

INCARCERATION IN NEW ZEALAND

Motion passed at Synod 2010

That this Synod

(1) notes the alarming increase in the NZ prison population;

(2) commits itself to articulating a biblical understanding of restorative justice;

(3) requests the Bishop appoint a one-year task group to consider a theological understanding of punishment, crime and the place of imprisonment and alternative sentences; and

(4) asks the task group to report, with recommendations, to Synod in 2011.

THE ISSUE

The Prison Task Group was established by Bishop Ross in response to a Motion at the 2010 Synod. The Task Group has met a number of times over the last 12 months. Members of the group are Richard Bonifant, Nyasha Gumbeze, Liz Caughey, Pip Colgan and David Hall.

God of justice, God of mercy,

Make us merciful and just!

Help us see all your creation

As from you a sacred trust.

And when people cry in anguish

For their own or others' pain,

Show us ways to make a difference

O dear God, make us humane!

Jane Parker Huber 1928-2008

The motion at last year's Synod noted the "alarming increase in the New Zealand prison population". We started by looking at the reasons for this alarming increase – 86% between 1995 and 2010¹ - and we concluded that underlying it was a **flawed understanding of justice in New Zealand - an understanding that focuses almost exclusively on retribution/vengeance and not on restoration/rehabilitation.**

The New Zealand public, in general, perceives that we live in a less safe place than in the past and that the answer to this is to "be tough on crime". Over the last 20 years the main political parties have bought into this perception and the resulting bidding war on the issues of crime and punishment has increased prison sentences dramatically. This has caused the alarming increase in

¹ NZ Department of Corrections website and 'Beyond the Holding Tank', a Salvation Army Report, 2006

the prison population. To encourage a more holistic understanding of justice in New Zealand will take some years; in the meantime there are aspects of the justice system that can be addressed that should result in a significant reduction in the very high recidivism rate and an overall reduction in public cost, without endangering public safety. This report explores some of these options and includes some practical recommendations for further action by the Diocese.

INCARCERATION IN NEW ZEALAND TODAY

"The number of murders in New Zealand dropped by nearly a quarter last year, while overall reported crime fell 6.7%." (Headline in Waikato Times 1 April 2011)

"Prison numbers are expected to grow to over 10,300 by 2017." (Department of Corrections and Ministry of Justice 2010)

"Whenever you send someone to prison you're actually not holding them accountable if you're removing them from those to whom they should be accountable." (Kim Workman, TV One Interview, Oh My God, 14 March 2011)

There appears to be a basic disconnect in the above quotes. Crime is going down yet the prison muster is expected to increase. No wonder there is confusion about our criminal justice system. But there is also a flawed understanding of justice itself. Kim Workman, a leading expert on crime and punishment and a former head of the Corrections Department, questions the whole issue of incarceration. He says:

*"By 30 years of age a huge percentage of offenders will stop offending. 40% of prisoners serve terms of less than 6 months; 85% will be out in under 2 years; 5-7% should never come out, will never change – the public thinks this figure is more like 40%."*²

WHO IS IN PRISON IN NEW ZEALAND?

The Prison Population³

Overall about 20,000 individuals spend time in NZ's prisons each year. About 14,000 of these are on remand awaiting trial or sentencing. On average, there are 8,900 people in prison at any one time.⁴ New Zealand has the second highest incarceration rate in the OECD - 203 per 100,000 of the total population; only the USA is higher with 748 per 100,000.⁵ However there are 704 Maori in prison for every 100,000 Maori in New Zealand.⁶

² TV One Interview, Oh My God, 14 March 2011

³ Dept of Corrections Web site http://www.corrections.govt.nz/about-us/facts_and_statistics/prisons/march_2014.html viewed at 16 July 2011

⁴ Flying Blind, Roger Brooking, 2011

⁵ Kings College London International Centre for Prison Studies. Prison Brief for New Zealand

