, were always either Nuer or Dinka, and so were all the men around them, once again illustrating that patriarchy breeds patriotism, which can breed catastrophic and enduring violence.

Julia tells us that the women began refusing to milk cows they suspected of having been stolen. Since men never milked cows, the protesting cows were soon returned. Women got men to agree that if they had been abducted, raped, and forced to marry, then it would be their choice. They could remain married, in which case a husband's family would pay dowry in cattle to the wife's family. Or she could return with her children.

Julia shows a video of a pan-African conference of women who were mobilizing to assume partnership with men in negotiating peace. Julia was one of the plenary speakers.

Recalling this in the class at the other university as we discussed whether we could negotiate with terrorists, I said I could not prophesy if or when the U.S. government might shift its official position but that perhaps people like Julia really began to take chances when they had hit bottom, when all the violence really had become too much for everyone to take. Who knows when that moment might arise for others? But Julia makes it clear that peacemaking among her people required that they give up on laying blame and punishing people even for the most heinous of crimes in the past in order to build trust and a better future together. In class discussion, I observed that in my view it is never too late, or too early, to begin trying to air our differences in

one another's presence, however we open channels of safe multilateral communication.

Time and again when I am trying to teach peacemaking, students remind me that they impute motives and ways to me much as we impute motives to "terrorists." They come into class knowing that peacemakers want to hug trees, embrace their enemies, and just love everybody without complaint—the classic portrait of the long-serving, unconditionally loving mother. I do my best to correct that misimpression of me as would-be peacemaker at every opportunity. The fact is I virtually wallow in trying to dig out conflict and anger, as safely for all as I can figure as opportunities arise, so that we can deal with them.

I am profoundly conflicted by agreement. I rely on agreement to get jobs done, but then, as with a job, there's always the question of how long the agreement will last. In my peacemaking moments, I try to draw out conflict. That conflict can be as much a source of inspiration and learning as its potential to become a growing cancer of fear and anger. Repression, suppression, oppression, getting along politely, smiling, and talking cheerfully about the weather when we are seething inside to me amount to personal and social denial. It's like letting a boil fester without lancing it. Being politely agreeable at all costs inherently promotes entropy, promotes social tension. Peacemaking to me is the art and science of bringing conflicts, with all their emotional baggage, safely into the open as quickly as possible. We need to learn to create climates of safety and mutual respect in all our relations, in which we can air our differences openly and honestly, most urgently in which we can let off steam directly at the people or actions that trouble us most. That is the only way to build trust where trust has been betrayed or otherwise called into question.

One of my favourite books is Arnold Mindell's *Sitting in the Fire: Large Group Transformation Using Conflict and Diversity*. Mindell argues that democratization of life in any group or community or world requires drawing expressions of anger, distrust, and fear into the open, to sit in an emotional fire.

I think back to what I considered at the time to be a tragedy in the making. Shortly before my brief stint as a legal intern to the assistant secretary for East Asian legal affairs in the U.S. State Department in the summer of 1967, President Johnson had sent an emissary to the department to declare that the decision to go to war in Vietnam had been

made and was no longer to be questioned by anyone. Late in my stay, the ten legal interns were invited by Secretary Rusk to cocktails in his office late one Friday afternoon for a chat, which turned out to be about how we could appeal to youth, in our foreign policy. I was embroiled in trying to get a single letter out to an “important” constituent about reports that Vietcong were taking personal effects off the bodies of our soldiers. I had to go through five clearances, which took me about as many weeks, so that this letter would go out in the name of the secretary. I suggested to Rusk that if people knew how much diversity of opinion there was in the department, and if people were authorized to speak on their own authority unless someone wanted a higher opinion, then respect for the thinking that went into U.S. foreign policy would rise among youth and among people worldwide. I recall our having a brief exchange until a fellow intern shushed me so that we could hear the great man speak. (I also remember being awed by the experience in the moment myself.) Tragically, too, Rusk conveyed his deep conviction that this was our war to end all wars. I believed then as now in confronting difference of opinion openly. Now I call it “peacemaking.”

I find that open difference and disagreement are particularly threatening in our punitive society. If you don’t belong, if you don’t go with the plan, then you may be out of the social game. This first struck me when I was coming back from visits to Poland, during martial law, in the mid-1980s. There I saw open political defiance in art and churches. There I saw friends and family argue with police more forcefully than sober people would generally dare to do in my culture. I would come back to class and hear statements that the United States was special because here we had a corner on free speech. Yes, I replied, you have the freedom, for instance, to work as hard as you want to get the answers I consider to be right on a test. Survival in competition means competing to conform better than others to someone else’s idea of what you ought to know and do.

When in the 1980s Gro Harlem Brundtland was chosen as the first woman prime minister in Norway, her husband was the leader of an opposition party. I have had Norwegians especially note to me how afraid people are of open disagreement on hot issues in the United States when they visit there. It is one of our cultural handicaps. I figure that any time, as in a victim-offender confrontation I am mediating, anger, fear, and disagreement openly emerge as those of us involved are

learning how to make peace. My biggest hope for others as a mediator is that they carry that experience—that reality as to how things can be done—into their lives with others in one way or another after our session together is over.

In peacemaking, I recognize that none of us is ever in the same place, or headed in the same direction, as anyone else. In moments, we may take direction from others for everyone's sake to get jobs done, but we are never really robots inside. We may project our anger (and fear of being discovered for what we really are) at not being able to air our own issues onto "enemies," as though, for instance, a mother who aborts a foetus is the source of our problems, or dissociating from our own violence by describing how our enemies embody it. For instance, so many U.S. and U.S.S.R. denunciations of one another during the Cold War were for things such as world domination and misinformation that they competed between themselves to do best. I had the feeling that our governments fought so hard because they were so much alike, just as we who fear terrorists terrorize others for that very reason. We may also displace our anger onto others, as though the child who defies us represents the parent who beat us or who assumed that we felt as he or she did and punished us for crying or laughing instead. We may obtain obedience from others in the process but not trust. When we command obedience from others, we lose our ability to turn our backs on them, unless at some point we give them a chance to talk back.

In retrospect, I think one of the greatest gifts my biological child gave me was that she talked back to me without hesitation. Most of all, her backtalk gave me a sense of security for her future. When she kicked a boyfriend who kicked her back and broke off the relationship, when she told Jill and me about what she was suffering, I gained confidence in her ability to live safely and well as she grew up and away from home. I noticed how when she was most terrified and cried hardest in the moment, she recovered and went on to other matters most quickly thereafter. I was a little envious too but in the end glad that, in an intergenerational chain, she was being liberated to be her own self.

To be able to do the kind of reflection, including letting oneself feel and express fear and anger, that I label a peacemaking attitude in this chapter, you have to be able to be honest with others about yourself—to have moments with others when you don't have to pretend to be "okay" but can unload your fears and anger, especially in the direction of those who cause these feelings.



In a peacemaking world, we are individuals, not soldiers marching in someone else's straight line. That affords us the opportunity to be honest about conflicts we face, negotiate our differences, and move on to other issues rather than being stuck in distrust and enmity.

In retrospect, small-group social psychology experiments my mother, Pauline N. Pepinsky, was doing in the 1950s on "productive non-conformity" were crucial to this understanding of mine. She postulated three categories of group participation: conformity, negative conformity, and non-conformity. Negative conformity meant opposing what group members proposed to do on a simple task together. Non-conformity meant thinking up a new way to do the task (e.g., building things with Tinker Toys). I got to be a "stooge" as a high schooler in one of her experiments with college students. Her primary finding in a series of experiments: non-conformity was recognized—became "productive"—when another member of the group supported the non-conformist's ideas. She called this condition for acceptance of diversity and creativity "political sponsorship." When today I try to function as a mediator rather than an adjudicator of conflict, I think of myself as a political sponsor of non-conformity, of individuality.

Individuality implies personal responsibility. This is the realm in which you are making change rather than having change happen to you by implicitly or explicitly following orders. Individuation and differentiation are qualities to be honoured and nurtured in peacemaking processes. Peacemaking embraces conflict and difference rather than runs from it.

Darwin found that the survival of species and ecosystems rests on their diversity. The more diverse members are, the more likely that some members will know how and be able to survive whatever change happens—to adapt to change. Empires die because they are wedded to a single order of doing things. In all our relations, survival and safety depend on recognizing, celebrating, and accommodating difference. As a starting point, controlling change rather than being controlled by change requires that each actor assert individuality face to face with antagonists as openly, honestly, and promptly as possible.



## CHAPTER 7

### PEACEMAKING IN PRACTICE

#### PEACEMAKING TRICKLES UP

*Habemus Papam!* “We have a Father!” I begin drafting this chapter just as, for the fifth time in my lifetime, a new Roman Catholic pope has been chosen. I am married to a fallen-away Polish Catholic who is understandably irate at the role the church has played in denying women rights in her homeland. This papal election was quick. The world’s mass media attention was riveted on this “secret” ceremony. Who will our father be? In this moment, I am aware of how many yearn for father figures who can solve our social problems and ultimately make peace for us with our maker, whoever that might be. Patriarchy reigns supreme at this global moment.

As the new pope is announced, a commentator—a Catholic expert on national television—observes that he had a dream that the choice would be the German cardinal who in fact has been chosen. “Now,” as he audibly sighs with relief, “we have a new head of family.” Fear drives people to worship patriarchs, including, sadly, fathers who have raped their own children. We grasp for the father who can help us to get together. The fallacy is that no single human actor, individual or corporate, can decide what is best for the rest of us. Power most assuredly corrupts, in part because no boss or father figure could possibly conceive how to get us all together on his or her or its mission. To justify their actions, power holders are forced to identify enemies they can take care of for their constituencies, because of course they have no “solutions” to our problems. We may all yearn for a perfect papa and, for that matter, a perfectly accepting and loving mother.

The only surprise about the papal election was how quickly the leading candidate, the one who had held the last cardinal mass before the conclave, was elected. The cardinals, in their wisdom, elected a seventy-eight year old who had provided primary doctrinal advice to his predecessor. As luck would have it, the new pope is a German, whose commands for Christian obedience hearken back to the superior cultural days of his fatherland.

He has chosen to be named Benedict. Benedict is said to have been a "lost pope" who tried to encourage dialogue among opposing parties between World Wars I and II. I recall that in the early 1970s, Republican and Cold Warrior President Nixon was the first U.S. president to visit China. Lithuanian criminologist Aleksandras Dobryninas has reminded me that individuals can make a difference. Norwegian criminologist Thomas Mathiesen has observed that just when people thought penal abolition was impossible, as in the Inquisition or a dramatic reduction of incarceration in Germany a couple of decades ago, peacemaking takes hold and punishment is called off as the culture of response to violence shifts dramatically. Perhaps Pope Benedict XVI will make peace in boldly innovative ways that he, let alone the rest of us, has not yet imagined.

I don't begrudge the chances of peacemaking initiatives having effect from anywhere. Leaders can make a dramatic difference, insofar as they avoid assassination like Gandhi, Patrice Lumumba and U.N. Secretary General Dag Hammarskjöld in the Congo in 1961, the Kennedys, Martin Luther King, Jr., Salvador Allende in Chile, and Archbishop Oscar Romero in San Salvador. The list of would-be peacemakers who have been killed by power holders whom they threatened is potentially endless. The ultimate challenge to peacemaking from the top down is allowing power holders who want to make peace to survive, let alone getting them there in the first place. Getting them in political places to make changes in the first place requires a cultural change, from the grassroots up.

Cultural change happens slowly. We don't have to be Roman Catholics to want a papa. Our moments of peacemaking come as we are able to liberate ourselves and risk raising our issues independently of the adoring crowd. The new Roman Catholic pope is not my problem or my salvation. The problem the coverage of his selection poses is the dependence we place on looking to father figures for solutions to our conflicts and violence.

It's funny. In the days between the death of Pope John Paul II and the conclave, I kept resurrecting the phrase in my head about the anticipation to come: *Habemus Papam!* Our globally enculturated dependence on father figures is highlighted by this event. The catch is that, insofar as we wait for our father figures to take care of our problems, we become powerless over changes that are happening to us. I don't know which papal selection triggered this phrase in my head, but it kept on striking me that this "crisis" in the church was one of having a Holy Father. I'm sure much of the audience for this selection event was not Roman Catholic. I think most of us grow up yearning for Holy Fathers.

Peacemaking requires becoming, in effect, an autonomous being who acts outside a father figure's strictures. Freedom to be our heartfelt selves comes painfully slowly. It will be a long time, I'm guessing, before people worldwide give up paying attention to father figures such as popes. Change we control in the name of peacemaking, if it continues to survive and works, will have to trickle up to the point at which our father figures become public servants instead of bosses.

