

*Punishment, Revenge, and Torture: The Heart of America's Criminal
"Justice" System*

By

Troy T. Thomas (aka Asar I. Amen)

Punishment is central to criminal justice practice in the United States. Punishment is the act of making someone suffer for a fault or crime. According to the 1994 Merriam - Webster Dictionary, "Punishment stresses the giving of some kind of pain or suffering to the wrongdoer rather than trying to reform the person." Punishment as a response to violation grows out of the revenge concept of justice - returning pain for pain. In terms of the criminal of the criminal justice system, punishment is the legitimized use of force and violence (psychological and physical) against individuals who have violated laws.

The physical or emotional pain or injury of punishment done to a child or an adult creates only fear and trauma; it not only damages the person being punished but damages and enslaves those who inflict the punishment. The net result of any kind of punishment is internalized oppression, humiliation and degradation for both the giver and the receiver of the punishment. It is difficult indeed to really see the profound depth of this truth because we as individuals and collectively as a society live within an oppressive and coercive environment as arrogance and aggression permeate our society, our history, our religious traditions, our so-called judicial system to the point that we can not dare to even question the premise of punishment without drawing shocked response from our fellow citizens. We live in a nation surrounded by violence. We worship violence and the infliction of pain in our entertainment, in our day-to-day interrelationships with each other.

Increasingly, American policy makers have come to believe that we can punish our way to a healthy society. We are a punitive, borderline sadistic people and we are now being forced to live with the fruits of our desire for revenge. At the center of our punitive obsession is the prison system upon which we spend billions of dollars a year. Through law and policy, we have created an elaborate system of punishments and rewards. Even the basic human needs of housing and the means to earn a living have become part of the punishment system. Rings of punishment extend out from that center through the criminal justice system and into the child welfare system, health system, educational system, and beyond - into our

*Punishment, Revenge, and Torture: The Heart of America's Criminal
"Justice" System*

By

Troy T. Thomas (aka Asar I. Amen)

family system at home, where child abuse and domestic violence are practiced at alarming rates with terrifying fatality, often in the name of punishment. The actions that are punished by these systems are grounded in realities over which the offender has little control: poverty, mental illness, addiction, poor education, race, sexual orientation, or gender.

Society punishes ostensibly to teach offenders a lesson, with the belief that if people are made uncomfortable enough, they will understand that their actions were not in their best interests. This is usually referred to as the "deterrence" argument. We are told that if sentences are harsh, people will think twice before committing a crime. This argument is most often made in debates over the death penalty of "the other death penalty" - Life Without the Possibility of Parole (LWOPP - death by incarceration). This concept is largely invalid; it is further evidence of our cultural ignorance of the true causes or motivations for criminal behavior. Few perpetrators stop to think about the consequences before they commit a crime.

Street crime is typically an act of desperation, insanity, drug - induced behavior, or sometimes all three. Making punishments harsher does nothing to prevent crime it serves primarily to satisfy the desire for revenge and retribution. Society believes in this false logic of punishment for deterrence and does little or nothing to alleviate the problems that led to the offense. Anyone who has raised children knows that children do not stop misbehaving merely because they are punished. If we punish a child without nurturing, mentoring, and loving, we create at least a dysfunctional adult and sometimes a dangerous adult.

Another rationale for punishment is incapacitation. Whether or not fear of the consequences will prevent wrongdoing, keeping people locked up and isolated (or killing them, in case of the death penalty of life without the possibility of parole {LWOPP}) will^{not} prevent them from re-offending. To some extent this rationale makes sense, but it is hard to argue that our preferred ways of carrying it out constitute a sustainable social policy. Should all of the two million plus people currently incarcerated in the United States be kept in prisons on the chance they could commit another crime? Would killing all murderers eliminate future murders?

Punishment, Revenge, and Torture: The Heart of America's Criminal "Justice" System

By

Troy T. Thomas (aka Asar I. Amen)

Perhaps the most loathsome of reasons to punish is to exact revenge. We legalize our desire for revenge in our criminal code. If this makes you uncomfortable, it should. How far should the state go to satisfy some people's craving for revenge? Is legal murder through the death penalty or life without the possibility of parole (LWOPP) the endpoint? Do we still really believe that revenge brings balance to our communities? In fact, any ideology that demands the intentional increase in suffering rather than its diminution can hardly lay claim to justice.

The aim of good law is to build a strong, safe, healthy, and just society. In dealing with crime, punishment or "just desserts" must be in proportion, must contain a message of denunciation or moral censure, and must provide protection to the community and reparation to the victims/survivors of crime.

This essay argues that, for two reasons none of these ideas is being achieved in the current retributive system. One reason is that our social structures are so inherently unjust that achieving such ideals is impossible without social transformation. The other is that the current criminal justice system focuses primarily on punishment, torture, and revenge.

