

The Great Escape
Getting Punishment Out of Prison
By
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A few weeks ago those of you fortunate enough to have been here, or to watch online, got to hear one of our beloved church members, Jacob Johns, share a little about his incredible journey from serving eight years in a maximum-security prison to his discovery of what he calls, “the Good Path,” based upon his belief in and commitment to creating a Unity of Consciousness among all beings. Briefly put, his is a story of going from confinement to freedom, from separation to inclusion, from dualism to oneness. Coincidentally, or perhaps it’s part of that Unity of Consciousness Jacob spoke of, my topic today is also, essentially, about moving from dualism to oneness.

For I want to speak today about our society’s desperate need for a compassionate criminal justice system. In preparation, I was fortunate to stumble upon Sylvia Clute’s book about prison reform, *Beyond Vengeance, Beyond Duality*, in which she argues, very much as Jacob does, that the only meaningful, successful, moral, and healing response to the harm we sometimes cause each other is through unity, through making everyone involved whole again. Keep in mind the word *whole* is etymologically the same as the word *heal*. We know we are healed when we become whole again, and our society can only be healed when it is whole, when everyone is included.

Jacob shared his personal experience with us, but his story is really part of our own story because our failed criminal justice system is intricate to our way of life in the United States. In short, his story, and the millions of stories like his, belong to us all because, whether we realize it or not, we are all one. Jacob did the time, but we are all prisoners of our failed criminal justice system. In fact, the first chapter of Clute’s book is entitled, “Becoming Our Own Jailers,” in which she suggests all of us are locked into a cruel and destructive criminal justice system we can’t seem to escape. This is true, not only for the 2.3 million Americans in jail or prison, about the same number, she says, “as China and Russia combined,”¹ as well as the five million more or so inescapably bound up in the criminal justice system, in court, on parole, and so on, but also for every one of us because of the enormous cost to our entire society.

We know locally, for instance, that close to 75 cents of every Spokane tax dollar goes towards criminal justice. Nationwide, Clute informs us, “every year an inmate spends in jail or prison costs us about the equivalent of one teacher’s salary... That means a lot of teachers’ salaries are being spent not on kids but on locking up those

¹ Clute, Sylvia, *Beyond Vengeance, Beyond Duality*, Hampton Roads Publishing Co., Charlottesville, VA, 2010, loc. 57.

kids' dads, moms, sisters, and brothers—and too often the kids themselves.”² Nationally we spend nearly 60 billion dollars a year on incarceration alone, which doesn't account for the billions more we spend on criminal justice outside of prison. So if we could dramatically reduce the costs associated with criminal justice in our nation, we'd be able to provide universal healthcare, publicly funded higher education, repair and improve our crumbling infrastructure, have plenty of schoolteachers, and lots more, without needing to raise taxes.

But the enormous financial expense of criminal justice in our society is not, in my opinion, the reason it's costing all of us. Emphasis on the financial consequences is part of the dualistic mindset that makes it sound like the illegal behavior of a few bad individuals is burdening the innocent majority of us, while ignoring the root causes of crime for which we are all accountable. Our punitive justice system, which emphasizes balancing the scales by simply punishing wrongdoers, doesn't address the injustices of poverty, racism, ill treated and untreated mental illness, or the political oppression undergirding the prison industrial complex and an era of mass incarceration that has led our nation, representing just 5 percent of the global population, to house 25 percent of its prisoners. In light of these disturbing statistics, any claim that ours is a free country devoted most to liberty and justice for all is pure hyperbole.

We know, for instance, as Clute has outlined for us, that more than 60 percent of those held in jail are never convicted, but simply can't afford bail, amounting to what she calls, “a modern debtor's prison.”³ During the interim, between being locked up and being found innocent, many of them lose their jobs and their homes, even as their families suffer and the burden upon taxpayers increases.

We also know our criminal justices system is one of the most racist institutions on Earth. As Michelle Alexander says in her book, *The New Jim Crow*, “More African American adults are under correctional control today—in prison or jail, on probation or parole—than were enslaved in 1850, a decade before the Civil War began.”⁴ Of the nearly 7.5 million Americans now under correctional supervision of some kind, 1 out of 45 are white, while 1 out of 11 are black, and 1 out of 27 are Hispanic. This is so even though whites represent more than 60 percent of the general population, Blacks less than 13 percent, and Hispanics about 15 percent. Today, 1 of every 4 young black men can expect to go to prison. While the number is only 1 in 100 for black women in their mid to late thirties, compare that to 1 in 355 for white women. Sentences are also nearly 50 percent longer for Blacks than for Whites. In spite of all this, the Supreme Court has consistently ruled the system is not racist so long as nobody is openly using the “N” word or other racial slurs, confusing institutional racism with being individually racist.

² Ibid.

³ Ibid., loc. 74.

⁴ Alexander, Michelle, *The New Jim Crow*, The New Press, (Kindle Version) New York, NY, 2010, 2012, p. 179.