Karl Marx distinguished between political and cultural revolution, as did Mao Zedong. Changing bosses can happen overnight. Getting rid of bosses altogether, the major objective of what Marx called "human emancipation," takes more time. In the third chapter, I reviewed how many centuries it took Norwegians to tip away from sending soldiers abroad and then backing off a generation later on incarceration. I see no way to predict when tipping points come, to determine which straw is the last before a culture turns away from at least some forms of violence. My impression, on the whole, is that people at the top of political and economic structures tend to follow underlying transformations of popular, cultural response to problems. I observed in 1991 in *The Geometry of Violence and Democracy* that forces of violence and those of making peace were mounting side by side.

From the Philippines to Georgia to the Ukraine to Kyrgyzstan in recent times, non-violent resistance to tyranny and corruption has overturned governments, just as Julia Duany and southern Sudanese women turned the tide against intertribal violence. There is no telling when people become sufficiently emboldened to risk resistance to patriarchy on a mass scale. I can only infer that these nonviolent revolutions are a product of development of a culture from the ground up. I saw this development in resistance to Soviet domination in Poland during martial law there in the 1980s, before Solidarity took

control of the government there in 1989. Mind you, there as I expect it to be elsewhere, political victory was pyrrhic. For several years now, the Polish government has been formed by the successor to the old Communist Party. Goods are plentiful on shelves; private wealth has mushroomed, but so has unemployment and inequality.

Similarly, one can see the election of Pope Benedict as a continuing backlash at the top of the church against reforms initiated by Pope John XXIII in the Second Vatican Council.

When the Chinese Communists came to power in 1949, their first new law was the family law making no-fault divorce possible for women, who in the 1950s took advantage of this newfound freedom in droves. The Cultural Revolution, from 1967 to 1975, was a high point for women taking part in leadership positions in "revolutionary committees." When Mao Zedong died and the counter-revolution took hold, his wife, Jiang Qing, became the party's archetypal symbol of repression. Once again a mother figure took the brunt of the blame for violent excesses in the process of change.

China instituted a "one child" policy as a matter of population control. While in the countryside it was reported to be routine to abort female foetuses, in cities such as Shanghai it was reported that families were finding it more secure for personal care in their old age to raise daughters rather than sons. Lash and backlash in steps at the top implicitly or explicitly resist patriarchy.

When I was in law school in the mid-1960s, people from many places in the United States went to Nevada or Mexico to get no-fault divorces. In New York State at the time, for instance, adultery was the only basis on which one could win a contested divorce. People arranged to catch partners in compromising pictures to win divorce cases. The kicker was that, under the English law New York had inherited, divorce was a "suit in equity" rather than a common-law right. A party has no right to remedy in equity without "clean hands." Therefore, if both parties to a divorce were shown to have committed adultery, neither had the clean hands necessary to be entitled to the divorce.

Today no-fault divorce is available throughout the United States. Many are the women especially, and the children secondarily, who have thus been legally freed from abusive relationships, aided by initiatives such as women's shelters. Still, the forces preaching "family values" and trying to force women to stay at home with their men and their children have come back strongly.

If we look for progress toward freedom from patriarchy in moves by political leaders, there is as much room for pessimism as optimism as conflict works its way to the top of patriarchal orders. But over time, one does see cultures shift away from violence by degrees. Although there is plenty of torture and extrajudicial execution in the world today, for example, we have come to the point at which countries where judicial execution in any fashion is lawful are in a shrinking minority. While people routinely ignore their treaty obligations, the fact that we have so many internationally ratified treaties and conventions on human rights and against human rights violations signifies a growing intolerance of violence. At the top, what becomes most manifest is confrontation between forces of synergy and those of violence, even as cultural change takes its course. At this level, it is only confusing and frustrating to decide whether peacemaking or violence is winning the struggle for global hearts and minds.

The revolutionary moral I draw from this reality is that peacemaking is to be measured not by what our father figures do for us but by the progress I make in transforming my personal relations such that my honest feelings and beliefs are more respected as time goes by and those relationships become safer, more trustworthy, more secure. Peacemaking begins with the importance of what I myself do next rather than with whether my leaders carry out my will. Peacemaking is risky. The would-be peacemaker risks rejection and ridicule for being different, for instance for being a parent who does not discipline a child when mainstream messages are that disciplining children is a primary parental duty. The parental reward in this case, in my own experience, is having an open relationship of mutual trust with one's child. The reward for my letting go of attachment to outcome in my classes is that I learn much more from my students, and my students become more eager to learn from me. Wherever I am thus able to risk and get away with "guerrilla peace fare"—to defy and attempt to transform hierarchy—I not only enrich my own life but also share an experience with my relations that they too may carry over into their other relations.

In Stuart Henry's 1984 study, *Private Justice*, he found that discipline of employees in formally co-operative or democratic enterprises could turn out to be as authoritarian as discipline in formally hierarchical enterprises. In this chapter, I review formal structural alternatives to patriarchal order such as initiatives in workplace democracy or

the welter of programs in substituting “restorative” for “retributive justice.” Legislation and other formal restructuring may reflect and embody progress toward peacemaking. For instance, had the Equal Rights Amendment to the U.S. Constitution won ratification in the 1970s, this action in part would have signified growing recognition that sexism is a deep-seated social problem in need of redress. But as in organizing workplace democracies or forums for exercise of restorative justice, in implementation, the formal structures may encounter cultural resistance among those who act within them. A manager of a formally democratic enterprise may be autocratic. A victim-offender mediator may preach or more compassionately be in effect a social worker who uncovers people’s problems and refers the people for expert help. (Indeed, many restorative justice advocates bemoan how the name has been co-opted and abused by those who manifestly embrace the concept, so that mediation turns into adjudication.)

Learning to be reflective and to take turns in one’s conversations is a long, hard, personal journey for those of us who live in punitive societies. Among other things, this learning requires that one’s own truths about the world are in constant flux—that, as Max Weber said of the calling of the scientist, one seeks the means to make one’s own findings obsolete rather than to prove oneself right. Only as peacemaking becomes real and meaningful for each actor at the personal level can it become real in larger social practice. That takes time. It takes patience and fortitude to carry on learning how to make peace while above us the world is in turmoil. A friend and child advocate used to tell my classes that change away from violence required “gentling” people into trying something different. I acknowledge the risk, and I do not begrudge people taking little steps at a time toward change that seem reasonably safe to them as they build countercultural relations.

## GETTING CONNECTED

It’s 8:30 a.m. I drive by clusters of children on street corners waiting for school buses. The children in each cluster must be neighbours. They appear to be about the same age in each group. Yet all of them stare straight ahead, as though hypnotized. They neither look at nor talk with one another. There is no conversation. In my mind’s eye, I see them getting on buses where drivers insist on silence. I see them going to their homerooms and sitting in rows in silence, with occasional disruptions by “behaviourally disordered” classmates.



I think back to bus trips my classmates and I took from summer school to swimming lessons. Time after time, someone would start singing, "Ninety-nine bottles of beer on the wall, ninety-nine bottles of beer, you take one down and pass it around, there are ninety-eight bottles of beer on the wall. Ninety-eight bottles of beer on the wall... ." Suddenly, virtually all of us would be racing to see whether we could get to "zero bottles" by the time the trip was over. We were so animated.

I think ahead just over thirty years. I am back visiting my daughter's classroom. Katy is in the fourth grade. Her award-winning teacher has a combined class of fourth and fifth graders. In one corner is a double-deck play area with padded floors and pillows. I look over the classroom. The walls are festooned with student artwork. During class, students sit at round tables of some eight students apiece. Some are already seated. Some do their own thing. Some are talking animatedly with their neighbours. Some are laughing and chasing each other among the tables. The teacher is relaxed and smiling, saying "hi" to this student and that. Then the bell rings. Scarcely raising her voice, she asks students to please sit down so class can start. Magically, they do so instantly and become quiet as they listen to her begin to talk with them about what they will do that day.

My daughter did much of the finest creative writing that year that she has done in her twenty-eight years (and, if I do say so myself, she has become a fine professional writer). When my daughter was in middle school and I was exasperated with school officials there over how they were treating some politically outspoken students (not including my daughter), I called her fourth-grade teacher back to thank her for the wonderful and, I think, life-changing educational experience she had offered Katy. How, I wondered, could she be so wonderfully liberated from bureaucratic education? She told me that she had changed after being institutionalized for being suicidal. She hit bottom and decided to live a personally rewarding life thereafter, regardless of the risk.

In 1996, former schoolteacher Alfie Kohn published case studies of similarly extraordinary teachers in *Beyond Discipline: From Compliance to Community*. He sought to explain why these teachers had virtually no problems with student discipline and virtually no need to enforce it and explained how they got such a high level of involvement from their students in learning. Essentially, like Katy's teacher, they created communities of learning by involving students thoroughly and continually in making decisions about how and what they would study



and do in class. This approach included deciding on daily schedules that gave students breaks from a teacher's lesson plans. This could include time for group projects. It included time and space for those who wanted to pursue individual projects or activities. And, of course, it included discussing how to respond to conflicts as they arose. Voila!

*New York Times* foreign affairs columnist Tom Friedman published a book in 2005 entitled *The World Is Flat: A Brief History of the 21<sup>st</sup> Century*. Friedman presents ten case studies of how advances in computer and communications technology mean that production can be outsourced and broken up and located anywhere. He explains how a global giant named Wal-Mart can be started and still controlled out of a small office in a tiny town in Arkansas. The book recognizes that in places such as India there are highly trained people to read X-rays from U.S. hospitals and send back results instantly at a fraction of the cost of having radiologists on staff. The message to any of us who thinks having a skilled and committed workforce is an asset: you can be replaced.

I am something of an Internet addict myself. I recognize that technological advances also enable me and others to stay in touch, instantly, around the world. For many people, for example those who are sick or traumatized, the Internet enables them to find support and provide mutual comfort in ways and at national and international levels that are unprecedented. The Internet is also a democratizing force in that it opens doors to all manner of versions of what is happening in the world and allows individuals avenues to present their written work in forms no editors or publishers can stop. But the technology also controls us. I wonder how many of the children at the bus stops spend hours at a time on the Web, or in chat rooms, while the only other children they socialize with are in activities organized and managed by adults. While, on the one hand, the Web puts us in touch with the world, it also disconnects us from those whom we encounter daily, personally. For that matter, when I see people walking or jogging on a beautiful spring day, I think how sad it is that they don't hear any of the birds around them singing, and I doubt that they even see the spring foliage.

Friedman makes a convincing case that national boundaries are falling and that inequalities between North and South (or East in the case of China) are being broken. I have long thought that as the Dutch, the Belgians, the Portuguese, the British, and the French gave up their colonies after World War II, a process was set in motion in which the

Eurocentric world would tremble as those colonized began to colonize their former colonizers. Many politicians in the North (or West?) today play on restricting foreign immigration. We have “convergences” of technology and will and the ability to compete for business. Friedman points out that this means that people from abroad don’t need U.S. visas to compete and win U.S. business. He illustrates with a recent case in my home state of Indiana. There, an Indian (*not* American Indian) firm won the bid to fix Indiana’s state employment software and then had to be bought out by a Democratic governor in a losing contest against (free trade?) the former director of President Bush’s Office of Management and Budget. In such circumstances, Friedman asks, who, foreign and domestic, has been exploiting whom? Good question.

Friedman calls upon “Americans” to respond to the flattening of the world by getting tougher. He tells us he admonishes his daughters to hit the schoolbooks harder so that they can compete with the skills Indians and Chinese are mastering at rates faster than ours. He is a sports fan. He believes competition is what makes the world go around. His vision is that if we rise to the occasion, the world will continue to grow as we invent more material products and enhance consumer dependence on more and more services being done for us. He cannot give up on the hope of eternal material growth and efficiency.

Friedman persuades me more than ever that U.S. hegemony is being eroded at an exponential rate. Change is overtaking us. We are in crisis. As depicted in the Chinese character, crisis is a combination of danger and opportunity.

Friedman argues that vertical corporate control is being levelled by insourcing and outsourcing. Even within corporations, individual members act like Adam Smith’s classic individual entrepreneur as they get jobs in small teams that cross corporate and national boundaries. Here, I see opportunity.

## OPPORTUNITIES TO DEMOCRATIZE

I suspect that many of the small economic wonder teams of twenty-first-century entrepreneurs Friedman describes are organized as partnerships. It is not inevitable but probable that many are in effect workplace democracies in themselves. I don’t mean to over-romanticize. Surely many competitors in today’s flattening market exploit their workers. Wal-Mart keeps getting held up as a classic example. But

within that, if indeed workers at a microlevel are finding niches in the global market, they may be organizing among themselves more rather than less as partners rather than as bosses and servants. I hope so.

I am reminded once again of E. F. Schumacher's 1973 treatise *Small Is Beautiful: Economics as if People Mattered*. In 1966, Schumacher founded the Intermediate (originally "Appropriate") Technology Development Group. Their Web home page describes their work:

The ITDG was founded in 1966 by the radical economist Dr EF Schumacher to prove that his philosophy of 'Small is Beautiful' could bring real and sustainable improvements to people's lives.