The basic assumption about the relationship between criminal justice and punishment is the deliberate infliction of suffering: it is legal violence. This ^{essay} ~~article~~ claims that punishment is counterproductive and needs fresh examination, as does the system that perpetuates it. This system is revealed as an emperor with no clothes. The idea that it can be reformed is a myth. That it is the only or best way of dealing with offenders is not true. Who can take responsibility for a punishment system that has functioned as a tool to support the legacy of colonialism, racism/white supremacy, and imperialism that is so deeply ^{rooted} ~~rooted~~ in U.S. Culture?

In both cases, the punishment inflicted not only fails to achieve positive change in the offender but also guarantees a high chance of re-offending. It does not treat people fairly, gives a muddled message of moral censure (gross white-collar crime can be very profitable), provides ~~no~~ reparation to the victims, and only partially protects the community.

*Punishment, Revenge, and Torture: The Heart of America's Criminal
"Justice" System*

By

Troy T. Thomas (aka Asar I. Amen)

repeat

~~Respect~~ offending upon release will be inevitable and will encompass fresh victims. In addition, prisons cannot rehabilitate and punish, torture and seek vengeance at the same time.

Punishment has become something the dominant group in society imposes on those of little status and power who are not in a position to challenge its fairness or its usefulness. The political authorities are seen to be doing something about crime, but because what they are doing is counter - productive and actually a cause of more offending, and more and more disempowered people get caught in its net.

Is there an alternative to retributive penal systems? There always has been. We must be willing to wrestle seriously with the root causes. It requires fundamental change in how people with the community see one another - particularly the way they view those who are struggling or outcast, or who sometimes harm themselves and others. Respecting the fundamental humanity of those who violate the social order, as well as recognizing systemic imbalances, are prerequisites to developing a new paradigm. The only way to end crime is to address the real causes, among which are poverty, mental illness, despair, racism and broken relationships.

"An eye for an eye makes the whole world blind."

- Mohandas Gandhi

The concrete alternatives are head-start programs, family support systems, nutrition programs, improved education, employment opportunities, housing programs, and adequate family incomes. Together these alternatives would constitute a radical justice. After all, the construction of a just system of criminal justice in an unjust society is a contradiction in terms.

Retributive justice is a philosophy that is bankrupt. It no longer offers any positive contribution to the well being of communities or the development of a just social fabric for society. The public cry for retribution shows that we are still close to barbarism. Civilization begins when vendetta ends.

*Punishment, Revenge, and Torture: The Heart of America's Criminal
"Justice" System*

By

Troy T. Thomas (aka Asar I. Amen)

It's deformed stepchild, the prison system, is an even bigger evil. Prison is a dead-end street. Socially, morally, financially and spiritually it is a cancer eating away at the heart of the human community. It is as evil and obsolete as slavery; it's simply been transferred into the prisons!

America's criminal justice system is now so adversarial that actually getting some sort of justice is incidental to the process. America has more than 2 million plus of its citizens in prison and the number continues to skyrocket. Retribution, vengeance and torture are at the heart of this nation's approach to crime and punishment. They form an expensive (nearly 100 billion dollars is spent a year to support state, federal, and county jails and prisons), harsh, despairing and wasteful use of resources in a hungry nation with huge social problems and structural injustice. For example, when news about what was going on in Abu Ghraib broke, President George Bush said, "What took place in that prison doesn't represent the America I know." Unfortunately, for the more than two million U.S. Citizens and countless undocumented immigrants living in U.S. Prisons, this is the "America" that they, their family members, their lawyers, and activists do know and experience daily. What happened at Abu Ghraib, what is happening at secret CIA prisons all over the world and at Guantanamo Bay to Pelican Bay, is a reflection of the physical and mental abuse taking place every day to men, women, and children living in the jails and prisons of this "democratic" country. A people already invisible can be easily made to disappear, as this is the primary function of ghettos, barrios, reservations and prisons in America.

Oppression is a condition common to all of us who are without power to make the decisions that govern the political, economic, and social life of this country. We are victims of an ideology of inhumanity on which this country was built. If we dig deeper into U.S. practices, the political function that they serve is inescapable. Police, the courts, the prison system, and the death penalty all serve as social control mechanisms. The economic function they serve is equally chilling. Just as in the era of chattel slavery, there is a class of people dependent on the poor and bodies of

*Punishment, Revenge, and Torture: The Heart of America's Criminal
"Justice" System*

By

Troy T. Thomas (aka Asar I. Amen)

color as a source for income – and a government that uses incapacitation as a form of social control.

A test of morality is what a society does to its' prisoners, poor people, mentally ill, people of color, along with other marginalized populations.