It is also true that those assigned minority status in our country are much more likely to be politically disenfranchised, losing their right to vote because of our punitive and unforgiving criminal justice system. In Kentucky, for example, where convicted felons are permanently barred from ever voting again, Clute tells us “almost 25 percent of its African American males” weren’t allowed to vote in 2008. John McCain beat Barack Obama there by more than 16 percentage points. Likewise, in the 2000 Florida election, in which the difference between Al Gore and George W. Bush was less than a percentage point, 4.6 percent of the population, mostly minorities, had been disenfranchised.

Finally, our criminal justice system has also become our society’s primary method of dealing with the mentally ill. Our prisons are the places they are confined and treated, if at all, and our police and prison guards are their therapists, due to our government’s defunding of federal psychiatric hospitals. As University of Chicago law professor, Bernard E. Harcourt states in an article on the subject, “Over the past 40 years, the United States dismantled a colossal mental health complex and rebuilt—bed by bed—an enormous prison.”⁵ Today, although there are still a few state hospitals, which might properly be called prisons for the mentally ill, which house around 35,000 individuals with serious mental illnesses, more than ten times this amount, 356,000 people with serious mental illnesses are in jail or in prison, amounting to about 35 percent of the prison population.⁶

Today, in fact, the largest psychiatric wards in the nation are in prisons. According to a 2010 survey by the Treatment Advocacy Center, “There are more seriously mentally ill individuals in the Los Angeles County Jail, Chicago’s Cook County Jail, or New York’s Riker’s Island Jail than in any psychiatric hospital in the United States. In fact, in every county in the US that has both a county jail and a county psychiatric facility, the jail has more seriously mentally ill individuals.”⁷ It should go without saying those with serious mental illnesses don’t get adequate treatment in prison where they are often a danger to others and to themselves. According to a 2002 Washington State study, in fact, those with mental illnesses account for 77 percent of prison suicide attempts.⁸

Taking all of this into account, our current criminal justice system is not merely a problem for those convicted of crimes, but for a society that uses it to ignore institutional racism, poverty, voter suppression, and untreated mental illness. This

⁵ Harcourt, Bernard E., “The Mentally Ill, Behind Bars,” *New York Times*, January 15, 2007.

⁶<http://www.treatmentadvocacycenter.org/storage/documents/backgrounders/how%20many%20individuals%20with%20serious%20mental%20illness%20are%20in%20jails%20and%20prisons%20final.pdf>.

⁷ Torrey EF, Kennard AD, Eslinger D et al. *More Mentally Ill Persons Are in Jails and Prisons than Hospitals: A Survey of the States* (Arlington, Va.: Treatment Advocacy Center, 2010).

⁸ Goss JR, Peterson K, Smith LW et al. Characteristics of suicide attempts in a large urban jail system with an established suicide prevention program, *Psychiatric Services* 2002;53:574– 579.

system is also fatally flawed because it is fundamentally punitive. It is fatally flawed—doomed to failure, that is—because a punitive mindset is an underdeveloped mindset. In terms of developmental psychology, punishment, along with authoritarianism and simple black or white, right or wrong thinking, are the characteristics of our earliest and most immature stage of development. To base our entire criminal justice response on this mindset seems unthinkable, yet this is precisely the case.

This morally and psychologically underdeveloped punitive mindset also has an overly simplistic understanding of fairness. Its fair-is-fair, eye-for-an-eye mindset considers justice as little more than the equivalent of time. In other words, justice has been served once enough time has been served to erase the impact of any given crime. Worse crimes get more time than lesser crimes, at least, theoretically, but time behind bars is somehow, magically, supposed to right all wrongs. Not only does this kind of justice do nothing to repair the damage done by specific crimes, but the bizarre idea of simply locking convicts away for long periods of time was invented relatively recently in history by industrialized nations. As Dr. Fania Davis, a Civil Rights Attorney, Professor of Law, and Director of RJOY, Restorative Justice for Oakland Youth, says, “For most of human history reconciliation and restitution to victims and their kin took precedence over vengeance. This is because restoring social peace and avoiding blood feuds were paramount concerns.” Thus, as she goes on to say, “...in most indigenous languages, there is no word for *prison*.”⁹

Indigenous models of justice are restorative and reparative, not segregating and punitive. Indigenous cultures understand the importance of keeping a community whole, which means healing those who have been harmed by giving perpetrators an opportunity to make things right again, and to keep them as valued, productive members of the community. Imagine what our society might be like if this were our method of dealing with crime, if, instead of focusing on punishing criminals by robbing them of time, we focused on repairing the real damage they’ve done, on keeping them as productive, valued members of our society, while placing most our emphasis and resources on making those who have been harmed whole again. We would likely still need a few jails and prisons for extremely violent and dangerous individuals, but we’d be spending only a fraction of what we’re spending today on the justice equals time model, and we’d not be using crime and inventing crimes as an excuse to suppress voters, further oppress the poor and marginalized, and ignore those with mental illness.

