

## A CRIMINOLOGIST'S QUEST FOR PEACE

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### Chapter 4: EMPATHY WORKS, OBEDIENCE DOESN'T\*

#### REMORSE AND EMPATHY

We are born with the capacity to ask for help, and the capacity to offer a loving gaze or embrace. That much is undisputed. To the degree we regard childrearing as a warrior's duty to command a child's obedience, parental duty lies in suppressing inappropriate or intolerable expressions of feeling and commitment. We justify parental war on children on grounds that adults know better than children what children should feel, say, and do.

In my home culture parents speak with fear of handling "terrible twos" and adolescence. And from a warrior's point of view, in both cases, it is vital that the parent establish that s/he is in charge. Good children do as they are told. When children do bad, they need--in the current local cliché--to be "given consequences," as though hurting someone isn't consequence enough in itself to deal with. And when we are thus "disciplining" our children, what sign of having become trustworthy do we look for first and foremost? Remorse. "I'm sorry. I know it was stupid. I'll never do it again, promise."

Remorse is the widely known best chance of talking one's way out of a speeding ticket. Remorse is the primary objective of criminal prosecution. When, shortly after the death of Mao Zedong, criminal codes were enacted in China in 1978, Chinese legislators were berated by colleagues of mine in the U.S. for virtually requiring criminal defendants to confess guilt at trial or face dire consequences. I noted at the time how we in the U.S. do the same; woe to the criminal defendant who demands to go to trial and (as most do) loses (Pepinsky 1980).

I suffer watching defendants plead guilty in local courts. It is such a humiliating experience, assuring the judge count by count, "Yes, your honor, I have done it and know it was wrong and have no excuse for my behavior." Thus the judge leaves a clean record that the plea is "free and voluntary." We put a premium on obedience. We do so to our peril, I believe.

Alice Miller (1990 [1983]) calls commanding obedience "poisonous pedagogy." It is poisonous pedagogy, as her book title suggests, to make a child feel or do something for his or her own good. "Stop whining, you know this is good for you!" You learn that to please the parents you spontaneously love and want to please, to say nothing of to avoid

pain and rejection, you smile when you are supposed to, you say the right thing, no matter how tempted you are to protest or show fear or pain. You learn, in other words, to lie. The poison in this pedagogy is that we teach ourselves as children to lie, to dissociate from our own feelings and inclinations, to bury them, to reject our own true selves.

Nothing is more fundamental to safe social relations than honesty. Insofar as we manage to bury our true feelings and respond--mechanically--as instructed, we are essentially what psychiatrists in my culture these days call sociopathic. We are essentially expedient. We are, as Miller argues using Hitler and a serial sadistic killer as case studies, in the dissociated frame of mind in which Milgram's (1975) research subjects demonstrated enough "obedience to authority" to try to give lethal shock to stooges who begged for their lives.

Short of being murdered or severely disabled, vaginal or anal rape is a fair candidate for being the form of criminal personal violence we fear most. Those who have raped who talk about it characteristically express surprise that those they have raped are complaining, thinking, "They asked for it," or, "They deserved it." While those being raped fear that their attacker is so out of control that "he could kill me!" those who are raping are oblivious to the pain and fear they cause, or as a friend, Cynthia Ford, infers of her father's state of mind when he ritually tortured her during her childhood:

My sense is that abusers dissociate first, and that the part that arises isn't oblivious to the pain and terror inside themselves by harming another. They project their own helpless inner kid onto the victim, and then destroy the pain and terror inside themselves by harming another. Or that is one reason. My father for instance NEEDED my pain and terror in order to feel better. The sexual release was only a sort of artifact or perhaps a symbolic finishing or denouement.

In either event violence begins in a state of dissociation or detachment from the feelings, needs and wishes of the person to be victimized. That dissociation permits violence to begin and to repeat itself.

At the other end of the spectrum from those who subordinate others want only to those who conform to our norms, how are you supposed to trust the yes-person who assures you that "I'll be there for you"? At one end of the spectrum, personal violence does not happen unless the assailant dissociates. At the other, you don't know whether you can count on anyone who has had to learn to turn her or his true feelings off and tell you what s/he thinks you want to hear. This is what Alice Miller tells us that poisonous pedagogy--doing and feeling as you're told--produces. When the conformist who tells you "I'll be there for you" feels the demand to shift allegiance to some other power figure at your expense, you lose. The promise is not really a promise. The promise is oriented toward an external set of rewards and punishments, which may shift with political winds, not toward your needs. The promise is an act of obedience, not of empathy. One common promise for obedience sake is to apologize for one's violence and promise never to do it

again.

