

Introduction

Caring about people in prison is difficult. We can easily picture incarcerated people as dangerous and dirty, as despicable, as animals in cages. People behind bars are there for good reason—to protect us law-abiding, tax-paying, upstanding citizens from them. We are better off without these people. Good riddance. I have spoken with many people in my family, classroom, and church who have asked me why I care about people in prison. They seem baffled that anyone would care. Some people even suggest to me that it is wrong to care for people in prison. To them, it seems that extending care to incarcerated people somehow denies the seriousness of their crimes and undermines the rule of law.

I do not know whether I would have ever come to care about people in prison had not someone I already cared about ended up being one of them. While my relationship with my incarcerated loved one had been strained by a long series of disappointments, mostly rooted in her drug use, I could not look at her as dangerous or dirty; I could not despise her. I could not see how the prison protected anyone else from her—her crime was a nonviolent drug offense and the person she harmed most was herself. I knew that her family was not better off without her, as I saw her children struggle in poverty and wrestle with the stigmatization and isolation of having a mother in prison. And I saw no way that the prison would better enable her to reenter society and to do well as a mother, employee, or citizen. My recognition that prison offered nothing in terms of rehabilitation or reintegration into society proved true, as years after my loved one's release, she reestablished herself and stopped using drugs—not because of any assistance or guidance from our criminal justice systems, but because of her grit and perseverance alone. Even still, she continues to struggle in poverty, existing always on the edge of survival for herself and her family. Prison did not improve my loved one, her family, her community, or her society.

When I came to care about one person in prison, it was difficult for me to remain indifferent to the plight of anyone in prison. In the United States, caring about people in prison entails the acknowledgment, first, that they are indeed people, human persons; that we now hold more people in prison than any other nation and more people than we ever have incarcerated in our history; that our practices of incarceration equate to throwing these people away; that relatively few people in prison need to be there to ensure public safety; and that the

reasons we throw so many people away is tied up with social injustice. My loved one is white, female, and from a middle-class background. Young, black men who grow up impoverished socioeconomically are much more likely to be incarcerated, especially in comparison with their representation in the general population. Caring about people in prison in our context requires recognizing that our criminal justice systems uphold what civil rights attorney Michelle Alexander calls “the New Jim Crow,” what director of The Sentencing Project Marc Mauer calls “mass incarceration,” and what social theorist Loïc Wacquant calls “the first genuine prison society.”¹

Our criminal justice systems are in crisis, and this crisis both *reflects* and *helps sustain* a broader crisis of social justice. Since the early 1970s, our criminal justice systems have grown at an unprecedented rate. To explain this growth, many people assume that the cause is an unprecedented rise in crime rates. Our prison populations, however, have consistently become larger while our crime rates have periodically fluctuated. Growing crime rates cannot explain the creation of the first genuine prison society. In fact, while prison populations have continued to grow, crime rates have at times dropped significantly. Instead several social, cultural, economic, and political factors rooted in social injustice have led to the advent of mass incarceration in the United States, independently of crime rates. In turn, locking up ever more people in our country exacerbates social injustice. While mass incarceration has contributed only a small amount to falling crime rates since the late 1990s, it has worsened conditions in neighborhoods that see many of their residents cycle in and out of prison. Prisoners, their families, and their communities experience greater levels of poverty, political exclusion, and social isolation, as well as potentially even higher rates of crime as a result of our society’s punitive turn. The ways in which our criminal justice crisis is fundamentally intertwined with a crisis of social justice are the topic of chapter 1 of this book. From this discussion, it becomes clear that any adequate response to mass incarceration must not only provide resources for addressing crime and individual wrongdoing. It must also attend to the connections between criminal and social justice. If we are to care about people in prison, we must begin by examining the factors rooted in social injustice that fostered mass incarceration and, in turn, the consequences to social justice caused by mass incarceration.

1. Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012). Marc Mauer, *Race to Incarceration*, revised edition (New York: The New Press, 2006). Loïc Wacquant, “Deadly Symbiosis: When Ghetto and Prison Meet and Mesh,” in *Mass Imprisonment: Social Causes and Consequences*, ed. David Garland (Thousand Oaks, CA: Sage, 2001), 82–120.