With our commitment to poverty reduction, environmental conservation and technology choice we think ITDG Practical Action is uniquely placed to contribute to a world free of poverty.

ITDG Practical Action has a unique approach to development—we don't start with technology, but with people. The tools may be simple or sophisticated—but to provide long-term, appropriate and practical answers, they must be firmly in the hands of local people: people who shape technology and control it for themselves.

Intermediate technology is technology on a personal scale. Schumacher laid down certain core principles. Individual machines could cost no more than ten times the income of any individual worker who used them. They would have to allow room for the worker's exercise of creativity and for flexibility and change in how people who adopted the technology used it. Schumacher reportedly conceived of intermediate technology on a trip to Burma (now Myanmar), where he sought ways for formerly colonized people to liberate themselves from economic imperialism. By the time he wrote *Small Is Beautiful*, he was citing a three-person brickworks in northern England as an economically viable and competitive enterprise. Controlling one's economic destiny anywhere entailed controlling the technology or machines one used in the process. In my reading, Friedman focuses on how global economic change controls us, while Schumacher and the ITDG still focus today on how we might gain measures of local, personal, and economic control in the midst of global economic change.

Movements countercultural to being flattened, to growth, to becoming bigger winners as life progresses go by many other names besides intermediate technology. The ability of the Japanese to feed

themselves even when cut off from global commerce led post-World War II Japanese to set up rice-farming co-operatives and to limit dependency on the terms the rest of the world laid down to feed them. “Self-reliance” became words for Mao Zedong’s and Julius Nyerere’s theories put into practice, as though the Chinese and Swahili equivalents were indigenous inventions (which in many ways they were—bids for independence in a postcolonial world). These days agriculturalists lead the way worldwide in working toward “sustainability” rather than “growth.” I seek progress in social security in our personal lives, globally and locally, ahead of solving social problems. I think we are all talking about having the same approach toward control of our political and economic destinies, in contrast to advocating becoming bigger, meaner, and leaner competitors in a world gladiatorial order, for the sake of “efficiency” and “effectiveness.”

## EFFICIENCY AS ENTROPY

In his 1974 book on *Energy and Equity*, Ivan Illich argued that if you factor in the time to do what you have to do to earn the money to buy, maintain, drive, and park a private automobile, once you get in the car and do the driving you are making your way at the rate of about four miles per hour. You can walk that fast. Any rational actor choosing whether to buy (or now lease) and drive a car or buy and ride a bicycle would have to conclude that bicycles get you faster to places where you can do what you want to do instead of wasting time doing what you have to do to pay expenses. (As I mentioned in the earlier chapter on violence, he was by then internationally famous for having written *De-Schooling Society*.)

## BECOMING SUSTAINABLE

It is a hard truth. To continue raising (or “growing”) the current living standard in the United States, we are said to account for something like forty percent of the world’s consumption despite having five percent of the world’s population. Mother Earth is complaining and getting wasted already. If we continue on this path of global competition rather than co-operation in “steady growth,” then we lose first in the United States, and in the longer run we risk the very survival of our entire species. That’s social entropy on the grandest scale in the history of

human habitation of the planet. National barriers against this entropy are already falling wholesale as the world moves more frenetically toward destruction of the ecosystems that feed and shelter us.

I believe that, while humanity survives, we have a chance to move from growth to sustainability, in global co-operative dialogue, to save the species. While there's life, there's hope. Many people, like those in the ITDG, are transforming slaves of economic growth into more self-sufficient local groups. Transformation from violence to peace trickles up. Will it transform the violence inherent in the flattening of the world fast enough to prevent human extinction? I don't expect that question to be answered in my lifetime.

Sustainable agriculturalists in particular offer us a path away from dying out as a species on a planet on which we take oh so many species with us. Should this happen, I think it is a fair prophecy that insects will live on, eat our remains, and dance and fly over our graves. As Friedman argues, the sooner we transform global and national competition into global co-operation in building local sustainability, the better our chances.

From 1999 to 2000, the late "Granny D." Haddock walked across the country, sometimes accompanied by members of Congress, to talk about what she saw as requisites for peace and justice. It was my privilege to hear her give a keynote address at the Association for Humanist Sociology meeting in 2001 before she died. She was a tribute to what I accept as fact: no one is too old to learn or initiate transformation of violence into peacemaking. As she walked across the United States, two slogans of hers stood out to me then as they do today: "Money is not speech," and "Corporations are not people."

Under the U.S. Constitution, as the Supreme Court has chosen to interpret the Bill of Rights, money is "speech." Therefore, electoral law federally and in the states must allow, as "free speech," people to pay to elect political candidates of their choice. You cannot simply limit candidates to non-partisan publicly funded access to campaigning. And so it seems that people can buy elections as a matter of constitutional right.

This isn't just an individual right, since the Supreme Court has long since ruled that they are "persons," fully entitled to advocate what they want as individuals who can afford access to political discourse. Moreover, you cannot dismantle a corporation for breaching public trust (limits to liability being guaranteed by secretaries of state and the

like) without guaranteeing the corporation all the due process rights to which an individual is entitled, including receiving “just compensation” for nationalizing or otherwise converting to worker/client ownership for the sake of the public good.

I admit to punitive fantasies. In retaliation for serious corporate breaches of the public trust, I imagine a sentence for corporate miscreants: ownership of your enterprise will be given to a worker/customer organization that is democratically owned and operated. An out-of-control corporation will be transformed into a co-operative. Then I recall Stuart Henry’s finding that you cannot create a community by legal format, and I recognize that achieving legal recognition and enforcement of this change at the national let alone the global level is virtually inconceivable. Vested interests against this transformation are thoroughly entrenched.

That does not mean that in a flattening world governments and individual corporations are any more in control of change than those of us who suffer their impersonal pressure for irresponsible corporate growth. So much for using power to transform violence. At the same time, however, local groups worldwide, such as the IMTG, are doing what my friend Bill Breeden calls “guerrilla peace fare.” They are building local economic autonomy and self-reliance in the face of the flattening of the corporate economic and political world. Perhaps local initiatives toward sustainability will trickle up and undercut corporate monopolization of our lives. Certainly, I know of local success stories in the interim.

My wife Jill and I live and work in two cities. In Bloomington, Indiana, we are members of Bloomingfoods. In Ames, Iowa, we are members of Wheatsfield Grocery. Together they belong to a larger co-operative, [www.naturalfoods.coop](http://www.naturalfoods.coop). Change trickles up more slowly than global oligopolization. Bloomingfoods is the only member of the national co-op in Indiana. Wheatsfield is one of two in Iowa. Ames is smaller than Bloomington. At Wheatsfield, we are members of both. Customers are flocking to these stores, in which fresh, locally grown foods are highlighted, with an emphasis on providing products that are free of herbicides and pesticides, whether or not certified “organic” by the U.S. Department of Agriculture. Our daughter, Katy Pepinsky, on her own, has chosen to commit herself to promoting local connections between such food producers and first restaurants and then publicly favoured purchases for public institutions, notably food bought and



served in public schools. She works, studies, and attempts to build positive change in her case, as I write, in Fort Collins, Colorado, where in the fall they have a massive fair promoting local initiatives on sustainable energy and production of all kinds. They, too, are in global contact as they learn how to organize in new ways in resistance to global economic and political violence.

Katy found such efforts alive and growing when she was an agricultural volunteer in the U.S. Peace Corps in Bolivia from 1999 to 2001. She found it in Central America in initiatives at “permaculture” — moving into a place and becoming friends with the local ecology before one decides where to build and where to cultivate and what and why — literally from the ground up. These developments are happening alongside Friedman’s world-flattening process. I prefer to invest my life’s energy in celebrating these initiatives rather than placing faith in globally successful corporations and other father figures to make me, those I know and love, and indeed all of humanity safer. From my child and from allied initiatives, I find that people the world over are getting together and building peace and sustainability in the face of global forces of competition and “free market” inevitability.

As I write in the spring of 2005, U.S. Federal Reserve Board Chair Alan Greenspan has just testified to Congress that the growth in national debt is “unsustainable.” He recommends that Congress look to cutting “entitlements,” especially public payments for medical care. Even an arch-advocate of “growth” recognizes that unrestrained growth has its limits. I say that the paradigm of growth must either be transformed into sustainability in all our relations or else we face collapse and eventually death, somehow and sometime in the future, if we do not transform growth into sustainability.

No future of humanity is inevitable. Transformation, even cultural tipping points in which we as groups turn from violence to peacemaking, is never too late to start and as logically is catalyzed from any actor at any level in the social structure as anywhere else. A police officer, a judge, or a president may turn out to make a difference in transformation as much as a brave proletarian. No matter where you find yourself in a power structure, peacemaking can begin to be built by your own initiative. At every level, peacemaking presents challenges and entails personal and group risk. I turn now to posing some of these challenges, which I believe face us all no matter what our social position, in choosing whether to try building peace in the face of violence.



## PEACEMAKING TAKES TIME

I have just been to the dentist, suspecting I might have a cavity. Dental X-rays are taken. They will have to be developed. It may take ten or fifteen minutes. The hygienist asks me whether I want to pick out a magazine to read while I am waiting. I assure her that I am fine. I take the moment to sit back, close my eyes, and relax. I ponder the reality the hygienist faces in her customers. If you aren't being overtly productive, doing something socially useful, you are wasting time. In my country at this time, we are all caught up in rushing to do something useful. We cannot afford the time to sit back with ourselves alone.

Peacemaking is demanding, especially so when cultural demands are that you keep busy in order to justify your social existence. The pressure is on to survive without having the time to explore what's going on around you and having the leisure to formulate your own responses.

Peacemaking takes time. You have to shut off the inner and outer voices telling you that you have to go wholeheartedly about your own business. That makes it hard to take time out to listen for and inquire about the interests that might underlie someone's position of opposition to your own interests.

It is also hard to find time to reflect on what you yourself have been doing and on how it has been received. It is hardest of all to take uninterrupted time out for your inner self to reflect on what this new information implies for which choices you might have to make next.

For instance, I recognize that in a sense I am being politically shallow when I propose that we could largely replace prosecution with victim-offender mediation or conferencing with offenders. I and my colleagues in our victim-offender mediation program take inordinate time with parties concerned on intake, let alone in sitting down and taking an hour or more when the actual mediation takes place. Since a famous article by David Sudnow in 1965 in the journal *Social Problems*, "Normal Crimes: Sociological Features of the Penal Code in a Public Defender's Office," regarding bargaining practices, it has been recognized in my field that plea bargaining is a necessary practice in getting dockets moved, preventing or reducing backlog, in our criminal courts. The prosecutorial system relies particularly heavily on persuading defendants who are in jail, unable to bail out, to exchange a plea of guilty for a get-out-of-jail-sooner-rather-than-later card, with judicial credit for time served awaiting trial.

My local county courts have literally thousands of criminal cases to move through the system each year. Prosecutors concede that they have time for only twenty-five to thirty jury trials per year. The fact is that if we significantly transformed prosecution into mediation, it would take a massive increase in time spent by people in dealing with criminal cases, one that a limited number of volunteer mediators like me are scarcely prepared to deliver. We simply don't have the people with the time to substitute restorative justice for the normal mechanical process of clearing cases. It's too inefficient. The prosecutorial machine will win out. Peacemaking takes time we figure we cannot afford.

In a larger sense, the processing of cases as usual is penny-wise and pound-foolish. The costs of incarceration are enormous. At the end of incarceration, we leave offenders less able to assume responsible roles in what prisoners call the "free world" than ever. We delay and exacerbate our problems by failing to take time out early in the criminal justice process to bring people together rather than enforce their separation.

The costs of acting to defeat our foes instead of negotiating with them apply at all social levels. Parents and teachers may feel too busy to take time to listen to children who seemingly defy their orders. I have no "solution" for this or any other problem. I can only observe that whenever we face and deal with problems such as the inherent long-term inefficiency of the plea-bargaining process, transforming violence requires taking time for ourselves and those with whom we have problems. On the bright side, when we make time, transformation of our relations becomes possible, and, as Canadian penal abolitionist Ruth Morris labelled it in her 1995 book, the transformation is that we recognize "penal abolition" to be the "practical choice." Making time, that most precious of contemporary commodities, is vital to transforming violence rather than continuing and building mindless cycles of returning violence in kind. We are in many cases literally dying for time to listen, reflect, and learn with others in our daily relations.

## CHALLENGES IN CRIMINAL JUSTICE

I turn now to challenges we face specifically in my professional realm, criminal justice. They range from the level of legislation, to the level of enforcement, to what to do with those whom we have already condemned as "offenders."