It is remarkable that we so venerate remorse. Remorse is in thorough disrepute among those who work with those victimized by so-called domestic violence. In the run-of-the-mill cycle of repeated assaults, each assault is followed by a "honeymoon period" in which the assailant expresses remorse, says he's sorry, tries to do anything to make it up. Those who work with those who most regularly are battered, including those who are routinely raped, regard remorse as worthless. Experience tells them so. I find it quite remarkable that we can find remorse in our subjects, such as criminal defendants and children, so reassuring.

Conversely, empathy may supplant violence with no remorse expressed. This occurred with the out-of-state mother I described in the chapter before this one. This mother also described to me how she had found safety in the company of a mother who had chronically emotionally abused her. She had stopped calling her mother because her mother would invariably combine two themes: "What is so wrong with you that all this trouble keeps happening?" and, "You're not showing me you love me."

This mother's father had told her that her mother had cancer, and that metastasis had set in. Her mother had started going shopping with her. One of the faults the mother had criticized my friend for was for compulsive shopping. That stopped. They stopped talk about Lynnette's problems. They don't talk about the cancer either. Her mother stopped complaining to her daughter at all, bent instead on enjoying time together looking for bargains and such. Her mother's behavior is what I would call "responsive": she by her action demonstrated what had hurt her daughter and responded instead to what her daughter enjoyed. The mother demonstrated a reliable commitment to saying goodbye on good terms. The mother's conduct combined a hardnosed projection of how the mother herself wanted to die with attentiveness to what truly made her daughter feel safe in her company.

Since having supposed that empathy might be a reliable ground upon which to build trust and become safe in others' company, I have noticed how hard it is for those who are at risk of continuing emotional or physical assaults to fake empathy. Remorseful violators can go on and on about how terrible THEY feel over how they hurt you, but until they become honest with themselves and you about getting what they want, they suffer emotional attention deficit disorder. If they do get forced to talk about how they think you feel and what they think you want, it just won't sound like you to you. I have learned to depend on empathy to decide whether I can afford to let down my guard with others. Empathy may come and go, of course, mine included. It is not that the world can be separated into empathic and sociopathic people. Rather, while it is being shown, empathy indicates that any of us can be depended upon to be responsive rather than untrustworthy. Empathy amounts to letting others' true selves into our conversations, and when we do so, we are literally there WITH others, in a frame of mind to notice others' fear and pain and offer validation and reassurance.

In recent years I have gotten to know a number of children and parents caught in struggles over evidence that the children are seriously assaulted by parents, to know large numbers of those who describe having been raised in horrendous violence, commonly known as ritual abuse, and to know a number of those who have treated people for the trauma such violence leaves behind. I have gotten to know these people in the context of offering a seminar on children's rights and safety and another class in which I introduce peacemaking. I invite a number of them to these classes. I seldom have money even to cover their travel expenses, but I do offer my home to those who stay overnight. Among these guests is a woman who I believe indeed was born in a prominent cult bloodline, and long after she thought that she had renounced the occult, still got "triggered" into an "alter" state to impose "discipline" on member groups in a multi-state region for twenty years thereafter. I asked my students how they felt about my inviting her, and several survivors of like violence whom she has taken in, into my home. Some were outraged and dismayed that I could do so. I sent their comments to my friend, who wrote back a long letter.

The letter, which I have shared with my students and others, is not long on remorse. My friend says that she herself did hands-on "sacrificing" of people only until she rose high enough to let others do it instead, that she did it without feeling knowing that she would be killed if she did not. She explicitly distinguishes herself from despicable serial killers like Ted Bundy.

She also describes going through books of pictures of missing children, looking to see whether she recognizes any of her victims. She offers assistance to law enforcement, including telling them about her past (which is unprosecutable because bodies would not be found). She takes in others trying to escape. She is in touch enough with what she now regards as an alien part of herself--the part that could be triggered and called out to cult activity--that she ensures that she is always in safe company, so that she has no chance to "lose time," as happens when people switch among multiple personalities. In so doing she is in touch with her real self, just as she pays attention to others. On her own initiative, she started visiting a prisoner with whom I have been corresponding for some years. She not only shows sensitivity and empathy for those in whose company I see her; ultimately she shows empathy for me. She is for instance scrupulous about honoring my request to come and go to suit my family schedule. She and her guests notice and express appreciation even for little demonstrations of hospitality. Noticing their empathy, I am confident that they will in no way hurt me or my family. Their displays of empathy are exercises in personal responsibility--in becoming different from the way they were when they tortured and killed others.