⁶ 2006 census reports there were 643,977 people of Maori descent

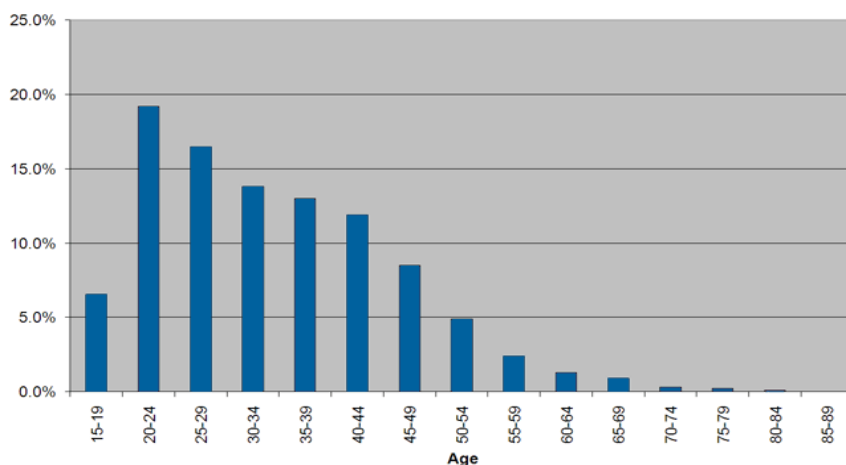


Figure 1: Age of Persons in Prison

Yet, since 1992, the overall crime rate in New Zealand has not increased and the murder rate has halved.⁷

The age distribution of people in our prisons is significant. Some 41% are under 30 and 68% are under 40 (refer Figure 1). Prison is increasingly the University of Crime for a significant portion of our younger people.

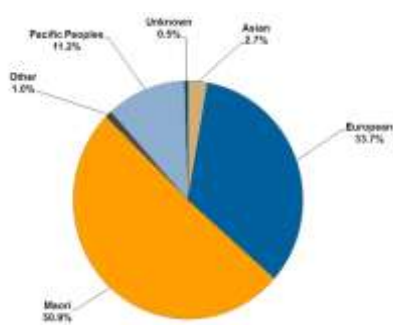


Figure 2: Ethnicity of Prison Population

Ethnicity percentages are also significant. Maori, only 14.9% of New Zealand's population, comprise 50.9% of the prison population, and Pacific Islanders, only 6.7% of the nation's population, make up 11.2% of the prison muster (refer Figure 2).

Of those in our prisons, 1.6% are of maximum security risk and 21.2% are high risk, with the bulk comprising 19.5% minimum, 22% low and 32.7% low medium risk (3% are unclassified).⁸

THE COSTS OF CRIME⁹

The justice system in New Zealand comprises more than just the Department of Corrections. Overall the NZ Government spends some \$3 billion a year on the justice system, including about \$1 billion each on the police and the courts.

The 2011/12 budget for the Department of Corrections is \$1.36 billion.¹⁰ Of this \$761 million (55%) is budgeted to keep sentenced and remand prisoners securely behind bars; \$200 million (17%) to look after people serving community sentences and \$141 million (12%) on the provision of education, employment, rehabilitative programmes, psychological services and re-integration into the community. Interestingly \$57 million (5%) is budgeted for various services to victims, the Courts and the Parole Board.

The Corrections Department estimates the annual average cost of keeping a person in prison is just under \$90,936.¹¹ In 1990, just 20 years ago, there were on average only 3,600 people in prison¹²

⁷ Simon Collins, NZ Herald 7 April 2009. The murder rate has halved in the last 20 years

⁸ http://www.corrections.govt.nz/about-us/facts_and_statistics/prisons/march_2014.html, as viewed on 16 July 2011

⁹ Flying Blind, Roger Brooking, 2011

¹⁰ <http://www.treasury.govt.nz/budget/2011/ise/v7/ise11-v7-pia-corr.pdf>

¹¹ http://www.corrections.govt.nz/about-us/facts_and_statistics/prisons/march_2014.html as viewed on 16 July 2011

¹² <http://www.justice.govt.nz/publications/publications-archived/1998/the-use-of-imprisonment-in-new-zealand/3.-profile-of-new-zealands-prison-population-and-trends>

which, using 2011 dollars, would have cost \$325 million. The cost in real terms of appearing to keep our community safe has increased nearly 150% in the last 20 years but the amount of crime has remained the same. What improvement has the New Zealand public seen in public safety from the extra \$485 million a year spent on imprisonment?

The 2011/12 budget estimates also provide for \$8.55 million for “*preparing and managing contracts for the provision of custodial services by third parties*”. This is an added cost for private prisons.

VICTIMS OF CRIME

The underlying assumption of the justice system that we inherited from England is that it is the responsibility of the State to deal with anti-social behaviour, including criminal actions. Investigation, arraignment, trial and punishment when found guilty, are the responsibility of the State justice system.

The victim had no place in this system. The inequality of this approach became increasingly apparent in the last decades of the 20th century when the involvement of victims in the system was introduced. The introduction of Family Group conferences is one example. The Restorative Justice process is another, as is the use of Victim Impact Statements made prior to sentencing. Also, victims now have an input into the Parole Board hearings and considerations.