## LEGISLATION

I have the leisure on sabbatical in 2005 to follow the meanderings of the Iowa legislature, in a home away from home. It has a problem. The governor belongs to one party. The House of Representatives has a bare majority in the opposition party. The Senate is evenly divided between the two. There are tough issues. The budget is strapped and must be balanced. No one dares to be blamed for "raising taxes." All kinds of social services are hurting desperately. What to do?

The first high-profile bill to pass the legislature and be signed by the governor restricted sale of pseudoephedrine hydrochloride, popularly branded as Sudafed. Sudafed and its generic equivalents are key ingredients in methamphetamine. The federal government has branded Iowa one of the primary sales grounds for "meth." Politicians acknowledge that this is because Iowa is a distribution centre for Mexican meth. This restriction on how much Sudafed you can buy without registering your purchase with a pharmacist will, admittedly, scarcely crack the "crank" (as this evil drug is also known) epidemic. Score one for the Iowa government in protecting Iowa public health.

A child is abducted, raped, and killed by a registered sex offender. The legislature increases the sentence for this offence. Some legislators push for reinstating the death penalty for this offence.

Some counties are prohibiting the use of genetically modified seed. Another bill takes over state authority for that decision.

One-room schools were once an Iowa tradition. To save money and promote educational efficiency, the state will now force unification of school districts across counties.

The speed limit on Iowa restricted-access highways is increased from sixty-five to seventy miles per hour. This at a time when gas prices are soaring.

A "model" law to save medical expenses by requiring that Iowans in need of medical care stay at home until three rather than two criteria of inability to care for oneself are met in effect punishes family members for failing to take care of their own, a projected budgetary saving.

As I write, the legislature has run weeks past its deadline. Legislators no longer qualify to recover expenses of meeting in the capital. There is still no budget, but the parties are negotiating on how much to raise the state cigarette tax to fund public education. Gandhi's ashes must be turning over in the River Ganges, for Gandhi decried the immorality of governments' reliance on sin to fund public services. Funding of public

education is to depend on how many cigarettes the public consumes? Legislators are scared to assume responsibility for meeting public needs. By doing so, they risk losing office.

The American Legislative Exchange Council was formed in 1973, the year I gave the Chapter 2 address on diversion in California. As Tommy Thompson became health and human services secretary in the first term of the second Bush presidency, the retired Wisconsin governor praised its contribution to his state stewardship. The group has focused on giving state legislators model get-tough-on-crime legislation, like that restricting purchases of Sudafed now in Iowa. Getting tough on crime and deadbeats has become high political art. It has become a substitute for assuming responsibility for meeting popular needs, in Iowa as across the country.

In theory in a federal system, U.S. state governments have a lot of autonomy. And yet I sense that the higher one gets, the more trapped one becomes in doing what is necessary just to hang on to personal position. In Friedman's terms, U.S. states are highly vertical. My daughter, Katy, is among those who may press the Colorado legislature to give subsidies to schools and other public institutions to buy local produce. It may be more expensive, but it is more likely to be grown with care. Growers who deliver inferior produce will rapidly be called to task, certainly more so than Dole. Peacemaking may trickle up to build zones of trustworthy, mutually responsive group self-sufficiency. I see this as a foundation upon which community building may trickle up.

State legislatures are beginning to recognize that they can't afford to open new prisons or need to lay off mandatory sentencing of drug offenders, for example. Retributive justice just plain costs too much. I expect politicians will become more eager for "solutions" — more open to alternative social control system proposals—in the current course of events. I just don't spend too much time looking to them to lead peacemaking efforts.

## **ENFORCEMENT**

How long will we hold onto the great fiction that law enforcement, traffic enforcement aside, makes us safer? Law enforcement is a monumental failure. It always has been, from the Inquisition onward, and ever more shall be. Self-report studies as early as the 1940s established that virtually all of us are candidates for jailing or imprisonment, truth be

told. The world over, as Jeffrey Reiman points out, “the rich get richer and the poor get prison.” Let’s not kid ourselves. Law enforcement and prosecution are highly selective.

The police patrol officers whom I have most admired can exercise discretion *not* to enforce the law. They can throw a joint they find in a car down a storm sewer and invite the driver to go on. They might even take a drunk driver’s keys away and drive him or her home. They might be naturals at getting fighting neighbours to kiss and make up. They don’t rate their job performance by how many arrests they make. They make peace. Peacemaking can start anywhere. Law enforcement is not an imperative. Law enforcement as a whole is inherently racist, classist, sexist, and ageist. Safety is a valid concern, but catching someone in an illegal act is not in itself a blow to moral virtue. There are no just deserts, apart from the whims dictated by scared law-and-order legislators and executives. Law enforcement has no valid moral point to make by enforcement. It can at best help to make peace in conflicts as they arise.

The same applies to prosecutors, who generally in the United States serve at the will of their political appointees or the voters. By failing to prosecute, as in referring cases they otherwise would prosecute to victim-offender mediation, they risk political challenge by those who promise to be even tougher on crime than they are. This political stick has a carrot: a record as a tough prosecutor is one of the hottest tickets to higher political office in my country. I don’t expect police and prosecutors to lead the transformation of violence into peacemaking. They risk becoming non-conformist as much as any of the rest of us. Grassroots political efforts may help to encourage them to take the risk. When they do, they have tremendous capacity to control changes that are happening to all of us.

### **DEMOCRATIZATION OF LAW ENFORCEMENT**

I met David Cooper in 1970 when I went to the University of Minnesota. He was an advanced doctoral student in sociology. He had been a rather notorious member of the Minneapolis Police Department’s early version of a SWAT team, called the “tactical squad.” He had resigned to become chief of police in a wealthy suburb of Minneapolis, Burnsville. He was one of the first police chiefs (besides Orange County Police Chief Cizankas, one of the respondents to my 1973 talk in Chapter 2) to require that police patrol officers have bachelor’s degrees and wear

pastel blazers as their patrol uniform. He trained them all in Adlerian therapy, in which people were invited to work out how they would assume responsibility for making future choices in their responses to problems they posed to others. When a young person was taken into custody in Cooper's department, standard practice was to bring the person to the police station, where in good Adlerian fashion an officer would call in family or guardians and negotiate what to do next.

Cooper got his Ph.D. and went on to become an innovative police chief at the University of Wisconsin. He advanced by risking innovation. He operated in elite communities as he did so. Can that innovation carry over to "routine" policing, even in urban lower-class ghettos?

I was in Minnesota when President Nixon came to announce the first modern U.S. drug war as a national policy. Against that trend, Minnesota's law against public intoxication had just been repealed. In response, the City of Minneapolis had set up a "detox centre," with warm beds and counsellors available to those who were brought in to sleep off a binge. Warm beds for drunken people on the streets are especially needed in Minneapolis, one of the coldest cities in the United States in winter. And so in many cases, as I rode with the police in Minneapolis's "high crime" area in 1971, those who would have helped to fill jails for their own good just a year earlier were diverted from punitive "justice."

What a difference this approach would make in my home college town, where five police forces—city, university, county, state police, and state "excise police," who concentrate on alcohol enforcement—combine to make public intoxication the most common ground for arrest and incarceration of any offence. With a will, Minnesota shows, there are ways to change.

First in a 1984 article and then in 1991 in Chapter 6 of *The Geometry of Violence and Democracy*, I proposed a system by which residents of a police patrol district could meet and, in an open-ended way, negotiate and renegotiate what would be put into the officers' files as indicators of their performance. I proposed that only these measures of performance and records of disciplinary proceedings would appear in each officer's personnel file. For instance, these measures would be the sole index of performance in promotional exams. The criteria would also need clearance from police administration to ensure that they preserved due process and equal protection rights of all people regardless of whether they were district residents.



Notice my focus on the challenge of deciding democratically on what police should do rather than on settling uniform standards for police performance. I have in mind particularly opening the door to transforming the police and popular culture that glamorizes arrests as primary police contributions to social order. Perhaps, for instance, residents and police might agree that police would leave stamped, self-addressed postcards by which residents could anonymously identify officers whom they had encountered, as in calls for service, and rate the police on how helpful they had been. A community might decide that, as has happened in some places, they valued police taking patrol time, when free of other demands, to do grocery shopping for residents who could not get out of their homes.

Police patrol officers in my experience typically have lots of free time. Living up to the image of policing on police action dramas is an implicit challenge to younger officers especially. How do they show they are doing their jobs, being productive? By making good “busts” or “collars”? Democratic dialogue reinforced in police personnel records and practices might open alternatives, in low-income neighbourhoods in big cities today as in Burnsville, Minnesota, or Orange County, California, in the early 1970s. Change is a question of will to democratize law enforcement, not a matter of lack of ways the task can be approached.

## ABATING DRUG WARS

The greatest single legal pretext for imprisonment today in the United States is drug offences. They account for well over half of federal commitments to prison. In many states, they account for nearly half of all commitments to prison. Commitments are skewed by race and gender. Thus, for instance, in recent years, ninety percent of the increase of incarceration of African American women in New York State was for drug offences. Many are the stories of how women have taken the fall for doing their men’s drug business, while the men bargain their way out of imprisonment.

In 1985, Norwegian and Danish criminologists Nils Christie and Kjetil Bruun wrote a book opposing drug wars that got widespread attention in Scandinavia, entitled *Den gode fiende*, in English *The Good Enemy*. It is oh so convenient for politicians to brush off social problems as created by individual deviation. The focus of ameliorating social



problems rests on individual choice. Our primary social problems are said to arise from individual choice. Those who use drugs are a social burden. Lift that burden, and, in a land of supposed equal opportunity, members of society will all become productive, "growing" themselves and the social order. There is no need to dwell on problems of political and economic inequality by social readjustment. All we need to do is get people to "say no to drugs."

On June 1, 1998, these authors and a number of distinguished figures from around the world wrote an open letter to U.N. Secretary General Kofi Annan. This and a wealth of other information about drug wars can be found at the Web site of the Drug Policy Alliance, [www.drugpolicy.org](http://www.drugpolicy.org). Here is the text of that letter, which to me remains as true today as it was in 1985:

We believe that the global war on drugs is now causing more harm than drug abuse itself.

Every decade the United Nations adopts new international conventions, focused largely on criminalization and punishment, that restrict the ability of individual nations to devise effective solutions to local drug problems. Every year governments enact more punitive and costly drug control measures. Every day politicians endorse harsher new drug war strategies.

What is the result? U.N. agencies estimate the annual revenue generated by the illegal drug industry at \$400 billion, or the equivalent of roughly eight per cent of total international trade. This industry has empowered organized criminals, corrupted governments at all levels, eroded internal security, stimulated violence, and distorted both economic markets and moral values. These are the consequences not of drug use per se, but of decades of failed and futile drug war policies.

In many parts of the world, drug war politics impede public health efforts to stem the spread of HIV, hepatitis and other infectious diseases. Human rights are violated, environmental assaults perpetrated and prisons inundated with hundreds of thousands of drug law violators. Scarce resources better expended on health, education and economic development are squandered on ever more expensive interdiction efforts. Realistic proposals to reduce drug-related crime, disease and death are abandoned in favour of rhetorical proposals to create drug-free societies.

Persisting in our current policies will only result in more drug abuse, more empowerment of drug markets and criminals, and more disease and suffering. Too often those who call for open debate, rigorous analysis of current policies, and serious consideration of alternatives are accused of “surrendering.” But the true surrender is when fear and inertia combine to shut off debate, suppress critical analysis, and dismiss all alternatives to current policies. Mr. Secretary General, we appeal to you to initiate a truly open and honest dialogue regarding the future of global drug control policies—one in which fear, prejudice and punitive prohibitions yield to common sense, science, public health and human rights.

Drug wars are hard to abate. In the 1990s, Swiss cantons began to experiment with prescribing heroin to addicts, giving them clean needles and places to shoot up. Their experiments became national policy as they found both that the health of addicts and crime problems associated with their addictions declined dramatically. Opiate use is a particularly interesting drug problem. The body produces the pharmacological equivalent of opiates, called endorphins. It also produces a blocker, because if the body does not balance production of endorphins or other opiates with a counterforce, a person can go into respiratory arrest. So, for instance, long-distance runners are accustomed to getting the equivalent of a heroin high as they work their bodies through pain and the level of the blocker rises accordingly. If the running stops, the balance shifts toward the equally high levels of production of the blocker, and runners go into the equivalent of heroin withdrawal. Maintaining one’s long-distance running is a functional equivalent of heroin maintenance. Meanwhile, opiates and heroin, while potentially fatal in suddenly elevated doses, are in themselves about the least toxic mind-altering drugs known to us. It has long been an open secret that medical personnel maintain themselves—as when they are working long hours—by taking and regulating their intake of synthetic opiates such as Dilaudid.