To become responsible and empathic, you have to have confidence in the value and legitimacy of your own feelings and needs. So my friend may show some remorse implicitly by having tried for instance to identify her victims, but my safety with her now in my judgment rests on her knowing that it was a part of her that she now considers alien, that she knows that basically she is better and more trustworthy than the part of her that formerly hurt others. You have to like and accept a part of yourself that you do not dissociate from in order to be honest with others about what you do feel and want, and it

appears to me in this and other cases that one's empathy sets in only as one feels one can be oneself without being rejected for it. Trying to induce remorse and shame is therefore counterproductive, for success in shaming lies in making one loathe and reject and demean oneself. In shame, one may either choose a safe, loving, vulnerable target such as one's child and lash out in anger, just split off from attention to the subject's feelings and let the rage out. It is easy to imagine that when one is on the receiving end of such an outburst, it feels as though you're going to die. In the numbness and shame that follows victimization, shame may do more than bottle up rage for politically convenient outbursts. One may adapt by concluding that in this world such as it is, you don't deserve or cannot expect better than to hang onto one's abuser. The patterns protective mothers describe to me indicate that those who aim to prey on "their" children pick out women who have been beaten into feeling responsible for being violated, into feeling that it was their worldly, religious duty to serve men (generally) who degraded them, and then beat them.

In neither case does shame help one's affliction. When feeling ashamed one is oriented toward one's own prior conduct. When empathizing, one attends instead to feelings and sensibilities here and now--to the present rather than to one's past. Safety rests not on knowing one has done wrong or right, but on noticing and being moved by what others are feeling here and now.

While empathy attends to the present for its own sake, martyrdom and servitude--also unreliable indicators of safety--are instrumental. Empathy is neither self-recrimination nor selflessness but participation in social moments free of attachment to outside agendas. Empathy is an openness to new experience, a relaxing of preconceptions as to what is expected, in English metaphor, an opening of the heart. In Buddhist terms it is pure life(-giving) energy, compassion in action. As Quinney (1991) tells us, we end suffering by noticing it and responding openly. Elements of empathy are captured in this saying attributed to the Navajo, which I have posted in bold letters outside my office:

**SHOW UP**

**PAY ATTENTION**

**TELL THE TRUTH**

**DON'T BE ATTACHED TO OUTCOME**

Attachment to outcome means that you know, before you hear from others, what needs to be done. If you already know what needs to be done, you have nothing to learn from listening to others before your next move, in terms of what most demands your attention. Your priorities are not up for discussion.

The energy in compassion or empathy lies in learning something new to do by listening

to those who will most be affected by what you do next. Empathy is a suspension of one's agenda to "pay attention" to what they say, and to let their feelings soak into one's own conscious nervous energy. Empathy begins with unencumbered listening (Pepinsky 1998). Of course, in order to pay attention you have to "show up"--or as I hear people in my daughter's generation say, "be there." Paying attention means showing interest in and drawing out the voices which are least heard in whatever setting or reference group you find yourself, in order to introduce balance into the conversation--the structural manifestation that peace is being made.

Our ultimate cultural barrier to substituting empathy for obedience is our presumption that adults know more than children. In a sense of course, that is true. But as children, we have some vital gifts of our own to add to conversations. Chief among these is our blatantly honest desire to please and be accepted by adults. We bring honesty to conversations, unless adults shut us down. We may be the first to cry when we are all scared. We may be the first to relax and pay attention at school when the parents we so much want to please stop scaring each other. Adults who leave "their" children out of their conversations are prone to impose lessons gained from experience, including having to lie, as Alice Miller puts it for the children's "own good." How blind. How damaging to the very gift of empathy the child spontaneously offers to our conversations.

Norway is a second home to me. There at the dinner table in party company, children are almost ritually brought into conversations, to describe their worlds in their own terms, as adults pay attention.

As adults share among themselves what they hear as they pay attention to children, adults legitimize in safe company reliving traumas of their own childhoods. I have seen this happen time and again, as mothers trying to protect their children recognize ways in which, as children themselves, they too were sexually assaulted by someone they loved and trusted. Without magically fixing their children's problems, I have seen them and their children gain strength--as in the case of those with eating disorders literally gaining weight. These mothers have the greatest respect for the honesty, courage, and wisdom of their children. That is their primary solace. This, to me, is truly a break in an intergenerational cycle of violence and victimization.

I sense that as growing numbers of children and adult survivors share stories, validate one another, and speak out, we will overcome our ignorance of what our children, including the children buried in our adult selves, have to teach us. That will be the profoundest peacemaking of all.

In the mid sixties in law school I learned that a minority of states were setting a national trend, permitting "no-fault" divorces. The common-law rule, in effect in New York State at the time, was that one could obtain a divorce only if one's spouse committed a statutory offense (adultery in New York), and if one had "clean hands." So if one spouse sued another for divorce proving adultery, and the other spouse proved that the plaintiff was also committing adultery, the law required that family to be reunified, unless perhaps

they consented to separate for an extended period and then ask for a divorce together.