After centuries of being ignored by the justice system, victims of crime now have a clear voice within it. But we must not forget that in many cases the offender has also been a victim and society has a duty to treat both the victim and the offender with dignity.

WHAT HAPPENS IN PRISON?

Length of Sentences and Rehabilitation

Kim Workman, in a recent address, indicated that fewer than 1,400 inmates are serving sentences longer than two years, a dramatic increase since 1980 when only some 100 out of 4,200 sentenced received terms of more than two years. In addition about half the prison population will be released within six months.¹³

Those receiving short sentences actually have the worst of both worlds. The enduring stigma of prison is acquired for even the shortest of sentences yet, until 12 months ago, they did not qualify for any of the rehabilitation programmes run by Corrections Services, as a person had to be over 20 and serving at least two years to be eligible. However, the Minister of Corrections, Judith Collins, announced in November 2010 that the number of places for drug rehabilitation in prison would be increased from 500 to 1,000 and some of these additional places will be allocated to those serving sentences of less than 2 years.¹⁴

To be eligible for educational and rehabilitation programmes, including literacy education, inmates must be literate. Yet common amongst those behind bars is a low level of educational achievement – many are functionally illiterate.

¹³ <http://www.rethinking.org.nz/Default.aspx?page=3426>

¹⁴ http://www.corrections.govt.nz/news-and-publications/magazines-and-newsletters/corrections-news/2011/corrections_news_nov-dec/new_drug_treatment_unit_for_auckland.html

A Department of Corrections' study found that 89% of offenders were alcohol- or drug-affected in the period leading up to their offending.¹⁵ Many have also suffered abuse in their formative years, or have mental health issues.

With inadequate treatment programmes, there should be no argument for longer sentences but rather for sentencing to be directed at addressing the underlying issues giving rise to the offending. At present it seems that the vast majority of the prison population receives no constructive rehabilitation or education, and hence is more likely to offend again.

Recidivism and Reintegration

The rate of reoffending after completing a term in jail (recidivism) is a useful indicator of the effectiveness of prison as a method of behavioural change. A detailed Department of Corrections study looked at the 4,945 people released from prison in the 12 months to 31 March 2003. Within five years of release 52% were again convicted and sentenced to a further prison term. Even more concerning is that for those people aged between 20-24 at the time of release the re-imprisonment rate was 60% and, for those below 20 years, the rate was 71%.

We have one of the highest recidivism rates in the developed world; in Canada it is about 25%¹⁶ and in Norway, 20%¹⁷.

But what is the reality about the assistance given to inmates to address the causes of offending, and to reintegrate successfully? Roger Brooking, who has conducted extensive research into rehabilitation and recidivism, comments in his book 'Flying Blind':

"The Department's latest annual report claims that 2,196 inmates started a Corrections' literacy and numeracy programme in the year to July 2010.¹⁸ However, only 9% - that's 198 inmates - were assessed by a tutor as having reached a satisfactory level and actually completed the programme. That figure represents just 1% of the daily muster."

Brooking then quotes Judith Collins' comments at the Auckland Region Women's Corrections Facility, in November 2009:

*"The Minister stressed to those attending the launch that prisoner training and employment was a 'must have', not a 'nice to have'. 'Prisoner training and employment helps to keep prisoners focused, builds self-esteem, and provides them with the chance to find sustainable employment on release. This isn't being soft on criminals. It's being realistic about addressing the causes of re-offending for the good of the country,' says Ms Collins."*¹⁹

She said that, to address the problem:

"The Department will be adding another 125 places by 2012".²⁰

Unfortunately, 125 places will make no difference whatsoever, especially if only 9% of the 125 - that's 11 inmates - complete the training. Funding for literacy, numeracy and job training is still only

¹⁵ <http://www.corrections.govt.nz/research/national-study-psychiatric-morbidity-in-nz-prisons.html> viewed 21 July 2011

¹⁶ Correctional Services Canada website

¹⁷ Kings College London International Centre for Prison Studies

¹⁸ Corrections Department, Annual Report, 2009-2010, p 37. The Department actually claims that 3,501 inmates started a literacy programme but in the footnotes acknowledges that 1,305 were in fact taking other self-directed learning. Those inmates were not being offered rehabilitation by the Department; the Department provided programmes for only 2,196

¹⁹ 'Prisoner training and employment a must', Corrections Department website: News and Publications/CIE News November 2009

²⁰ 'Providing skills to break the cycle of offending', Judith Collins, Beehive website, 7 Oct 2009

some \$3 million a year²¹ and for the vast majority of people who end up in prison, literacy and employment training still remains something that would be 'nice to have'. Ms Collins seems to be doing her best to keep up the Department's tradition of making positive statements about its achievements which are not borne out by the facts.