Absurdly, one of the treatments for opiate addiction has been prescribing an oral substitute, Methadone. It is a synthetic opiate developed by the Germans in World War I when their supply of opium, as for manufacturing morphine (a less potent form of heroin), was cut off. Heroin users I have known have told me that Methadone may inhibit withdrawal but gives nowhere near the satisfaction that

the natural opiate gives them. The fact remains: this treatment merely means substituting one opiate for another.

A heroin user on Methadone treatment helped me to teach about criminal justice issues at Minnesota. He described to me how he could shoot up heroin and go on a radio talk show, and no one would detect any problem with his engagement in the show. Why should they? Those who maintain themselves on what they know to be a safe and pure source of heroin of known potency can live as “normally” as those who don’t. I think the Swiss made a wise decision.

Other countries are following Switzerland’s lead. In recent years, for example, Portugal, Spain, and Italy have decriminalized possession and use of illegal drugs, although they persist in fighting illicit drug trafficking. Drug war abatement proceeds by degrees.

The hypocrisy of drug wars has become more manifest in the United States in recent years. Now mind-altering drug producers freely advertise their products. This drug will fix “social anxiety disorder.” That one will fix “depression.” For all I can see, none of these drugs is more or less inherently dangerous than those labelled “dangerous” and hence illegal. I have sat with friends in emotional distress for what I considered apparent social reasons whose psychiatrists have told them that their problems were simply that they were not “taking their meds” —that is, the drugs their physicians prescribed, as against mind-altering drugs they might decide to take on their own initiative. In the process, too, stories are legion as to how patients go from doctor to doctor simply to get the drugs they want.

I had the good fortune to join Kevin Whiteacre, long a student of drug control, in an article, “Controlling Drug Use” (*Criminal Justice Policy Review* 13, 1 [2002]: 21–31, reprinted in Hugh T. Wilson, ed., *Drugs, Society, and Behavior*, 18<sup>th</sup> ed., 23–27). There we advocated substituting responsible drug use, with the objective of building “healthy relations” with drugs, for prohibition and prescription. The best source of information about drug use, we argued, came—as from Internet sites—from others who reported on how they had used the drug and on the consequences. Ultimately, there is no substitute for inculcating in each of us the capacity to make informed decisions about what we ourselves decide to take into our own bodies. As in all our relations, responsibility entails overcoming dependence on outside authorities to decide for us what we do for our own good.

Governments would do better to concentrate on disseminating information about effects of drugs on users and on guaranteeing that the drugs we buy are what they say they are rather than on regulating which drug we take at any moment. Some call this a “public health” approach to drug policy. Make treatment available for harmful drug addictions. Abandon prohibition.

Control of drug trafficking can be just as dishonest and insidious as prohibitions on drug use. The political corruption inherent in drug prohibition is beautifully illustrated in William Chambliss’s 1974 book, revised in 1988, *On the Take: From Petty Crooks to Presidents*. His take-off point at the international level is how control shifted from Democratic alliances with heroin traffickers dating back to World War II to Republican alliances with heroin traffickers as of the inauguration of President Richard Nixon in 1968. Suddenly, heroin importation shifted from the East Coast via the historically Sardinian-based “French Connection” to the West Coast from Southeast Asia. The French had used opiate production and sale within Southeast Asia to fund their wars against colonial independence in that region. Once the U.S. government took over the war from the French, in Vietnam, with help from West Coast-based organized crime figures, labs for heroin production were set up as in Thailand to export heroin to the United States. CIA planes flew opium out of Laos. A bank, Nugen Hand, was set up in Australia to launder drug money. The CIA covert operations director in Vietnam at the time, Bill Colby (later CIA director who still later died under suspicious circumstances), was officially legal counsel to that bank. This, Chambliss reports, reflected a long-standing U.S. presidential policy of covertly using income from illegal drug trafficking to buy arms for those who were fighting guerrilla actions on behalf of the U.S. government.

The policy of using illicit drug revenues to fund covert wars has since carried over to other regions. When he became CIA director under President Ford, he who became President Bush I kept President Noriega of Panama on the payroll to feed a similar market for covert arms to counter-revolutionaries in Latin America. In the Soviet war on Afghanistan, the CIA set up heroin factories on the Pakistani border to fund arms for the Mujahideen resistance fighters. At that point, most of the heroin imported into the United States came from there. Ironically, the Taliban regime in Afghanistan had been the first in the country to curtail opium production shortly before the U.S. government drove

them from power. And now guess what? The word is that, once again, most of the high-quality heroin coming into the country comes from there.

During the 1990s, in my classes, I videotaped four people whom I labelled “former drug warriors.” They included a former local undercover drug warrior who talked about how he had seized cars and homes after sitting in primary school classrooms listening to children identify drugs and paraphernalia in DARE (drug education?) sessions and getting information about their parents; a former Vietnam naval commander who had for a time become a Coast Guard commander who seized cigarette boats for his own use and pleasure when he found as little as a marijuana joint onboard; a former army special operations officer who had covertly patrolled Caribbean waters; and a former army Criminal Investigations Division special agent who, in the last three years before he resigned, had made over 900 drug arrests, all of them good for prosecution. They all encountered corruption that was protected. They all encountered the futility of their drug control efforts. And I have known local police officers who have what I consider the good sense to recognize that busting drug users and low-level traffickers is at best ineffective. On the job and by resignation, I have known many law-enforcement officers who, however accomplished, have let go of drug enforcement. They give me hope for the transformation of drug wars.

Still, dedicated drug warriors especially at local levels carry on. They may use and even help to maintain drug use among informants in order to catch others. When arrested, low-level drug users and sellers are routinely threatened and bullied into “rolling over” on friends and cohorts. Are they lying when they do so? Are they protecting some of their drug-trafficking friends when they give police “probable cause” to arrest and prosecute others? This is hardly a way to build an honest picture of whatever drug problems a community might have. State and federal laws favouring asset seizure and forfeiture contribute to the corruption of this supposedly public health effort. By these laws, the property of suspected drug traffickers is seized and presumed “guilty” until owners prove, by a preponderance of evidence, that the assets are “innocent.”

I can see locally that proceeds from such seizures, and for that matter proceeds from arresting underage and publicly intoxicated alcohol users, end up funding new deputy prosecutors, thus increasing the number of cases prosecutors can “dispose” of, plea bargaining

for still more jail and prison time. These in turn become political demonstrations of toughness on crime that promote police careers and, still more, political careers of prosecutors. I'm on friendly terms with my local prosecutor, who is unabashed at how much alcohol and drug enforcement adds to his enforcement potential. That is good for him politically. It also contributes to the glut in incarceration at local, state, and federal levels.

## **POLITICS OF PROSECUTION**

As far as I know, the United States is practically unique in that its chief prosecutors are elected or political appointees rather than career civil servants. Prosecution in the United States is a platform for higher office. Your career even as a senior deputy prosecutor may land you a local judgeship. You may use your experience to become mayor, like Rudolph Giuliani in New York City. You may use it to launch a political career, in the legislature or the executive, in state or national office. U.S. prosecution is a stepping stone to higher political power. I notice among criminal justice students how attractive a career path it can be to join a prosecutorial staff upon law school graduation. In a ruthlessly competitive society, I don't begrudge people seeking opportunity. Moreover, prevailing cultural messages are strong that as a prosecutor, you can really "make a difference."

Prosecutors have more discretion over criminal justice punishment than any other actors today in the United States. This has become especially so as "determinate sentencing" has taken legislative hold. Under that regime, a judge is forced to impose a minimum jail or prison sentence, no leniency allowed, when confronted with sentencing someone convicted of this or that offence.

Meanwhile, all U.S. prosecutors have absolute discretion to reduce or let go of criminal charges, if they even choose to file charges in the wake of police action. Theirs is the public charge to "do justice" as they, absolutely, deem fit. They cannot obtain a conviction without judicial sanction. They can let go of charging and continuation of prosecution whenever they choose with legal impunity. They are the power centre of U.S. criminal justice today. It is more than anything because they charge more and bargain higher, for whatever reasons of political survival, that jails and prisons have bulged at their seams since determinate sentencing laws first took hold in the 1970s.



I don't know what form cultural transformation of prosecution might take. Perhaps there will come a point at which prosecution here in the United States, too, becomes a career civil service position at all levels. Meanwhile, the reality is that all prosecutors have to lay down guidelines to control their case flows, including things they will not prosecute. For instance, when I started in criminology, the FBI and U.S. attorneys were relentless in tracking down and prosecuting bank robbers. Now those prosecutions are largely left to local authorities. Prosecutorial priorities must be made and, inevitably, shift if not by prosecutorial choice then by political winds.

Prosecutors need encouragement to ride against larger cultural political winds, just as any other human actor. For instance, years ago the city council of Ann Arbor, home of the University of Michigan, passed an ordinance enabling police to write the equivalent of parking tickets to those whom they caught with small amounts of marijuana. Police and prosecutors went along despite the fact that state law criminalizing minor marijuana possession had not.

Unlike my college town, many others are de facto "wet." Fraternities and sororities can serve alcohol without interference as long as parties do not get out of hand and where even undergraduates of lawful age can buy alcohol openly on campus. Police and prosecutors go along. That's the culture in these local communities. That culture can and does transform law enforcement here and there all the time. Thus, I hope, does peacemaking trickle up in criminal justice.

In a peacemaking attitude, public safety is my primary concern. To begin with, I separate "offences" that might be enforceable and chargeable because they are annoying from those that victimize others. Is someone an offender just because a breathalyser and birth date show that she or he has consumed alcohol below the legal age? Is someone who is maintaining herself or himself on heroin necessarily hurting anyone else? If not, then I propose that for peacemaking's sake we let it go.

When people begin to become dangerous to themselves and others, it is time to intervene. In peacemaking terms, teaching moral lessons in these moments is counterproductive, signifying that the teacher will henceforth take over responsibility for the transgressor's life. Safety is an issue. Where there are victims, there are people who are directly threatened by the conduct in question. If you drive this way, you may kill innocent people. If you withdraw this way, you may not fulfill



familial responsibilities. If you hurt me and scared me, you owe me release from pain and fear insofar as you can provide it.

Victims may not be able to become involved in these disputes without being revictimized. Under those circumstances, others similarly threatened, such as kin of those killed in drunk-driving accidents or raped or killed, may substitute, as is done in "victim impact panels" with prisoners. The challenge where safety is threatened is to mobilize concerned parties to work things out as best they can with those who have hurt and who threaten them. "Restorative justice" is an umbrella term for such efforts to transform "retributive justice."

### **FEMINIST CRIMINOLOGISTS WHO HAVE INSPIRED ME**

I have learned from radical feminists that one big hole in our learning has been to ignore the voices of pioneering women writers in all fields. As I reflect on how to transform retributive justice, I think back to women criminologists who have shaped my thinking on criminal justice. They have preceded eminent male criminologists in offering key insights.

One feature of all these criminologists is that their findings emerge from careers of social activism. They are not armchair or "value free." On the contrary, these women are bent on making findings of practical, policy significance.

#### **SOPHIA ROBISON**

Sophia Robison was a prominent Jewish socialist suffragist, pacifist member of the Fellowship of Reconciliation, and student of juvenile delinquency. In the depths of the Depression in 1936, sponsored by the Welfare Council of New York City, Columbia University Press published her monograph, *Can Delinquency Be Measured?*

I came upon this little gem when doing a search for prior literature on my dissertation topic of how police decided whether to record "crimes." Then as now, the primary measure of trends in "juvenile crime" was police arrests of juveniles. Robison makes a clear and cogent case that those whom we know as delinquents are merely those whose behaviour is monitored by powers that be. Implicitly, "delinquents" come from "the wrong side of the tracks." They are poor. They are of colour. There is no evidence that they break the law any more than more privileged youth. We accept the "fact" that poverty and race cause

delinquency simply because of the evidence law enforcement offers us. “Delinquency” as we know it is a political artifact.

How encouraging to my criminological iconoclasm it was to encounter forebears such as Robison. Oscar Tannenbaum reported similar findings in a book in 1938 on how our portrait of crime and delinquency was a function of labelling processes. The same year, Swedish American sociologist Thorsten Sellin wrote a monograph for the Russell Sage Foundation called *Culture Conflict and Crime*. A year later, Edwin Sutherland directed criminological attention to “white-collar crime.” But Robison was the first. Sadly, her work is virtually unrecognized today in criminology. She deserves better.

#### **VIRGINIA MACKEY**

Ginny Mackey founded the criminal justice office of the Presbyterian Church, USA, in Louisville. I met her on the Council of Church’s National Interreligious Task Force on Criminal Justice in the mid-1980s—a group I had run into at my first penal abolition conference in Montreal in 1987. She had produced a book, for use especially by church congregations, entitled *Restorative Justice*. She is the first person I know to use this term. “Restorative justice” is the umbrella under which I have volunteered as a victim-offender mediator since 1997. “Restorative justice” is the movement I put my greatest faith in for transforming retributive, punitive criminal justice.