Women's shelters started opening up not long after. And in growing numbers, women do leave battering relations. From what I know of where custody disputes began (as from Children of the Underground founder Faye Yager in 1973; Carpenter and Dietrich 1997), children whose fathers were established in communities in the middle class or higher first began to feel safe enough to talk to mothers, who felt detached enough to believe what they heard rather than telling their children to stop telling lies. And in therapy, adults began to talk about the violence of their own childhoods and be heard, especially by women's advocates. (One sad void, for instance, is in support groups for male survivors of childhood incest.) Surveys were first conducted in the late eighties asking people how often they had been sexually assaulted by someone they knew. And so, I would say, out of the movement to allow women to leave men who beat, rape, and threaten them, we have liberated children's voices of victimization into public discourse.

The results are scary. What amounts to unrelenting torture of children once plainly described suddenly seems as though it might be happening all around us. As I see it, this is an awakening of our empathy for childhood, our own included. As we recognize that children have as much to offer in decisions that affect them as adults, our children will free themselves of violence more readily. All it takes, actually, is for a single adult whom the child manifestly likes and laughs with to offer the child sanctuary from any adult whose company scares the child, and for other adults to let sanctuary happen (Bianchi 1994). There you have the fundamental prerequisite of any child's safety. This may be hard to achieve in a warring world, but people do gain small bits of empathy which provide remarkable measures of safety. One survivor of cult torture, led by her socially and politically prominent father, remembers a fifth-grade teacher looking at her as though she understood that something wrong was being done to her. That bit of empathic connection carried her forward until she broke from the cult, and she has attained safety and trust as in a very fulfilling and safe marriage. A small dose of sanctuary can be life-sustaining.

The bad thing about scary news is that it makes you feel that you have to shut the problem down. I have testified in one case in which a judge actually ordered children NOT to be in counseling so that they would stop saying bad stuff about their father; I know of many others like it. All this is in the guise that children are causing trouble for themselves by threatening sacred family bonds. It is terrifying to think that if we probe enough in our very own families, we may discover that a valued relative was Jekyll and Hyde, or that a monster may lurk in our child's daycare center or school. As I hear individuals whom I know in other contexts talk about how violence in the home including violence by children is getting out of hand, I am struck that the tone and substance of the protest is like that of someone confronting any personal feeling or fear that s/he has denied. It is inherently scary to emerge from denial of a problem, all the more so when one's denial amounts to cultural blindness. And yet, I see that as progress toward safety, in which each of us learns to create families of choice rather than just doing our ancestral duties. As I see it, record numbers of children and adult survivors are sharing stories and being heard about problems that for millenia in our European ancestry at any rate were

almost totally buried. As DeMause (1982) traces it, children in Europe and Euro-America were not legally and politically recognized as people to whom adults owed any duty until about a hundred years ago. So we have come a long way.

We can of course follow the same principles of making peace in any company, with or without children. Basically though, our defenses against forsaking duty for empathy lie embedded in the violence we suffer as children. We may join the mob in going after this or that public villain, but at root, in areas of our lives remote from police and legal surveillance, we are most likely to be trapped in violence or safe from it. Empathy and honesty pay off anywhere in daily or political life. By "showing up" and "paying attention" to the voices of our childhood, we most directly accomplish the safety which Karl Marx (1963 [1843]) called "human emancipation."

In the Navajo saying, "telling the truth" refers to honesty. If you want someone honestly to talk about his or her reaction to having committed a crime, you don't set up plea bargaining ceremonies of remorse in order to draw out how the offender honestly feels and believes. The condition for honesty is essentially acceptance of this principle: When I ask you for truth, I grant you the responsibility of how next what you tell me gets used.

This condition sets the principle behind "Incidents Teams" established by the dean of students office on my home campus of Indiana University. I am delighted to have representatives of the nearly decade-old Racial Incidents Team, and Gay/Lesbian/Bisexual Anti-Harassment Team make presentations in my classes on "social control." The Racial Incidents Team invites people to report harassment or crimes committed against them which appears based on race or ethnicity, or on religious beliefs. The GLB Anti-Harassment Team invites reports of gaybashing (whether or not the person victimized is gay). Among other things the teams annually publish summaries of every incident reported annually. Each is a team of professional staff who first invite each complainant to elaborate, and then brainstorm options as to what the complainant might do further. The options are diverse and imaginative, ranging from education to notification to invoking disciplinary or legal processes. It is up to the complainant to ask the Team to help her or him implement the package of the complainant's choice.

In most cases, complainants are satisfied to have the report on file, and want to go no further. Team members report occasional frustration when, for instance, a complainant declines to report a crime to police or the prosecutor. But the rule of confidentiality and abiding by complainant wishes is ironclad.