There have been a few different names for this more traditional model of justice. The term used most often today is *Restorative Justice*, although it is also called, *Reparative Justice*, *Transformative Justice*, *Compassionate justice*, *Peacemaking Justice*, and, to some extent, in our own community, *Smart Justice*. Clute puts all

⁹ Davis, Fania E., PhD, “Gandhi’s Justice, Restorative Justice,” Remarks delivered at the 10th Annual *Howard Thurman Convocation* at Church of the Fellowship of All Peoples, 2041 Larking Street, San Francisco, CA 94109, Oct. 16, 2005.

these under the umbrella of what she calls, *Unitive Justice*. Unitive instead of *punitive* approaches are characterized by responses to crime that emphasize repairing damage that has been done by making those harmed feel whole again; and keeping perpetrators as productive, independent, valued members of society; focusing on compassion and forgiveness rather than vengeance and isolation; while seeking to own society's role in crime by addressing poverty, oppression, mental illness, and racism. It's goals, Clute says, are healing, restoration, and reconciliation, an approach aimed at producing relationships that are harmonious, equitable, and peaceful."¹⁰

Without going into anymore theory than this, I'd like to return to the simple point of this sermon, that the only way for our society to escape the criminal justice system we have all become part of, we must move away from the punitive model to a more compassionate response to crime. So, with his permission, I'd like to return to Jacob John's story. When he spoke a few weeks ago, Jacob told us that when he was 19 he was sentenced to 8 years in a maximum-security prison for assaulting a police officer with a deadly weapon.

The crime occurred shortly after his brother had committed suicide. Jacob turned to alcohol to cope with the loss and was driving drunk when a police officer tried to pull him over. He panicked and headed for the Reservation where the authorities might be more understanding. It turned into quite a chase with just about every available officer in the area pursuing him. Police cars were crashing into each other. Some of them were intentionally crashing into him, and just before reaching the reservation Jacob tried to drive through a barricade of police cars blocking his way. When they pulled him out of the car, they beat him unconscious. The next day he woke up in jail with a bloody, swollen face and a broken arm.

In prison, he suffered years of cruelty. He tells me he had to fight every day, either with other Indians struggling for status, other none native inmates, or with the prison guards. He was often isolated in solitary, and had his hands chained to his waist before being let out of his cell and placed alone in a caged shoot outdoors for 13 hours at a time. Once, he told me, the guards had him lay on the gravel ground for 13 hours, wouldn't let him move for fear of being shot, causing him and other inmates in the same position to have urinate and defecate in their own uniforms.

Drunk driving is a very serious and dangerous crime that cannot be tolerated by our society. Last year and entire family in our church was killed by a drunk driver, by another young man, if I remember correctly. But is the appropriate, most meaningful response for our courts to determine how much time will balance out this terrible tragedy and leave it at that? What if, in Jacob's case, instead of asking how much time is equal to his crime, someone had asked, what in the world was

¹⁰ *Journal of Theoretical and Philosophical Criminology*, John F. Wozniak, "Unlocking the legal system," September, 2014 Vol. 6(3): 239.

going on with him that could lead to such reckless behavior? Can we help him learn to deal with his grief without turning to alcohol? How might the larger issues of racism and poverty have contributed to his behavior? What's missing from his life that could have led to this, and how can we get him what he needs to help prevent something like this from ever happening again? I'm not sure what all the answers to these questions are, but I know that putting a teenage boy in maximum-security prison for eight years is not an answer to anything.

Jacob is among the few to have had the love and support, and the personal fortitude and wisdom to emerge from this hell a better person. But we know this is not the case for most people who find themselves ensnared within the endless trap of our failed criminal justice system. For most, the word "felon" is the scarlet letter of our day, preventing them from ever again fully participating in our society, unable to work or find adequate housing, let alone a sense of belonging and dignity necessary for connecting them with the larger community.

The ancient Chinese oracle, the *I Ching*, says, "Prisons ought to be places where people are lodged only temporarily, as guests are. They must not become dwelling places."¹¹ Today I wonder what our society would be like if we rediscovered this ancient mindset that approaches crime with compassion and treats criminals with dignity, as guests needing our help. What would it be like if instead of asking how much time should we punish a person with, we asked ourselves, *My gosh, how could someone behave in such a way? What happened? What went wrong? What could we as a society have done better to prevent this? What's missing from their lives and what can we do help fix the problem now?*

As mentioned, there are already lots of alternative Unitive models already out there, many of which are being tried with great success. But, again, I've chosen not to go into great detail about these because the point of this message is really quite simple. We've been asking the wrong question for far too long. Our kneejerk response to crime has been to simply ask, "How much time will right the wrong," when, in reality, time only creates more harm and does nothing to right the wrong. Again, as Jacob discovered, this dualistic, right and wrong mindset only contributes to the hurt. So our first response, rather, the first question we should be asking as a mature society, ought to be a question born of our compassion; what harm has been done and what must we do to heal it? What must we do to make our society whole?

¹¹ Wilhelm/Baynes, *The I Ching*, Bollingen Series XIX, Princeton University Press, Princeton, NJ, 1950, 1990, p. 217.