#### **FAYE HONEY KNOPP**

In 1976, Honey Knopp was the lead researcher and author of *Instead of Prisons*, a carefully researched and documented set of chapters on how we could empty prisons by finding alternatives. A key member of that group of authors was Scott Christianson, a journalist-cum-criminal justice Ph.D. from Albany who became New York Governor Mario Cuomo’s senior criminal justice adviser and remains an active criminologist. As a graduate student when I was a very junior faculty member, Scott got me to join his and Honey’s prison abolition collective.

Honey described herself as a Quaker feminist pacifist. Her own efforts focused on how people could negotiate non-punitive settlements among victims of sexual violence and their offenders. She moved to Vermont, where her prison abolition collective became the Safer Society Press, whose literature on describing and evaluating various ways of mediating cases of sexual violence proliferates as her legacy.

The passion of her life's work was how to respond to and prevent sexual violence, the work that became the focus of the Safer Society Program that survives her. In her contribution (as Chapter 11) to the 1991 book *Criminology as Peacemaking*, which Richard Quinney and I edited, she concluded,

If we are going to cooperate with the justice system: It should be a system in which we can feel comfortable. It should be a system that does not require us to abdicate our ethical standards of personal decency. It should be a system that does not retraumatize the victim, a system that places both the victim/survivor and the offender at the center of the restorative process. It should be a system that reduces rather than increases pain; a system that does not co-opt service providers and victim advocates into a pain-increasing stance. We have a right to expect that from a just system, and we have the obligation to work toward that hope—a new justice [citing an article on the Safer Society Program and Press]. We can become creators of a new justice by working on new responses to sexual violence as abolitionists and feminists. Our message must be loud and it must be clear. The victimizer must take responsibility for his sexual crimes. But the community must also examine its responsibility for the behaviors—must uncover the societal roots of sexual violence, understand them, and find new ways to reduce the potential for such violence to occur. (192)

The Safer Society Program has pioneered remarkably successful treatment programs for sexual offenders. (Contrary to popular opinion, a number of treatment programs have reduced sexual violence recidivism to the order of twenty percent or less.) In her chapter, Knopp cited Peggy Reeves Sanday's pioneering work on "rape-free" and "rape-prone" societies. Sanday now has a Web site of a number of studies she has since conducted, including one contrasting rape-free and rape-prone college fraternities that I use in class. (A primary finding in this study: the rape-free fraternity is free of homophobia and other manifestations of patriarchy and sexism.)

It is humbling to come across such monumental work. I am by no means among the first peacemaking criminologists. A number of sisters have preceded me.

**KAY HARRIS**

Around the time I went back to Norway in 1986, I got a copy of a paper Kay Harris wrote for the second International Conference on Prison Abolition (ICOPA) on feminist criminology. That paper was reprinted in Quinney and my peacemaking text in 1991, as Chapter 6, which Kay entitled “Moving into the New Millennium: Toward a Feminist Vision of Justice.” As far back as 1972, she served as the assistant director of the National Advisory Commission on Criminal Justice Standards and Goals. A minister who worked for the American Friends Service Committee in Philadelphia, she has long been a criminal justice professor at Temple University in Philadelphia. In her chapter in *Criminology as Peacemaking*, she concluded,

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 to increase harmony, not to further fragment, repress, and control. There is no other way. The ends and the means are the same. (96)

In this chapter, Kay focused on responding to rape and battering compassionately with all concerned at a time when activists were pushing to have rules of evidence relaxed to make it easier to find rapists and batterers guilty and punish them.

**RUTH MORRIS**

Ruth Morris took the lead in working with European counterparts to organize the first International Conference on Prison Abolition (ICOPA I) in Toronto in 1983. At ICOPA II in Amsterdam in 1985, participants decided that henceforth the conference would be known as the International Conference on Penal Abolition. Power over others—punishment or criminalization in all forms—was what we sought to abolish, including but not limited to imprisonment. My first ICOPA was in Montreal in 1987.

Like Honey, Ruth was a Quaker feminist pacifist. She focused on working with people in and coming out of prison in Canada. For several years, I used her 1993 book, *Penal Abolition: The Practical Choice*, as a text in my course on alternative social control systems. There she not only opened my mind to how many forms of restitution victims receive apart from how much offenders pay but also moved my thinking from "restorative justice" to "transformative justice," where structural violence by irresponsible corporations had become as much her problem as control of "the dangerous few" whom she encountered in prison. At that point and for the remainder of her life, she advocated moving from "restorative justice" to "transformative justice," in which we would include on the criminological agenda corporate and other structures of violence.

Her legacy of International Conferences on Penal Abolition (ICOPAs) continues, the latest as I write having been held in Tasmania in February 2006 by the Australian group Justice Action, who carry on the legacy by having a Web site on ICOPA.

### LISTENING FOR MISSING VOICES

I happen to have been pushed particularly in the direction of recognizing misogyny and missing voices of women. Women are a case in point of a larger problem: speaking for people without asking them what they have to say for themselves. In my initial writing on "violence as unresponsiveness," I remarked that the most insidious violence is "the violence of silence" (and later in a *Criminal Justice Review* article-cum-Web book chapter labelled "literatyranny").

My wife, Jill, has helped me to learn that gender is important precisely because it is a social construct. At the individual level, there is little more biological basis for distinguishing human maleness from femaleness. In class when we discuss gender, I often find myself asking others to consider whether I am really a woman. But as Jill discovered in her study *Women in Electoral Politics in Norway*, beyond individual characteristics, when a political minority gains voice as a group, as women did by becoming forty percent of those in political office in Norway in the 1980s, the issues people consider become feminized.

Looking back at how possibilities of mediation in criminal justice were awakened in me, I see that unrecognized voices of female criminological theorists opened my mind and heart to mediation's potential.

## RESTORATIVE JUSTICE AS WAR RESISTANCE

“Restorative justice” has become a familiar term in criminology worldwide. It represents the idea that parties to disputes that might otherwise be criminally prosecuted can face each other in safe company and settle their differences on their own terms. In criminology, restorative justice is an equivalent of what in other realms of discourse we call diplomacy and paths to peace.

I have just written that Ginny Mackey is the first person whose volume carried the title *Restorative Justice*. I have since heard that a humanist psychologist named Albert Eglash coined the term in 1977. I have also heard that the term was used earlier in a criminology text. I don’t know. Regardless, I first became aware of the idea of restorative justice in 1987 at the Third International Conference on Penal Abolition (ICOPA III) in Montreal. Today, do a library or Web search on “restorative justice,” and you will see at a glance that the idea has caught on worldwide. I was a latecomer, starting as I did as a volunteer Mennonite-inspired Victim Offender Reconciliation Program (VORP) mediator in 1997. ICOPA founding mother, Canadian Quaker feminist Ruth Morris, eventually challenged me in her “practical” guide to think beyond mere victim-offender personal confrontation to confronting what Norwegian peace research pioneer Johan Galtung called “structural violence.” I share the view that Ruth expressed in her later years that resistance to violence entails “transforming” relations rather than “restoring peace” just between “victim” and “offender.”

At the same time, Ruth in her own way and tradition adopts Gandhi’s injunction to be prepared to embrace one’s enemies. She in partnership with her husband, Ray, worked most closely with people in prison and coming out. I admired her in her last ICOPA, where she was chief organizer in Toronto in 2000, when she withstood resistance to retaining an ex-prisoner as an employee and co-organizer when other Canadian ex-prisoners deemed the employee’s offence unforgivable.

Ruth labels the punitive process in criminal justice “retributive justice.” As I read literature on “restorative justice” as an alternative these days, I see it as embodying the hope that people can negotiate safe and satisfying ways out of personal violence and keep state-ordained retribution out of their personal business.

Ingrained in restorative justice literature is the belief that we should recover indigenous traditions we abandoned or buried, pre-dating



criminal prosecution. I am inclined to agree with Dutch criminologist Herman Bianchi's premise in his book on *Sanctuary*—that “anachronism,” at its Latin roots, means framing one's understanding of the present with a romantic image of the past that never existed. Anachronism is strong in criminology. Ever since I became a criminologist, the word has been that streets were safer, or kids were better, in the good old days.

Bianchi highlights retributive justice as a state protection racket. A state boss (“sovereign” in polite English) makes you take up arms and submit to his jurisdiction. In the U.S. common-law tradition imported into our constitutional system by our founding fathers, the only justification for the state (other than delivering mail) is protecting us. The Bill of Rights emerged as a movement to keep the state off our backs.

That's where I started when I gave the talk transcribed as Chapter 2 in this little volume. In 1977, Nils Christie, in his *British Journal of Criminology* article “Conflicts as Property,” raised this as the issue of involving parties in owning their own disputes. In years since, I have become impressed by how plentiful and varied restorative justice initiatives and literature have become worldwide.

These initiatives have the potential to reduce incarceration of “offenders” substantially. The most dramatic national case I know is New Zealand. Drawing on indigenous Maori traditions for settling disputes in 1989 (although the Maori claim this to be a perversion of their traditional practices), the Parliament passed a law that entitled any New Zealand youth charged with an offence other than murder to a “family group conference.”

All the youth had to do to qualify was to “admit responsibility” to a co-ordinator, a state employee who would mediate the “conference,” and volunteer to go ahead. Note, by the way, that in the United States the vast majority of convictions and sentences to incarcerations rest on plea bargains. (The process of pleading guilty before a judge is humiliating, as I have seen in court in a number of “routine” guilty pleas.)

For family group conferences, co-ordinators make a special effort to locate and involve family members of those charged with juvenile offences. Victims and their associates are invited to sit down in a circle with those who acknowledge having harmed them. The youth charged has a lawyer sitting in the circle. Also present is a probation officer who might need to monitor an agreement coming out of the “conference.” Others may be involved if this is a broader community dispute.



Many times victims and their relations choose not to participate. The co-ordinator organizes a conference regardless. If an agreement is reached among those at the conference, then it is referred to a juvenile judge, who may accept or reject the agreement and impose additional sanctions on offenders, including incarceration.

Within several years, this system had reduced incarceration of youth in New Zealand by half. Where there is political will, there are ways to transform "crime" into settlement.

As time reflecting on how to transform violence passes, I try to infer which principles guide me and others as well in their transformative moments. When it comes to resisting incarceration, anyone can do it. A president can call off a war. Politicians can call off wars on crime. Corporate officers can be as honest to outsiders as they are among themselves. Police may agree not to arrest or summon. Prosecutors may agree not to charge or to withdraw charges. Probation officers may even initiate bids at informal and yet unobtrusive settlements of victim-offender grievances.

As I look for ways to participate in peacemaking, I presume that I am no more or less situated to do so than anyone with whom I interact. And so, at any level, I find myself looking with others at ways to bring antagonists together to resolve their own disputes, to transform moments in which people claim that what must be done has already been prescribed by a higher authority. Writing as I now do principally as a criminologist, I come to describing how I try to do what could in theory become an alternative to conviction and sentence in any circumstance and reflecting on what works and what doesn't when I mediate as a volunteer between offenders and victims in the Mennonite program known as VORP, or Victim Offender Reconciliation Program.

## VICTIM OFFENDER RECONCILIATION PROGRAMS

My experience as a victim-offender mediator is at one level mundane. While friends of mine report having mediated disputes by the thousands, in VORP I have mediated just one, two, or three cases per year. In my alternative social control systems class, I show a video and commentary of an adult "conference" in Australia among parties imbricated in a robbery-murder (*Facing the Demons*, available on the Web from Real Justice). My cases have legally been rather trivial by comparison, but the results remain the same as they do in many other instances. I hear of the struggles of young single parents paying

thousands of dollars for all the programs a judge has required of an “offender.” I have learned repeatedly that, to man and woman alike, a simple act of vandalism or theft, let alone a personal confrontation at a break-in in which the assailant flees, can affect the lives of those left behind as profoundly as rape, murder, and all-out war. From the experience of others, including, for instance, Julia Duany’s experience helping women make peace in southern Sudan, I have also come to believe that the principles by which all-out warfare is transformed into peacemaking processes work the same in my humble victim-offender cases. I infer that the principles by which I find myself operating as a would-be peacemaker in victim-offender mediation in a small program in relatively peaceful Bloomington, Indiana, apply regardless of the seriousness of the violence at hand.

### **TRANSFORMING PATRIARCHY INTO PEACEMAKING IN DAILY LIFE**

While as a professor I seek to transform my power over others into sharing with students, as a victim-offender mediator I seek to turn mediators’ (I typically co-mediate) control of disputes over to parties. I want to set up a process in which parties feel free to define their own issues and create their own responses.