This is precisely the rule followed by therapists and rape or domestic violence crisis counselors. The one who has been victimized suffers a loss of control. Restoration of a sense of personal safety rests on the one who has been victimized resuming control of her social relations. Since s/he is the one at hand who has most been stripped of a voice in what happens to her or him, her or his voice is the one most urgently needing to be drawn into the ensuing conversation. If that voice matters, it will guide and be supported by what it says. Let the one who has most been traumatized by victimization be the primary

guide to what comes next. This is the principle by which the Incidents Teams operate. It seems to me that incidents teams would be a useful independent adjunct to police, prosecutors and courts. Those who complained could have the support of the Team on their terms regardless of what police or prosecutors decided duty demanded of themselves. This would represent organizing to create empathy in the wake of violence, as a supplement to organizing to demand obedience of perpetrators. Time and again I have heard survivors of traumatic violence like incestuous rape say that the most healing, energizing response they received when they first told about the event was from those who sat, listened, said as little as "How terrible; I'm so sorry," and did nothing else to try to take over and fix it. Incidents team members at IU report much the same experience. Offering safe refuge from further violence is the next most crucial step to safety.

Martyrdom and servitude represent trying to do things for others on pain of social or heavenly rejection. Regardless of whether people who martyr themselves or serve others are forced by other people to do so or "choose" to subordinate their own needs to others', at a basic internal level they feel they have or deserve no choice. They must discern and obey the demands or fill the needs of the gods or people they serve, or else...they cut off their social and spiritual connections at the roots. As Weber (1999 [1904-5]) discerned, the difference lies in whether one is born in a state of grace, or has to earn grace. If one is born in a state of grace, one does not have to justify one's existence. If one must justify one's existence, one is trapped into meeting external standards to make one's life worthwhile.

When doing one's painful duty to abide by external needs or rules, one is literally just following orders. Regardless of whether this defense is accepted as a legal justification for violence, the honest truth is that obedient actors have forsaken personal responsibility for their actions, quite literally so. Responsibility is implied instead by the simple claim, "I did it because I wanted to." You can assume responsibility and expressly choose to enjoy the safety of empathic relations because you feel want to hear and respect the sensibilities of those whose turn it is to join the conversation, because it makes you feel connected. As Quinney would say, you have heard the suffering at hand and been moved by it. When you do that, by definition, your violence stops in its tracks.

I have been close to people who I believe to be repeatedly assaulting or harassing others. I have heard plenty of remorse. I have seen how hard it is for those who I find at risk of repeating their violence to empathize. They are too hung up on their own problems, and desperate to do whatever they feel they must to cling to others. I find that empathy, unlike a polygraph, is hard to fake. And when people like the houseguests whom I describe above show one another and me empathy, I find that I can afford to let down my guard and enjoy my safety in their company. I also notice that I receive ample warning as empathy shuts down before someone bursts into violence, which helps me relax and be able to empathize myself, rather than to be on guard for renewed attack.

At the individual level one's capacity for empathy with others remains in balance with what I consider empathy for oneself "telling the truth" to oneself and others about what

one feels and needs to feel validated and connected to others merely for being oneself, not denying one's own needs and feelings in martyrdom or self-sacrifice. In enjoying the safety of empathy one takes heart from watching those who have been victimized gain voice and assume responsibility for their lives, and one's satisfaction rests in being there to validate and honor the occasion. In martyrdom or self-sacrifice one becomes what Schaef (1992) and others call co-dependent, trying to decide and do for others what you think they need to do or have done. When enjoying empathic relations, one loses "attachment to outcome." Faith that balanced participation will yield proper results supplants conviction that results have to come out a certain way. From showing up to letting go of attachment to outcome, the Navajo saying summarizes the range of elements on which empathy rests.

Trying to make anyone else empathic or responsible rests on the fallacy of making empathy an act of obedience. The logic on which empathy rests determines that empathy and responsibility can only be invited by showing empathy and responsibility. This means listening down--drawing out voices most excluded from our conversations and being guided by them--rather than subordinating others, which literally is a refusal to grant empathy. It means listening down in balance with listening down into one's own self. It is by allowing one's sharing of one's own feelings and self with others to emerge that one can feel at all, truly feel, and hence feel what others are expressing in the event. It is as one turns off one's own feelings and denies one's own sensibilities that one turns instead to connecting with others in the manner of one of Milgram's obedient subjects. This includes feeling too ashamed and inadequate to deserve to have one's feelings and sensibilities count, or have them enter the conversation. Ultimately, shame deprives not other offenders but oneself of one's capacity to enjoy empathy with others in concert with empathy with oneself. One bears responsibility as one dares to bare oneself and let outcomes fall where they may. Insofar as one bears oneself, one cares and dares to listen to others' pain and fears without having to fix or solve them either. Letting go of attachment to outcome allows oneself to attend and respond to one's present. It is, as Ernest Becker (1968: 327-46) concludes, our self-esteem rather than our shame which allows us to connect safely and honestly with others. That is no less true of one's worst enemy than it is of oneself. One cannot dictate whether anyone gives empathy, but safety lies only where feelings of the moment are noticed and recognized, and acted upon. Empathy rests on embracing a part of one's own inner self as a foundation for rejecting what has been wrong with oneself.