Considering that there are nearly 9,000 people in New Zealand's prisons costing close to \$1 billion a year, to spend \$3 million on literacy, numeracy and job training appears to be tokenism at best.

Another factor that impacts on recidivism is the process used to return to the community those who have completed their sentence or are released on parole. In the 1990's the Corrections Department and the Prisoners Aid and Rehabilitation Society (PARS) began a programme of assistance for those released from prison. This reintegration initiative, funded primarily by the Corrections Department through two contracts - one covering Re-integration Support and the other Accommodation Services²² - includes:

- Acquiring suitable accommodation
- Managing finances
- Managing relationship issues
- Developing pro-social community support
- Obtaining employment post-release
- Preventing victim-related problems
- Achieving post-release health care continuity

These are the goals stated by the Corrections Department in the contracts with PARS.

In 2010, PARS Auckland worked with 2084 people released from the prisons in the Auckland area. Interestingly, PARS comments in its 2010 report:

"What are the outcomes for people?"

*Does all this service make a difference? We think it does but it is hard to quantify in any meaningful way. Individual stories can be told but the reality is that if these support services were not available then our released prisoners would be likely to resort to methods they are familiar with and associates they are comfortable with which may not assist them in focusing on resettling into non-offending lifestyles and communities."*²³

Restorative Justice – a key theme in NZ's justice system?

*"Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offence and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible".*²⁴

The first use of restorative justice methodology in New Zealand came with the introduction of Family Group Conferences (FGC) for young offenders through the Children, Young Persons, and Their Families Act 1989. In many respects, FGC's are an example of traditional Maori justice in practice, which was based on notions that responsibility was collective rather than individual, and redress was due not just to the victim but also to the victim's family. Understanding why an individual had

²¹ Funding for literacy, numeracy and job training has been set at \$11.2 million over the next four years. This works out at \$2.8 million a year – about the same as it was in 2005. Press release by Judith Collins, 20 May 2010

²² PARS Auckland Annual Report 2010

²³ PARS Auckland Annual Report 2010

²⁴ Zehr, H. (2002) *The Little Book of Restorative Justice*. Good Books, Intercourse, PA, pg. 37

offended was also linked to this notion of collective responsibility. The reasons were felt to lie not in the individual but in a lack of balance in the offender's social and family environment. The causes of this imbalance, therefore, had to be addressed in a collective way and, in particular, the harmony between the offender and the victim's family had to be restored (Durie 1995).²⁵

The success of the FGC initiative led to the inclusion of Restorative Justice in the revisions of the Sentencing Act, the Parole Act and the Victims Rights Act of 2002, which -

- give greater recognition and legitimacy to restorative justice processes
- encourage the use of restorative justice processes wherever appropriate
- allow (and require) restorative justice processes to be taken into account in the sentencing and parole of offenders, where these processes have occurred

In practice, it appears that the last, the use of a restorative justice meeting in the pre-sentencing process is the most common, allowing judges to take into account the attitudes and responses of both victim and offender.

PUBLIC ATTITUDE

Attitudes to Crime, Punishment and Justice in New Zealand Today

In 2003, the Ministry of Justice carried out a survey of 1,500 people to explore their attitudes to crime and punishment in New Zealand. The survey commented:

*"Those surveyed tended to have an inaccurate and negative view of crime statistics and to under-estimate the lengths of sentences imposed on offenders. Survey respondents perceived there to be higher levels of crime than national figures suggest. The overwhelming majority (83%) of the sample wrongly believed that the crime rate had been increasing over the two years prior to the survey."*²⁶

The survey was one of the most extensive attitudinal studies on Crime and Punishment carried out in New Zealand. The authors summarised their findings as follows:

"Overall, the survey findings support findings from overseas studies that show the public has an inaccurate and negative view of crime statistics."