Accounts of restorative justice rituals among indigenous peoples, such as Maori elders convening *marae* in New Zealand, of substitutes for judges in Navajo peacemaking courts, or of elders who by leave of Anglo judges convene sentencing circles in Aboriginal communities in Canada (corruption of traditional practices, as Native elders also find the very Anglo idea of “sentencing” to be) all report that those who conduct rituals begin and end with prayers for higher guidance. As a secular volunteer calling victim-offender mediation into session, I feel likewise called upon to offer invocations and, in the aftermath, benedictions. I look on these as assurances that a settlement is possible and as celebrations that a settlement has been reached. At these moments, I try to think of what is on the minds of the parties sitting beside me. I recall, from many a training session, the admonition that the parties sitting beside me are probably too wrapped up in what they plan to say to pay much attention to what I say. Still, I think in my role as mediator I can convey safety for parties to be open and honest.

That may seem like small stuff. Indeed, as I reflect back on the ambitions as social engineer I had when I left law school, it is small

stuff. All around us in our present and past, as in the example of shifting to family group conferences in New Zealand in 1989, are examples of structural initiatives that have resulted in major transformations of violence into synergy. I cannot help supposing that in these circumstances, when the legislative or other moment of structural change arose, it transformed because there was an underlying cultural understanding of alternative ways to address violence.

I can describe such dramatic structural changes, where cultures reach tipping points and shift. It remains important to me to become aware of such grand changes so that we, too, in my punitive society, might tip the balance toward structural transformation of violence. Meanwhile, to build a cultural foundation for readiness to adopt initiatives toward structural change, we need opportunities like those others and I enjoy in victim-offender mediation sessions and in the classroom. Rather than being retributive and judgmental, we need to be restorative, meditative, and transformative. We are all still learning.

### **“CIVILIZED” VIOLENCE: THE PRISON AND ITS PRODUCTS**

As far as I am concerned, no place is the wrong place to begin a cultural transformation of violence. Julia Duany began by trying to make peace among her tribes in southern Sudan who were killing each other by the hundreds of thousands. Perhaps it is a sign of privilege in the United States when I find that no place in my punitive society is more challenging than the prison—transforming relations with those already convicted and sentenced for crime.

Some fifteen years ago I was introduced to a fellow who was just out of prison—I’ll call him Jack—by a student who suggested that Jack would be happy to come to a class to talk about what prison life was like. Jack had been in and out of incarceration since his early teens. None of his offences was what would legally be considered violent. He was a big fellow and early in his institutionalization had studied martial arts. In all his time in youth “detention” and in jail and prison, he had only once—early on—gotten in a fight. In general, he was what authorities would call a model prisoner. He talked about a home he so feared going back to that just before his first sentence to the boys’ school was to expire, he walked through a gate, setting off an alarm, so that he could stay longer where he felt safe.

Shortly after we met, Jack got drunk, set off an alarm as he crawled under a fence around a yard holding utility trucks, and was caught trying to take a radio out of one of the trucks. I qualified as an “expert” at his sentencing (said the judge, “You’re an expert at everything, aren’t you, Professor Pepinsky?”). I testified that in my opinion he had committed the burglary because he wanted to be caught. He didn’t really intend to hurt anyone or get away with anything. Putting him back in prison would only erode his ability to live in the “free world” still further. Instead, he needed support from the system to learn how to feel safe in the community outside prison.

Jack got the maximum four-year sentence. At the state farm where he did his time, he discovered that all the computers for the facility were sitting in storage because none of them worked. A self-taught genius in the early days of personal computers, he cleaned out and reformatted the hard drives and fixed them all. He had no “tickets,” or disciplinary infractions, and so he got all of his day-for-day “good time,” and his sentence expired after two years. During that period, we corresponded regularly.

I went to pick Jack up when he was released to bring him back to Bloomington. He had no other home. He came out with a small load of personal belongings, a “gateage” cheque for seventy-five dollars, and orders to report to the state parole officer in Bloomington within seventy-two hours.

The local parole officer, Charles, is an old friend. He has an M.B.A. from Indiana University and was state director of prison industries until he blew the whistle on a corrections commissioner who was convicted of misappropriation of state materials and labour for personal use and did a little federal time himself. As a result, my friend was demoted to being parole officer for our local five-county region, a position he holds to this day. I have ridden with him as he made rounds to meet parolees at places convenient to them all over the county. He is extraordinarily dedicated to helping convicts. He also has an impossible caseload, a formidable amount of paperwork to file, and—to make ends meet on his nominal state salary—works weekend nights as a security guard at the county library.

Before I went to pick Jack up, I called Charles to ask where Jack could stay. Earlier in another town, Jack had stayed in a shelter where, for room and board, he was forced to pray to Jesus for salvation, which he could not stand. Charles told me that there was only one secular

shelter in town. I took Jack there. They told Jack that he couldn't come in until 5 p.m. and that every morning at 8 a.m. he would have to clear out his belongings and hit the street until the following evening. I couldn't stand it. I took Jack home.

He stayed with us for a month before I pushed him to leave. His presence had become too great a strain on my family, whom I had not asked before I brought him home in the first place. Jack was sweet enough—never threatening in any way. But, for instance, he would make up projects such as painting a balcony rail to do us a favour, never bothering to ask how we felt about his "improvements." When we would ask him to please desist, he would pick up a blanket and go sleep on the floor by the furnace in the basement.

For a while, Jack was pretty much immobilized. He talked constantly about how scary it was outside prison. Finally, as Charles and I pressed, he brought himself to look for jobs. One day he came home from an interview at a computer store—the one skilled job for which he was superbly qualified. He had covertly taped the interview on a minirecorder and played it for me. He and the owner talked animatedly about computers for a while. Then the owner asked where Jack had been working before. Advised by Charles not to lie, Jack told the owner he had worked on computers while in prison. It was painful to hear the silence and the curt "I'll be in touch" that followed, though not nearly as painful for me, I'm sure, as it was for Jack. He did end up getting a night-shift job bussing tables at a local pancake house.

A criminological colleague with a big heart at a nearby university got Jack enrolled in computer science, tuition covered, and found him a place to live. Some of her students sort of adopted Jack (who was handsome, gentle, and articulate). My colleague reported, though, that he was showing signs of strain coping with the strange free world of academia. Before long, he was caught squirrelling university computers away in his room, and so back to prison he went, at which point my colleague, Charles, and I all lost touch with him.

Criminologists would call Jack "prisonized." His dependency, admittedly, is rather extreme. And yet rates of "recidivism" for U.S. prisoners are notoriously high, especially during the first days and months of release. A standard condition of parole is not to associate with other "felons." Some of those released are lucky enough to have family or "law-abiding" friends who will take them in and help them get readjusted to "freedom." Some are lucky enough to come out with jobs. Some jurisdictions provide "halfway houses" where prisoners can

serve the last six weeks or so of their sentences and get set up in jobs and with housing upon release. (Not in Indiana. Some years ago, reportedly by administrative incompetence, a prisoner who had vowed to kill his ex-wife was released on furlough and did as he had promised. The governor shut down all furloughs and halfway houses in response.)

Even prisoners who make it report how bewildering and confusing it is to come out of prison after some years inside. On the one hand, while time has stood still in prison, the outside world has changed in many mysterious ways. Going into a supermarket and having so many choices of products to buy can, for example, be positively mind-boggling. On the other hand, responsibility for making one's own daily choices, beginning with when you get up in the morning, has become a foreign idea. Jack wasn't alone in thinking that "freedom" is scary. What does one do with it? Who is around to consult with on how to make decisions that for us in the free world seem mundane? Newly released prisoners are like babies and those who have suffered severe physical trauma or illness—all just learning to walk (again).

By the time we pay for incarceration, we have precious little money and other resources left over to do the kind of job Charles as parole officer tries so hard to get done. And then we complain about high rates of recidivism as though the rates prove that the prisoners were so defective that they not only deserved to have been locked up in the first place but also deserve never to be released. Once a crook, always a crook. Perhaps that is why then-president Nixon so hotly insisted that he was not one and why President Ford felt so strong a need to pardon his predecessor before he became one.

I join penal abolitionists and others in calling people locked in detention centres, jails, and prisons "prisoners" rather than "inmates." Honesty, to repeat, is the foundation of peacemaking. In the parlance of the Indiana Department of Correction (IDOC), when not known by their numbers, instead of Mr. or Ms. or even "Jack," prisoners are known as "offender," as in "Offender Johnson," in a disciplinary write-up. In conventional discourse, criminal justice professionals and scholars tend to be more polite, calling prisoners "inmates." In a punitive society, it is as though social forces conspire (literally "breathe together") to prove that once people have fallen from social grace, "they" will always remain distinct from "us" in kind and in the "deserts" they receive from us. It is as though we bend over backward to prove that criminals deserve all the degradation and pain we can muster, for eternity—our version of a final solution to our domestic social problems.



## AN ULTIMATE BAD GUY

Another fellow I'll call Bob started writing to me from prison six years ago. I never ask a prison correspondent what she or he has "done." As the Navajo suggest, I leave that up to her or him. I ask primarily (legal issues aside) how prison correspondents are doing—what they are facing in their lives here and now. Hence, I don't know what Bob was sentenced for or the sentence itself. He hasn't bothered to tell me, and I haven't bothered to ask him.

The only thing I ever sent to Bob was a pocket dictionary. Recently, he sent me more than eighty pages of an account of his "last six years." His manuscript is meticulously printed out on the backside of IDOC forms. He can't afford a radio or a television. Call me heartless or, worse, exploitive, but I have stood my own ground and refused even to send him money for the paper or stamps he uses to write me. I do my best to keep this from becoming just one more patriarchal relationship in Bob's life. I will say this for what Bob has given me in return: I believe every painstakingly written word.

Bob writes that he last entered prison twenty years ago. He is thirty-seven. Six years ago he seriously stabbed two prison guards. He has since been in what in some places has been called a "control unit," designed to minimize physical contact among prisoners or between prisoners and anyone else. One hour a day Bob is taken out of his cell on a "dog leash." That is, his hands are linked to his ankle shackles; his hands are shackled to a chain on his waist; a strap is buckled on at that point and run under his ankle shackles; behind him, a guard holds the strap he can pull and make Bob fall helplessly on his face whenever the guard wants. This is Bob's chance for "exercise"—walking around a little "outdoor" (perhaps you can see the sky through a cage) room for an hour. If the rules are upheld, then Bob may also get to shower and change clothes once a week. Feces and urine go flying into and out of cells. When they fly out, surreally dressed "extraction teams" come in and at least generally don't kill their prey, even if they lock them onto the steel or concrete slab upon which their prey "normally" sleep.

Over our years of correspondence, Bob has held out hope on this and that occasion that he will be "released" into "maximum security" "general population." Now he writes that he has been told he will never be released from the control unit; he will die there. After sending the manuscript, he writes that prison staff have promised him they



will obtain a court order for him to take Prozac if he doesn't take it voluntarily. He vows not to accept taking a "mind drug."

Bob is black. Recently, he cut off his dreadlocks. Since our correspondence began, he has referred to his guards in the poor, rural, all-white community where the prison stands as "KKKops." I ask myself, what could people possibly be trying to accomplish by sending Bob to this eternal hell except to make him pay for their own suffering and sense of life's unfairness? In moments of personal reflection on what Bob and other prisoners tell me, I sometimes despair.

Bob is an extreme case in an extremely punitive society when it comes to "doing time." I do not think it accidental that in a society where time is so precious, leisure so scarce, our ultimate punishment is to take time away from those we condemn most and yet let live. Taking away "time" is the highest form of "civilized" torture we can imagine in the United States today. We make the politically convenient villains, onto whom we displace blame for how rushed we are, pay for our suffering. The harsh reality is that displacement only feeds human separation and fear rather than healing human division. When we define the dangerousness of our prisoners as real, they really become more dangerous as a consequence.

Time is our primary weapon. The most prominent correlates of U.S. supremacy in incarceration rates are length of time served awaiting trial and length of sentence imposed. In other parts of the world with lower incarceration rates, average sentences are in days or months rather than years. In Norway, the maximum sentence for treason, murder, or the equally "heinous" crime of being caught with more than a kilo of marijuana is twenty years, less than thirteen years with time off for good behaviour. In Latin America, the maximum sentence for any crime is commonly thirty years. In the United States, a national movement to show compassion to prisoners is to replace the death penalty with sentences of "life without parole." From "time-outs" as civilized parental substitutes for spanking children to condemning people for life, the taking of "productive" time has become the primary weapon we use to make war on and among ourselves.

## **TAKING TIME TO MAKE PEACE**

Many are those who work with prisoners far more closely and intensely than I do. Among those who most inspire my hope for transformation

of violence are those who work to democratize life behind bars and between “offenders” and the outside world.

The late Tom Murton stands out. He joined the criminal justice studies faculty at the University of Minnesota the year I did, 1970. I helped push to make his visiting position a tenured professorship. His 1968 book with Joe Hyams, *Accomplices to the Crime*, detailed his rise and fall as commissioner of corrections in Arkansas.