I work a lot these days in cases of apparent violence against children. Contrary to warmaking expectations, I find that children facing violence are much more compassionate and reasonable than adults around them. One child advocate I know who had to fight off her own stepfather's regular demands for oral sex just wanted him out of the home while the police wanted her to ask that her either to seek prosecution of her stepfather stop complaining. The police responded that she should either press charges and get her stepfather jailed, or go home with him. Quite typically, children who are "molested" by a parent want to work out some safe form of contact, while adults around them fight over whether that parent deserves to own the child's company on the parent's unilateral terms or not at all. The mission of Adult Children of Alcoholics recognizes

how out of loving duty children go out of their way to feel, be, and do what their parents need rather than the reverse. As children learn languages readily so as to communicate as circumstances allow, so when as children we are in warmaking perspective most ignorant and out of control, we are in fact more responsible than we generally dare grow up to be. We grow up learning agendas we must perform, learning to bury our own feelings. In the process of learning what agendas we ourselves must follow, we also learn how we must treat others and what we must make them do, all empathy aside.

Ironically, then, age and experience seem to harden our propensity to lie or deny even our own feelings and experience. Age and experience are liable to ingrain defenses and prejudices in us which a child's fresh eyes can see through more readily. In any command structure, it is fallacious to presume that superiors know and do better than their subordinates. Power over others preaches and embeds in our psyches its own false justification--that powerholders are wiser, truer and kinder than subordinates. Balancing conversations is the only way out of thralldom in this falsehood.

## **OBEDIENCE IS INHERENTLY UNFAIR**

Obedience is a matter of choosing whose voices get to be heard as against others'. The very definition of who offends and who gets victimized becomes a matter of who is entitled to define who the offenders and victims are. This is a power trip. The logic of a system run by mobilizing power over others is inescapable: Those who enjoy most power to dictate definitions of others' situations are by virtue of power alone odds on to--as Jeffrey Reiman (1997) puts it, "get richer and the poor get prison." It doesn't take long growing up in the game of obedience to learn that in cases of difference, the one who is highest in the power configuration gets to decide that in case of dispute, what I say goes. The realities of subordination manifest themselves repeatedly. Nowhere recently have these realities more clearly manifested themselves to me than in contests between children who say that a custodian is sexually assaulting them, and the caretakers accused. It appears as though the more corroborative evidence there is, like a child's having a sexually transmitted disease or torn anus or vaginal opening, and the more serious the assault would be if the fact of it were recognized, the greater the odds that officials will rule evidence of the caretaker's assaults inadequate to find fault, and hence that the child should be taken from the presence of any parent or therapist to whom the child complains (Rosen and Etlin 1996).

In the face of the rule that those who hold more power are more likely to win power games, as we continue to seek safety via subordination of miscreants, we find ourselves in ever more jeopardy, caught in a world where "inequalities" and "injustice" harden and grow. From the peacemaker view, I am safer the more readily those who are obedient find relations in which they share attending to one another's will and needs. Extend the boundaries within which those whom I mistrust and I share empathy, and I become safer. Raise the number of those whose fates I separate from mine via subordination, and I become endangered, not only from those authoritatively subordinated as by being labeled "offender," but from all those who empathize and share destinies with them. Thus, justice

is something that happens to me and my fellow creatures together, one way or the other. The gods who render justice don't appear to care who started violence. It is simply that the more firmly separated enemy fates become, the more endangered we are. The justice we face is that we all ultimately become safer or more endangered together. This is what Hindus call karma. In terms of how stressed out or relaxed I am while I survive, and indeed in terms of how likely some friend will feed, shelter, and hold me in need, insofar as we enjoy empathy, we enjoy safety. Insofar as we resort to violence, we fear and hurt from violence. That is not a prophecy. That is simply how justice gets done one way or the other.