- *The vast majority of the sample (83%) falsely thought that the crime rate was increasing*
- *Two-thirds of survey respondents substantially overestimated the amount of crime that is violent and one-third substantially overestimated the rate of burglary*
- *Nearly one-third (31%) wrongly thought that the average cost of imprisoning an inmate for one year was \$75,000*
- *Over half (56%) underestimated the 20-year statutory maximum penalty for rape at between 1 and 14 years. Nearly half (48%) underestimated the average sentence imposed for rape, and nearly half (47%) underestimated the average time a rapist serves in prison*

²⁵ <http://wcr.sonoma.edu/v1n1/morris.html>

²⁶ Attitudes to Crime and Punishment: A New Zealand Study undertaken by Judy Paulin, Wendy Searle, Trish Knaggs. NZ Ministry of Justice, December 2003, p14

- *Just under a quarter (23%) underestimated and one-third (33%) overestimated the amount of time served by an offender sentenced to life imprisonment*
- *Nearly half the sample (46%) thought that the rate of reconviction of offenders is higher than is the reality*
- *Over half (57%) overestimated (at 30% or more) the rate of offending on bail*
- *Those least informed about crime statistics were more likely to be women, be younger, be Maori, be less educated or to have a lower personal income²⁷*

These perceptions all flow from a punitive attitude and understanding of justice. They do not appear to have changed over the last seven years. For example, 'Get Tough on Crime', the cry of the Sensible Sentencing Trust has been picked up by the public and the major political parties; the passing of such legislation as the 'Three Strikes' law; the Prime Minister's continuing support for 'boot camps' despite evidence that they can contribute to, rather than reduce, crime.

The head of the Sensible Sentencing Trust, Hawke's Bay farmer Garth McVicar, is listened to by Government while the Chief Justice, Police Commissioner, and head of the Parole Board are ignored.²⁸ The Prime Minister, the Minister of Justice and the Minister of Corrections all attended the Sensible Sentencing Trust Annual Conference in 2011 but despite being invited to the Prison Fellowship Annual conference, none attended.

However, there has been an interesting political development when, on 11 May 2011, the Minister of Finance, Bill English, said that "*prisons are a fiscal and moral failure*" to a Families Commission "Critical Thinkers' Forum". He then repeated this comment on Sunday 14 May 2011 on TV One's Q & A programme. This follows similar questioning of the economics of the present approaches to crime and punishment by politicians in both the UK and the USA.²⁹

Although the possibility of a change in attitudes towards crime, punishment and justice appears to be based on economic reality rather than on a moral imperative, this does appear to be an opportune time to start advocating for alternative approaches.

THOUGHTS ABOUT SOLUTIONS

What Works in Canada: Day Parole and Halfway Houses

Canada has developed a two-pronged approach to managing the transition of released inmates into the wider community.

Their halfway houses are designed to help those leaving prison negotiate the critical transition to living in the community. Canada currently has 175 Community Residential Facilities (CRFs) owned and operated by non-government organisations with funding from Correctional Services Canada. The CRFs provide a supportive environment through the provision of accommodation and meals, assistance with job searching, educational courses including addiction education and counselling services. Most residents work outside the facility. In addition, Correctional Services Canada runs 17 Community Correctional Centres (CCC, minimum-security).

²⁷ Attitudes to Crime and Punishment: A New Zealand Study undertaken by Judy Paulin, Wendy Searle, Trish Knaggs. NZ Ministry of Justice, December 2003, p38

²⁸ Flying Blind, Roger Brooking, 2011

²⁹ Ken Clarke, speech to Centre for Crime and Justice Studies, London, June 2010

The first CRF was established in the early 1970's by the St Leonard Society of Canada, part of the Anglican Church in Canada. Other church and humanitarian organisations now also operate them. Each CRF serves between 10-40 people with 3-6 counsellors available to provide guidance to the residents. Each CRF has rules and a code of conduct that residents must respect.

The success of the CRF and CCC approach has been assessed and the re-offending rate found to be only 3% - 5% of all those passing through the facilities.³⁰

Halfway houses in New Zealand

In New Zealand there are only two halfway houses with government funding – Salisbury St Trust in Christchurch and Moana House in Dunedin. Funding for an existing halfway house in New Plymouth was withdrawn in 2008 and the house closed.³¹

Prison Fellowship NZ has a Target Community programme to support the reintegration of people on release from prison:

*"A Target Community is one that is a prepared community with the heart to minister to both those in prison and those being released from prison. This involves incorporating their families into the community with a view to both providing support and protection during their growth and with the goal of restoring them into full wider community participation."*³²

How Finland reduced its prison population by 78%³³

In 1950 the Finns had an imprisonment rate of 187 per 100,000 of population (New Zealand's was 58 per 100,000). The Finns were very concerned that their incarceration rate was far out of line with their Scandinavian neighbours who had low rates of imprisonment. This led to some major changes in penal policy which resulted in a drop of 3-4% per year. By 2001 the rate was down to 40 per 100,000 - an extraordinary reduction of 78% in prison population.