By the mid-1960s, Arkansas’s prison and prison farm had developed reputations as being among the worst of the worst in the country. They had no independent guard force; some prisoners guarded others. The federal court had lambasted human rights violations there and put the prisons under court order to straighten up. Governor Winthrop Rockefeller (David and Nelson Rockefeller’s brother) appointed a correctional reformer. Thomas O. Murton (who signed his name “T.O.M.”) was, as he described himself, primarily raised and trained as a farmer. He had received a doctorate in criminology from the University of California at Berkeley and had gained a reputation for reforming the Alaska prison system.

Tom moved into one of the two Arkansas prisons with little fanfare. Once word was out among prisoners of his arrival, a threat was made plain: when Tom showed up at the second prison, he would be killed. Governor Rockefeller offered him thousands of national guardsmen and state police to help him storm the place.

As Tom told it, in the first prison he had made a buddy, “Chainsaw” Jack. Jack was called Chainsaw because of his crime. As Chainsaw told it, he had fallen asleep drunk on a hillside. When he awoke, his companion was trying to molest him. Chainsaw took a handsaw, not a chainsaw, and sawed off his companion’s head.

Chainsaw had been released by the time Tom got to Minnesota. Tom brought him to class. He was a muscular hunk, like Tom, with closely cropped hair. He spoke in a high-pitched, squeaky voice, but there was no mistaking his aura: don’t mess with me.

Back in Arkansas, Tom told the governor he didn’t need the troops. He was due at the second prison one mid-morning. Instead, he took Chainsaw with him at four in the morning. Tom locked himself in the warden’s quarters and sent Chainsaw down to the cell blocks. Chainsaw announced that he and Tom were there to stay and that any time, henceforth, he got word of any prisoner violating others, that prisoner would answer to him personally. Thus ended the violence of prisoner on prisoner.

Chainsaw gathered the prisoners together as Tom came out of his quarters to address them. He told them that he acknowledged reality: prisoners controlled the prison. At Minnesota, he would tell me that, in his view, this was the reality in any prison. It was just more blatant in the Arkansas prison crisis. There was no independent force to offer the façade of prison control; there was also no independent force to resist change. At the time, Mississippi was the only other place in the country to rely on prisoners exclusively to control other prisoners. In Tom's view, these settings offered the best opportunity for what he considered true prison reform. There was no civil service to mess with. In theory, Tom had total control of the prison structure.

At the first assembly under Chainsaw's authority, Tom promised that henceforth the prisoners would continue to run the prison, but, as best as Tom could arrange it, they would do so democratically and fairly. He called an election, all prisoners voting, for an inmate council. The first time the prisoners voted, he caught word that the ballot box had been stuffed. Tom called a second election. He put all prison administration decisions in the council's hands, subject at all times to his veto. He never exercised his veto power. Prisoner-to-prisoner violence stopped. Prisoners whom the council approved for furloughs, as for family visits, all came back uneventfully. The prisoners knew whom to trust with liberties. Internally, Arkansas's prisons abruptly became models of civility.

This was a revolutionary change. In his warden's office, Tom found what prisoners called the "Tucker [after the prison name] telephone." You can see the same device depicted in the movie *Battle of Algiers*. It was an old-fashioned crank telephone. Hook up its twin wires to a prisoner's scrotum, crank up the telephone, and you can just imagine the excruciating pain that resulted.

Things for Tom and the prisoners went pretty well until the prisoners began to tell him that hundreds of prisoners were buried at a corner of the prison grounds. Prisoners reported that the former commissioner had been responsible, and often present, for executions and burials that occurred there. Tom put it to me this way: "I've been preaching to prisoners that they should live just lives. How, without being a hypocrite, can I preach without following up on their complaints that crimes have been committed against them?"

And so Tom followed the prisoners out to the corner of the farm where they said bodies were buried, and they dug. Lo and behold,

numerous bodies began to be uncovered. Tom notified the governor. The governor ordered Tom to stop digging. Tom refused. Governor Rockefeller fired Tom for insubordination. Already by the time Tom showed up in Minnesota, word was that the prisons were as violent and corrupt as they had been before his arrival. The movie *Brubaker*, directed by and starring Robert Redford, is a fictionalized account of this drama.

Tom was a realist. He told me (young, naïve criminologist that I was) that he figured he could never replicate his change in any prison system, except perhaps in Mississippi, where then there still was no civilian guard force. He knew he would never be called on again to supervise a prison system. In Minnesota, he began taking his students on prison tours. They must have been extraordinary occasions. Tom told me how he and students would show up at a prison, and Tom would ask permission to take students to talk with prisoners in “the hole” — those locked away in special isolation cells for disciplinary reasons. In short order, even in what was regarded as one of the more progressive prison systems in the country, Tom was barred from further visits.

After I left Minnesota in 1972, I lost contact with Tom. I heard he resigned his professorship and returned home to Oklahoma. In a national newsweekly, I read a squib about his life there. The report was that he was living out of a trailer on his home farm, raising turkeys and chickens together. The squib said that conventional wisdom was that the turkeys would kill the chickens if they were allowed to mingle. Problem was, said Tom, “Nobody ever asked the turkeys and the chickens.” He moved on to teach at Arizona State and the University of Hawaii, where he died.

In 1995, I was privileged to be invited to be keynote speaker at the last of the United Kingdom Lincoln Conferences (aborted thereafter in the wake of confusion and an ecclesiastical trial—resulting in acquittal—over alleged sexual abuse of a woman by an Anglican priest in the diocese). At the conference, I met a prison “governor” (the British word for “warden”) from Scotland who told me how he had established order in his prison. He had, for one thing, trained prisoners to handle their own disputes. If two or more prisoners had a problem with one another, they were trained to confront their issues if they could, as best they could. If they needed help, all prisoners had third parties—other prisoners—to call upon to mediate their differences.

Theft from the prison commissary was a chronic problem. The governor had turned commissary financial governance over to the

prisoners there. They would make honest money from the profits of an honest commissary. They would lose money when commissary goods were stolen. The governor reported that the commissary had become honest and that violence among prisoners had virtually ceased.

At spring break in 2000, my wife, Jill, and I went to visit our daughter, Katy, in her Peace Corps home in a Bolivian village. Katy needed a bookshelf and kitchen table for her village home. We went to a neighbouring marketing town together. We were told that down the street from where we had gotten off the *truffi* or “minibus,” we would find a stack of furniture for sale. And so we did. It was a Sunday, visiting day at the local prison. The furniture was stacked up across from the prison gate. I looked through the gate and saw a courtyard where families were visiting. We picked out furniture we wanted. The guard called out the prisoner who had built it. The prisoner came out through the gate and bargained a price for a bookshelf and table with us. We paid him, and he went back inside. We got a taxi and carried home Katy’s new furniture.

Katy came home from Bolivia and went to work as a marketer for a local farmers’ co-operative in Denver. In the neighbourhood where she lived, there was a highly regarded restaurant and bakery. It was owned by an ex-prisoner, who used his business to hire and give lifts to others coming out of prison. He gave them jobs and a share of ownership.

I don’t know how to force antagonists to come to terms, but I see abundant evidence that as prisoners are enabled to participate in governing in their own lives and upon release, peace is built. In practice, as in Tom’s prison administration career, the politics of arranging democratization of prisoners’ lives are challenging, but insofar as democratization happens violence and separation abate.

Democratization entails open, honest negotiation between the governed and the governors. When I met Tom Murton in 1970, I still dreamed as a would-be legal engineer of change. Tom and others since have humbled me. Tom was a cultivator, a farmer. He recognized that the success of his cultivation of change rested on finding fertile ground. I no longer envision simple legislation as a path to change. One way or another as circumstances allow, it is up to us to discover areas in which we can democratize. In principle, I see no purely logical reason why guards, wardens, and other staff, prison by prison (or, more challengingly, jail by jail), cannot negotiate democratic arrangements for settling their differences and building community together.

In theory, Tom's model of democratic governance of prisons could include representatives of staff and administrative groups as much as prisoner groups, including de facto leaders of "gangs" who, as I have heard, in practice have worked together to control prison violence among themselves.

Prison industries could be democratic, worker-owned enterprises including, as board members, other groups such as guards and crime victims. Worker-owner prisoners could leave prison belonging to the same enterprises extending into the free world. For instance, make a product in prison, and worker-owner prisoners could market the product upon release. Prisoners could own and be responsible for the major sources of their livelihoods inside and then outside prisons. They could share profits and business decisions with their guards and their victims in the process. As I see it, if and when such co-operation happens, there is no question whether it will work. The political challenge is whether powers that be dare try.

## PROSPECTS FOR TRANSFORMING VIOLENCE

Violence, intolerance, hatred, suspicion, and fear in all their forms have grown, seemingly inexorably, in the several decades since I entered criminology, especially so in my homeland. Ruth Morris once asked me how I could stand working in and around criminal justice in the United States; Canada, she said, was bad enough. On the whole, U.S. incarceration rates keep rising. As I write, roughly one young black man in three in the country is in jail, in prison, on probation, or on parole. Our president thrives on war and crusading rhetoric. It appears that he got re-elected in 2004 by an electorate afraid of change, afraid of losing global supremacy, open to finding grave cultural, political, and economic threats from anyone who failed to convince them that she or he would restore and maintain national greatness, who failed the test of toughness, who never lowered herself or himself to the level of acknowledging ever having made a mistake, who compromised with her or his opponents. From legislatures around the country come tougher laws reflecting the belief that we are still too soft on crime and criminals. I was among those in 1973 who believed that the U.S. war on crime and war on drugs had already gone too far. I never dreamed how much further those wars could escalate.

As Norwegian criminologist Thomas Mathiesen has found, there is no telling when the seemingly unending, ever-escalating war on



criminals will peak. Looking ahead, we can only see where to begin to make peace, not where violence or peacemaking ends. Just when opponents of the war think it is at its worst and change is unimaginable, the cultural and political tide shifts.

If and when the tides of war reverse, it will be seen in retrospect that all along there were people working hard, if in small and almost invisible ways, to bring the reverse about. In this chapter, I have illustrated my finding that peacemaking can begin and grow anywhere, anytime. I am past the point of thinking of peacemaking as a matter of self-purification. Peacemaking occurs in the midst of violence. I may be a student who stands up to a teacher or a prisoner who humanizes guards and fellow prisoners alike. I may be a teacher, a police officer, or, like Tom Murton, a prison warden. No place or position is the wrong one from which to make peace. No peacemaking initiative is too small to try.

Some say that it takes courage to risk taking a break from cycles of violence and vengeance to adopt peacemaking initiatives. In my experience, peacemaking initiatives are rewarded often enough to leave me on the whole more secure in my own relations, making peacemaking seem less and less risky, and making going back to old power relations—as in the classroom or in the family—seem less and less attractive. I have no assurance that my peacemaking efforts will change the entire culture that surrounds me, but they do in the meantime enrich my own relations. I find more value in others, and others appear to value me more in turn. That is its own reward, not only for me but also for many others who have embarked on the same path. And, who knows, together we may indeed change the world.

I have also noticed that as I listen more and try harder to learn from all my relations—as from criminal justice workers, from prisoners, from survivors of child abuse, from students, and from children—human experience is brought to me in more depth and concentration. It is as though forces somewhere out there are saying, “Okay, Hal, if you could handle that information, try this!” In synergistic terms, I have come to see the value of life not in its length but in its intensity—in the degree to which I am allowed to understand difference and to learn and grow from it. Life to me is a journey of learning. If I take time enough out from my own agendas and listen hard enough, I may learn more in a single moment than in decades of routine life. What more could I live for? As I learn in the give-and-take of synergistic relations, I and those who teach me have a chance to pass these bits of human experience



and insight on to others, now and in the future. In so doing, we create culture rather than merely, passively, being created by it.

In this volume, I have reviewed a range of findings of my own about how violence and peacemaking work. For criminologists or indeed anyone trying to understand human relations, I intend this work as an invitation rather than a set of answers to other people's problems. Among criminologists, I continue to call for a paradigm shift. I think I have learned a few things about how to transform violence in all our relations, but I have only just begun.

A paradigm frames research questions. For several hundred years now, criminologists have been trying to explain "crime" and "criminality" "scientifically." Criminologists continue to elaborate and refine findings within this paradigm. I can hardly imagine how primitive my own understanding of violence and peacemaking in and around the realm of criminal justice might appear after several more centuries of inquiry into the alternative paradigm I propose here. To those who are embarking on this journey with me, I say, like the Navajo, it's up to you.

Peacemaking, like the paradigm of making war on crime and criminality, is an attitude. The attitude of peacemaking keeps arising in my mind and soul in the words of a song David Mallett wrote in 1975: "Inch by inch, row by row, I'm gonna make this garden grow. / All it takes is a rake and a hoe and a piece of fertile ground."

Let's go for it.

## APPENDIX

### HAL'S RESEARCH PUBLICATIONS

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