Within the microlimits of our individual lives, just having friends with whom we can safely, honestly share fear and pain is the essence of being safe from personal violence. Personal investment in empathy pays off in personal security and self-esteem. Personal investment in empathy means not letting one's own feelings and sensibilities be subordinated, balanced with hearing first and foremost the most subdued voices in one's own here and now. One proposition I have put to students is that it is safer to invest in friendship than in Wall Street. When the market crashes, I rest my survival on having friends who will take me in and feed me from their own stocks. That is my primary social security. The more heavily others follow my lead in investing in this market of peace, the more readily we all will free ourselves from violence, regardless of how quickly or steadily the personal safety we build close around ourselves with friends translates into global safety. Within the peacemaking frame, the broader the divergence in background, class, status, power among those who empathize, the brighter and broader the halo of empathy around that accommodation. But empathy pays off in the personal safety of the one who invests in it regardless of how slowly culture follows.

It is presumptuous of anyone to suppose that s/he knows how to accomplish justice. It is practical to invest empathy for safety's sake, where safety lies in treating one another fairly and with balance.

Until as recently as my "peacemaking primer" (Pepinsky 1995), I looked on "dumping up" as a means to making peace. I recant. Any form of dumping is a bid for obedience. I know from growing up and circulating among rich and powerful people that people up there tend to suspect that no one really loves them for themselves and feel mighty scared, vulnerable, driven to defend their claim to a social stake. I know they are as wary as are streetpeople I have met. Fitness to survive unrelenting struggles over power and obedience entails becoming ever more vigilant against betrayal by those whose obedience one has enforced. Like other addictions, maintenance of obedience requires bigger and bigger fixes. Those who find the legitimacy of their power positions drawn into question naturally focus more on establishing who remains in charge, and in justifying the system to which one belongs, than to noticing how subordinates feel and see and hear things. We can by empathy and refuge free people from subordination far more readily than we can beat powerholders into empathy.

A little listening means a lot, especially to those like women and children who are

structurally situated to be silenced and ignored. Those who are trapped in recurrent victimization offer large doses of personal appreciation to anyone who just stops and listens to them. Rather than depending on dumping up, the logic of balancing conversations by spreading empathy dictates that I instead help amplify the left-out voices, to let them speak for themselves rather than seeking to speak for them. In the practice of mediating imbalances in conversation, the floor oscillates back and forth between concerns of those at the poles of each interest in conflict, so that once those who are weakest are aired and heard, the floor passes upward, so that those who have offended and those who hold power may enjoy their turn at being heard, honestly heard.

Peacemaking entails taking turns in conversation about oneself and one's own feelings and interests, up and down the power structure like a child's see-saw or teeter-totter. Insofar as one offers empathy rather than a demand for obedience, one offers a gift rather than imposing an obligation. Whatever the response, it is responsible and trustworthy only insofar as it is not commanded, or more implicitly, expected. What matters is whether concern for others' interests manifestly redirects the response. Empathy may be reciprocated and hence create safety; a command will never do so. The peacemaker's faith is that the co-generation of empathy will create responses which will accommodate everyone's needs more readily than any other response. The karmic promise, the promise of justice, is that social security and equity in having needs accommodated will resonate outward from individual increases in safety against personal violence, from taking turns listening in dyadic conversations, to allowing workers and customers fair shares of ownership in corporate decisions and losses or profits to, to mediating conversations between those we designate victims and offenders...wherever, at whatever social level one wants to measure equity of participation in conversations. That's the starting point and the way regardless of how far apart people start.

When we are truly responsible, we are responsible for our own choices and for responding to the consequences, not oxymoronically responsible for making others do anything. Insofar as we become conscious of the role our empathy alone plays in creating the results, I propose that we will feel safer, and by any number of measures of violence and inequality will become safer.

Balancing voices in our conversations requires that we individually feel secure enough to dampen our narcissism, including letting go of getting our own points across, relaxing our determination to reach some objective we have set for ourselves or for others in advance. Implicit in a concern for doing justice, rather than making sure others too have a balanced say in what happens, is a need to justify a result rather than attention to the process by which results are achieved.

Gaining safety makes a simple but unyielding demand--that we pay attention to the sensibilities of the people we live with rather than to performing some higher social agenda.

## CONSEQUENCES

There has been a lot of talk for over twenty years about "widening the net" of criminal justice (Cohen 1979, Pepinsky 1973). When programs are introduced which are supposed to offer alternatives to incarceration, the odds shift toward using the alternatives on those who otherwise would have had less done to them, with potential for creating records of failure of alternatives which justify and thus increase use of incarceration. I have noticed over the years an impasse between academicians who recognize this dynamic and practitioners who protest that they use alternatives and are not widening the net. Recently, an official who works with youth explained how those who seek to mitigate punishment widen nets.