This achievement did not go unnoticed in New Zealand. The Department of Corrections Report "About Time"³⁴ described three key factors which contributed to Finland's success:

- Widespread political agreement that a reduction in the prison population was necessary
- An understanding in government and the public service that policies had to be based on evidence and "expert" understanding
- Public support for measures to reduce the prison population and an agreement by the Finnish media not to sensationalise crime, and to publish regular education pieces on justice and penal issues based on evidence and academic research. At the same time politicians agreed not to use violent crime or simplistic slogans to stir up the public to gain votes.

If we could achieve a similar reduction in imprisonment rate to Finland's, we could save over \$700 million a year in the cost of the Department of Corrections alone, plus other savings. These savings could be applied to the restorative needs of prisoners and victims alike.

³⁰ Day Parole and Halfway House in Canada by Willie Gibbs. International Centre for Criminal Law Reform and Criminal Justice Policy, Vancouver, Canada 2006

³¹ Flying Blind, Roger Brooking, 2011

³² http://www.pfnz.org.nz/target_community.htm

³³ Flying Blind, Roger Brooking, 2011

³⁴ About Time. Report of Department of Corrections, 2001

THEOLOGY

The terms of reference require the task group to consider a theological understanding of punishment, crime and the place of imprisonment and alternative sentences; and a Biblical understanding of restorative justice.

But while he was still far off, his father saw him and was filled with compassion; he ran and put his arms around him and kissed him. Then the son said to him, "Father, I have sinned against heaven and before you; I am no longer worthy to be called your son." But the father said to his slaves, "Quickly, bring out a robe—the best one—and put it on him; put a ring on his finger and sandals on his feet. And get the fatted calf and kill it, and let us eat and celebrate; for this son of mine was dead and is alive again; he was lost and is found!" (Luke 15: 20-24)

The power of forgiveness can be clearly illustrated by the parable of the prodigal son. Forgiveness brought transformation to the son as he acknowledged his failures and accepted the consequences of his actions (Luke 15: 8-32). Just as the Parable of the Lost Sheep (Luke 15:3-7) shows us the importance of seeking the 'lost' in society, so the Prodigal Son parable relates to how those lost should be welcomed back into the fold.

In recent times the prison population has soared. This is due mainly to sentences being longer. We are aware of over-stretched resources and are told of disturbing rates of crime. The attitude of the media, the public, and the government is similar to that of the prodigal's elder brother. This parable can be contemporised as the return of an offender from prison to his community. The younger son represents the offender who has committed a crime against society.

In God's kingdom the recovery of something or someone that has been lost is cause for celebration, as portrayed by the father's welcome home of his repentant younger son. He rushes to greet him with open arms, and reinstates him without question into the community. The older son represents today's wider community in his enduring condemnation of the 'offender'. He resents his younger brother for transgressing, and resents his father for welcoming him home in celebration. He lacks the understanding that repentance and 'time served' pays the debt of the transgression, leaving the younger brother free to re-join and contribute to the community. The older brother felt the younger son did not deserve to be treated so well, that he should have suffered on his return for what he did.

The desperateness of the younger son's situation inevitably encouraged him in his decision to come home. However, the older brother had been in his father's house all the time and he struggled with jealousy over his father's treatment of his younger sibling. There is so much resentment among the 'just' and the 'righteous.' There is so much judgment, condemnation and prejudice among the 'saints.' But we are all equally in need of grace and forgiveness.

God's love covers us continually and the banquet is in God's loving presence with us. What God does for others should help us understand divine love and acceptance. Reconciliation should make us even more secure in our relationship with God, not less. Whenever we directly or indirectly condemn another as unworthy of God's love, or resent what blessings they seem to experience, we show only the darkness in ourselves. The older brother may have lived in his father's house and eaten at his table every day, but he did not yet fully know his father or what it was to be his father's son. The lack of fully knowing the heart of God has major implications for us as a community of faith.

The Church's role

The Church has a key role in assisting those in prison to regain some sense of their humanity. We are able to recognise and encourage their spirituality, and provide personal support. For example, the church can help maintain a prisoner's links with their community or family. The work of the Church can be likened to the prodigal's father, who kept believing in his son, that his son would rediscover his humanity. When his son finally returned, the father accepted him back as the valuable human being he was and restored his dignity.

This is not to say that crime should be ignored, but that the Church can offer those who have completed their sentences hope and a chance to start again. As evidenced by the recidivism statistics the current penal system is unsuccessful at rehabilitation. The Church must advocate for and support approaches that are more favourable to both offender and victim.