The Department of "Corrections" is more than a set of institutions. It is also a state of mind. That state of mind led to Abu Ghraib, Guantanamo and Pelican Bay. That state of mind led to the American style ethnic cleansing that many say occurred in New Orleans. Sending the military into New Orleans instead of caretakers felt suspiciously like war to many of us.

Whichever way we look at it, the well-meaning experiment by American Quakers to develop the penitentiary as a way of reforming criminals has backfired horribly. America has become an imprisoned land, with fear of crime imprisoning more and more of those who are not already incarcerated. The "Land of the free" has become a society of the caged. In other words, the actual functions of the criminal justice system are unstated, unacknowledged, and even illicit. Any criminal justice system reflects the values of those who hold power in society. Thus, criminal law has become a political instrument. Formulated and enforced by those with status and power against those who predominantly are status-poor and powerless. Changing the prison system need^s to be the highest priority of the religious community, along with civil and human rights organizations.

We must recognize as a society that the existence and continued expansion of the penal system represent^s a profound spiritual crisis, ^{and} ~~as~~ we must address it as such. It is a crisis that allows fellow human beings to be demonized. It is a crisis that legitimizes torture, total isolation of individuals (sometimes for a lifetime), sensory deprivation, and abuse of power. It is a crisis that extends beyond prisons themselves into judicial, parole and probation, law enforcement, mental health, and public education systems. It further damages not only crime survivors and offenders, but also the families of both survivors and offenders. As the system becomes more and more dependent on profit-making companies,

*Punishment, Revenge, and Torture: The Heart of America's Criminal
"Justice" System*

By

Troy T. Thomas (aka Asar I. Amen)

the "public mission" of the system is lost behind the self-interests of every group wanting to make a buck-from the unions (CCPOA) representing the guards on the tier to the corporate food-services companies, from the construction firms to the for-profit detention corporations. I know each time we send a child to bed hungry, that is violence. That wealth concentrated in the hands of a few at the expense of many is violence, and the denial of dignity based on race or class is violence. And that poverty and prisons are a form of state manifested violence.

The other part of the spiritual crisis that the penal system represents is the long-term harm we do ourselves by legitimizing extreme abuse, and even murder, of fellow human beings. From the very beginning prisons carried the "attraction" of locking away people society found offensive. As the prison industry has expanded, so has the legitimizing of such isolation and the brutality that accompanies it. We accommodate what appears to be the "necessary evil" of enforcing harsh conditions and policies. We accommodate the "collateral damage" represented by the children left behind. We accommodate the beatings and "justifiable" homicides that go with police work. After awhile, our own humanity is compromised. Unless the system can be overturned, the damage to us is permanent.

I have been part of the struggle for civil and human rights for more than ten years. I have seen the horror that criminal justice policies wreak. I have never seen anything like what I am seeing now in these California Prisons. My soul is haunted by what I have seen and/or experienced. As a society we need to alter the very core of every system that slavery, racism, and poverty has given birth to, particularly the criminal justice system. The United States must stop violating the human rights of men, women, and children. We need to decriminalize poverty and mental illness. We must eliminate solitary confinement, torture, and the use of devices of torture. We must eliminate the death penalty and life without the possibility of parole also known as "the other death penalty - LWOPP." The restriction of civil rights is something we can and should debate regularly as a society. The violation of human rights simply is not negotiable.

*Punishment, Revenge, and Torture: The Heart of America's Criminal
"Justice" System*

By

Troy T. Thomas (aka Asar I. Amen)

Prisons are the dinosaurs of the modern age. In no other area of human life and development do we allow 19th century philosophy and practice to dominate. In health, in education, in medicine, in social science, in accounting and banking, in sports, in family life, and in business management, evolving philosophies have seen changing patterns of social organization more in keeping with modern thought. But not so when it comes to prisons. There we remain stuck in the 19th century. And the results show it. In other words, the entire criminal justice apparatus has spun out of control. The United States must honestly re-examine the fundamental purposes on which the system rests. How can there be real change if the system is never changed, only its' so-called "leaders?"

We acknowledge the difficulty in moving beyond punishment, as we currently live in a violence - and revenge, ridden culture. But just as the first step toward healing comes with truth telling, the first step advocates of social change must take is to articulate a different reality.

In order for a true discussion of forgiveness to take place, all of us - not just survivors of crime must learn to see those who commit crime as human beings. It is easy not to forgive when applying the assumption that the person who has caused harm is less than human (e.g., a monster, evil, etc.) incapable of doing otherwise or of changing for the better. Only by re-humanizing those who commit crime is forgiveness/restorative justice possible.

Correspondence: Troy T. Thomas, H-01001, CSP-LAC
P.O. Box #4430, Lancaster, California 93539