She was speaking of the need for a local juvenile detention center. She said that since it was so expensive to have juveniles transported several counties away to be detained, the judge could only really afford to send juveniles for a minimum stay of six days. Meanwhile, there were youths at risk who had had the benefit of all the alternatives the system had to offer, and who might be turned around from getting into further trouble by just being given 24 hours in detention to teach them that wrongdoing "has consequences." So if the local detention center is built, new classes of youths will be given this "shock." And what is to be done if they for instance fail the routine urinalysis (given by that juvenile probation office regardless of offense charged) in the aftermath? Finckenauer (1982) found that those who had been "scared straight" in confrontations with lifers in a maximum security prison afterwards got arrested more than a matched control group of those who had not undergone the program. In the game of demanding obedience, the need for sterner measures spreads inexorably.

It is like what a parent faces who has spanked a child hard and yet had a recurrence of disobedience. A sterner measure is called for in the logic of commanding obedience.

The same official who illustrated to me how people think as they widen nets also was giving reassurance to volunteers in a new Victim Offender Reconciliation Program. She noted that after 13 years of work she had taken heart from some people who had come back to her years later and had told her that because she had cared when other adults had not, she had turned their lives around. I expect that these were moments of empathy which tend not to be shared or even remembered because they don't count in the game of imposing consequences. Empathy matters nonetheless.

No matter what our formal or official exteriors, we show empathy in some measure, almost all of us. It is indeed what makes the doing of any of our jobs socially worthwhile. It is just too bad when we feel obliged to attribute what our empathy has achieved to doing our duty to command obedience.

The popular criminal legal jargon these days around me is that since we know the system is out of hand and don't really favor punishment, we "give consequences" instead. It occurs to me as I begin service as a VORP mediator that my preoccupation is with focusing attention on consequences--first and foremost harm to those victimized--which have already occurred. Why demand that people attend instead to consequences I or

others have devised? I seek to have those most affected by the crimes referred to us tell one another what they have done and what has already happened, and then assume responsibility for devising responses to the consequences at hand. Results of that process may feel safe. Introducing consequences means that I assume responsibility and make decisions for others, taking away their room for exercise of responsibility. I don't even give myself a chance to learn how they might respond if I did not impose my own consequences. And as by urine testing, I who impose consequences will want to ensure accountability not to my subject's personal responsibility, but to me. I will find myself driven to imposing closer and closer scrutiny of my subjects. How unsafe to be on guard so.

Anyone with a problem of violence in or out of the criminal justice system enjoys a measure of discretion whether next to listen or pass on what someone says, or to execute or follow an order. That is the only remedy I see for an escalation in incarceration in my home United States since the Vietnam War ended in 1975, which otherwise, as described in chapter 2, could be diverted only by sending a mass of young U.S. soldiers abroad into open combat with a foreign enemy.

A year after I moved to my current home town, in 1977, my county whose population has since climbed from 90-120,000 hired a not-for-profit consultant who told us that our county jail could be gutted and made into 40 cells which would last us until well into the next millenium. That consultant then formed a for-profit firm, so that by 1983 he had forecast that we would need 95-110 cells to last us into the next millenium. I joined a friend suing to void county council approval of a leasing arrangement for a jail which--to round off corners on the top of a new "justice building"--would have 124 cells. We lost. That jail was opened in 1986, and episodically spilled to over capacity within six months of its opening. Now we appear destined to approve building a jail truly sufficient to meet our needs as we enter the new millenium--with 4-500 cells.

I was talking with a friend who inspired my failed lawsuit, and we agreed that--karmically--our efforts to tell people that the new jail would be filled had helped create the monster we now face. A burst of official effort went into organizing and using defendant- or offender-subsidized "alternative" "consequences" for offenders, which apparently generated records of failure of "lenient" measures, and widened the net far faster than I might have imagined.

As I begin learning how to serve as a VORP mediator, I have no illusions that VORP or any other restorative justice program will empty the jail. Nor do I think that officials are more to blame for placing obedience before empathy than the will in all of us to rely on official action for our safety.

I have fantasized about a bumper sticker: "Safer to Carry a Friend than a Gun." There is remarkable, significant safety in each empathic connection we make. All structural safety, all signs of the withering away of oppression and inequality, rest on attending to empathy, which in turn requires letting go of obedience. The science and art of achieving

safety in the face of personal violence is that of empathy, which I call making peace instead of making war. Empathy can start anywhere, on any job. Empathy is the only mechanism which protects us against personal violence. The personal violence recorded by criminologists and police is but a shadow of the violence and terror of isolation (and attendant worthlessness) that threatens us routinely in our daily lives, where outsiders including police and child protection workers fear to intrude. Whether we humans achieve greater violence or safety, justice will prevail, where the just results of our efforts to become safer in one another's company will show that for us all, empathy works, obedience doesn't.

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