For as in the words of St Augustine, 'mercy without justice leads to weakness. Justice without mercy leads to tyranny.'

Punishment

Punishment is, by definition, pain delivery, and locking people up is our favoured form of administering punitive pain today. Prison hurts because it contradicts our humanity. We are made as free creatures in the image of a freedom-loving God. To take that freedom away from people is to exercise an awesome responsibility because it strikes at the heart of human dignity and identity. So the first thing the Biblical record invites us to recognise is the exquisite pain imposed by imprisonment, and why it hurts so much, and thus it invites us to use great caution in resorting to it.³⁵

Prisoners remain part of our community despite being in prison. Like us they are made in the image of God. They are unique and unrepeatable human beings who belong to our community. We are all the Body of Christ, all members of one body. There is no 'us and them' (Romans 12:4-5). As such if one member of the body is not well, the whole body will not be well.

Galatians 6: 1-2 suggests that we are called to minister to and restore those who have offended. The role Jesus claimed for himself at the beginning of his ministry was stated in: '*The Spirit of the Lord is upon me, because he has anointed me to bring good news to the poor. He has sent me to proclaim release to the captives and recovery of sight to the blind, to let the oppressed go free.*' (Luke 4: 16-19) If this is God's will then surely we are also called to use prisons as a last resort, and to find other means of punishment. Further, when prisons are places that breed inhumanity and violence, and offer few opportunities for rehabilitation, surely we are called to advocate for change.

On Good Friday, Jesus, the one who dared to show us God's love, was executed for his audacity. Were God to love us in the limited way that we love each other, that would have been the end of the story. That is why Easter is such a surprise. It shows us that God's love is truly unconditional. That God loves us no matter what we do. This is the kind of love that we can aspire to. Are we willing to stand against oppression and champion the cause of freedom as Christ did, by striving for justice that is redemptive?

The African-American Philosopher Cornel West states that while love feels like tenderness in private, justice is what love looks like in public.³⁶ His words remind us that first and foremost justice is an act

³⁵ Christopher Marshall: Prison, Prisoners and the Bible - <http://www.iusticereflections.org.uk/pdf-files/jr13.pdf>

³⁶ Hope on a Tightrope: words of wisdom by Cornel West, Smiley Books, 2011

of love. It is love that motivates us to affirm the importance of prisoners' well-being as much as we affirm our own. However, can we truly claim to be people of justice when our prisons are overpopulated by our brothers and sisters? Is it justice to place people who have broken the law into an environment where they are stripped of their humanity and may even become the victims of crime themselves?

To reach this way of justice we could adopt the Maori concept of whanaungatanga, 'the glue that holds us together'. Whanaungatanga suggests that justice is being served when efforts are made to work for healing, for forgiveness and reconciliation. This restorative way of justice was characteristic of traditional Maori jurisprudence, where the central concern was not retribution or punishment but rather the healing of breaches, the redressing of imbalances, and the restoration of broken relationships. This kind of justice seeks to rehabilitate both the victim and the perpetrator. The offender should be given an opportunity to reintegrate into the community they have injured through their offence.

Justice and Incarceration

The link between justice and incarceration is too important to be minimized. Incarceration for the sake of punishment is difficult to justify morally or theologically. However, incarceration can play a positive role in the process of transformation if its aim is to bring restoration.

As a component of justice, incarceration should be used as a way of bringing transformation, redemption, restoration and reconciliation rather than as a means of treating offenders as a nuisance to be destroyed, as enemies to be crushed, or debtors to be made to pay.

The challenge we face is that our current justice/prison system in New Zealand is not restorative. A unique opportunity exists for the Church to advocate for a restorative approach to justice, one that prepares the former offender for reintegration into society, and for personal growth as a member of the community.

Prophetic Ministry

Walter Brueggemann speaks in his writing of the prophetic voice. Following Christ is 'an invitation to allow for God's holiness as an active, transformative and dynamic energy in the world'.³⁷

Sir Paul Reeves says, 'For Christians, the message is about repentance, forgiveness and reconciliation rather than retribution and punishment. It is about upholding the innate dignity of humans, rather than stigmatising and dehumanising those who have transgressed. In the absence of compassion for both victims and offenders, society becomes more violent and fearful, creating more victims and more prisoners.'³⁸

The prophetic voice should be released and set free into all situations. As John Redekop states, 'the unfaithfulness of Christians begins when we say that it is inappropriate to bring Christ's ethic to bear on certain of our problems and relationships. Christians should never say that Christ's ethic of redemptive love does not apply to mainstream society.'³⁹

As followers of Christ we have a mandate for:

³⁷ Journey to the Common Good, Walter Brueggemann, WJK Press, 2010

³⁸ Right Rev'd Sir Paul Reeves, Patron, PFNZ, 2006 Conference 'Beyond Retribution'

³⁹ Redekop, 'An Analysis of Capital Punishment', in 'On Capital Punishment', ed. JH Redekop and EA Martens, Hillsboro, Kans: Kindred Press, 1987, 16. Source: Christopher D. Marshall, Beyond Retribution, Wm B.Eerdmans, 2001

JUSTICE:

“You shall love the Lord your God with all your heart, and with all your soul, and with all your mind.” This is the greatest and first commandment. And a second is like it: “You shall love your neighbour as yourself.” On these two commandments hang all the law and the prophets’. (Matt 22:37-40)

‘Love for our neighbour’ manifests itself as ‘justice’ – justice therefore is as central a theme in the New Testament as love.

FORGIVENESS:

“Revealed in Jesus’ dying prayer, ‘*Father, forgive them for they know not what they do,*’ is the conviction that justice in itself is not enough, that the humanity of the perpetrators of injustice must be upheld alongside the humanity of the victims, and that justice must serve still higher goals of reconciliation, healing and rehabilitation. ... No one is beyond hope. ... as people of faith, we cannot be content with justice being reduced to mere punishment. We are called to pray and strive for something more, as difficult as that may be.”⁴⁰

ACTION:

If we as Church do nothing to bring about God’s justice, how can we call ourselves followers of Christ?⁴¹

‘Remember those who are in prison, as though you were in prison with them; those who are being tortured, as though you yourselves were being tortured’. (Hebrews 13:3)

The pursuit of justice must be a primary obligation of the people of God. It is so critical, say the biblical prophets, that without a commitment to justice, all other means of worshipping God, even those commanded by God’s law, are bankrupt.⁴² In the words of the prophet Micah ... *‘and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God?’* (Micah 6:8)

Plain common sense should tell us that we will never defeat violence by throwing violent people together in a violent environment. Prisons are self-defeating because they foster the very behaviour they purport to control. They generate the hatred and hostility they claim to correct. This is why, in the Bible, God’s solution is not to refine the prison system but to set prisoners free.⁴³

CONCLUSIONS

Roger Brooking, at the conclusion of his book *Flying Blind*⁴⁴, says of our prison system:

⁴⁰ Crime and Justice, Presbyterian Church of Aotearoa New Zealand, p.4

⁴¹ ‘For just as the body without the spirit is dead, so faith without works is also dead.’ (James 2:26)

⁴² The Little Book of Justice, by Chris Marshall

⁴³ Christopher Marshall: Prison, Prisoners and the Bible: <http://www.justicereflections.org.uk/pdf-files/jr13.pdf>

⁴⁴ *Flying Blind*, Roger Brooking, 2011

“... this is not a system which delivers justice. It delivers retribution and temporary containment – but very little else. It doesn’t rehabilitate and it certainly doesn’t reintegrate. It doesn’t deliver deterrence, no matter what politicians may think, and it certainly doesn’t keep the community safe.”

The Task Group has concluded that:

- There is a flawed understanding of justice in New Zealand that has led to a doubling of the prison population over the last 20 years despite a reduction in crime
- The attitude of most New Zealanders, including some members of the Church, is strongly influenced by the “tough on crime” retributive philosophy of justice promoted by the major political parties despite evidence to the contrary
- The prison system is not rehabilitative
- The reintegration process for people released from prison is inadequate in the New Zealand system with correspondingly high recidivism rates
- Many offenders are victims too and sentencing should be directed at addressing the underlying issues giving rise to the offending
- The cost of our prisons is morally and financially unsustainable
- The Bible clearly describes a restorative approach to justice
- Other countries, Finland in particular, have demonstrated that the number of people in prison, and the cost of the prison system, can be dramatically reduced with an integrated approach to Justice, Crime and Punishment policy by government, the media and the public
- Halfway houses, as evidenced in Canada , can dramatically reduce the recidivism rate

Flowing from these conclusions the Task Group recommends that:

- The Diocese regularly advocates for an approach to justice that is restorative
- Members of this Synod advocate for better access to education and rehabilitation, including drug and alcohol rehabilitation and for improved reintegration programmes for those in prison
- As a practical commitment to positively changing the situation, the Task Group be asked to investigate the viability of the Auckland Diocese establishing a half way house and to report back to Synod in 2012

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