My understanding of social justice in this text draws upon Catholic social teaching, built upon the conviction that every human person bears the image of God. This conviction has social, cultural, economic, and political implications as it demands that we treat all members of our society as fully human persons. We are required to take care that each person has the resources necessary to participate in the “dignity, unity, and equality of all people.”² Any systems, institutions, or structures that contribute to the marginalization, disempowerment, or endangerment of any human person must be dismantled. We are called to serve the common good, which can only be realized by assuring that each individual can reach her full potential as a human person. Human dignity is both inviolable and inalienable. One consequence of this conviction is that we must ensure that even people who violate the law and harm others are not tossed away; we must uphold even their full human personhood. If people are incarcerated not simply because of individual wrongdoing, but also because we have come to rely on prisons as a way of discarding people on whom we as a society have given up, then we must also respond to the conditions of social injustice linked to mass incarceration. The image of God borne by each person calls us to care about everyone, even if we must enter prisons to do so.

Despite our heritage of Catholic social teaching, Catholic leaders and theologians have paid little attention to our intertwining crises of justice. Among those authors who have addressed these issues, a consensus has arisen that upholds the human dignity of all persons, including people who are in prison. Acknowledging the inviolability and inalienability of human dignity places limitations on punishment, which must aim toward the internal reform and social reintegration of offenders. Punishment ought never to be justified for the sake of punishment itself, for retribution, or for utilitarian reasons. People, as moral agents, must be held responsible for their actions, but the purpose of any response to a wrongdoer must be to provide the resources for him to change his life for his own good and for the common good. Punishment ought to be “medicinal” in the sense that it can succor people who have done wrong so that they may rejoin the community.

Notwithstanding this consensus, few Catholic leaders or theologians offer responses that could adequately address our crises of criminal and social justice. Some strategies, such as that of Peter Karl Koritansky in his *Thomas Aquinas and the Philosophy of Punishment*, remain aloof from the practical realities of our criminal justice systems.³ While offering practical guidance, the U.S.

2. Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church* (Washington, DC: United States Conference of Catholic Bishops, 2004), ¶164. See also ¶164–170, 201.

Conference of Catholic Bishops (USCCB) focuses too narrowly on criminal justice reform and does not account sufficiently for the ways in which our criminal justice crisis both reflects and helps sustain social injustices.⁴ As a result, the bishops are less prophetic than they ought to be. A third approach, Andrew Skotnicki's in his *Criminal Justice and the Catholic Church*, fails practically, theologically, and morally.⁵ Skotnicki calls for a return to the model of monastic and ecclesiastical prisons as the "normative means of punishment" in Catholic tradition. However, even the best prisons cannot achieve what he hopes for them, he misidentifies monastic and ecclesiastical prisons as central to Catholic tradition, and his recommendation of these prisons as a model for our criminal justice systems is out of touch with the realities of mass incarceration in the United States. Given these flaws in Catholic strategies thus far, it seems that Catholics need to generate a new response to our crises of criminal and social justice. Chapter 2 analyzes each of these approaches.

An adequate response to our criminal and social justice crises must satisfy several criteria. It must begin with an accurate reading of the "signs of the times" with respect to the nature of these crises. While offering resources for responding to crime and individual wrongdoing, it will move beyond concerns with reducing reoffending, reintegrating offenders into society, maintaining public safety, and attending to victims. These concerns cannot be ignored; it is necessary to address them in any functioning criminal justice system. However, it is not sufficient to stop at criminal justice reform. Alone, achieving these goals in responding to crime and individual wrongdoing will not answer the social injustices connected to mass incarceration. An adequate response, therefore, must also address the social, cultural, economic, and political factors that led to the creation of the first genuine prison society in the United States, as well as attend to the ways in which mass incarceration exacerbates the social injustices

3. Peter Karl Koritansky, *Thomas Aquinas and the Philosophy of Punishment* (Washington, DC: Catholic University of America Press, 2012). Kathryn Getek Soltis, in her 2010 dissertation from Boston College, "Just Punishment? A Virtue Ethics Approach to Prison Reform in the United States," offers a Thomistic approach to a Catholic interpretation of criminal justice, but offers more grounded, practical recommendations for how to apply this theoretical framework to our circumstances with mass incarceration.

4. United States Conference of Catholic Bishops, *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice* (Washington, DC: United States Conference of Catholic Bishops, 2000). Available online at <http://www.nccbuscc.org/sdwp/criminal.shtml>.

5. Andrew Skotnicki, *Criminal Justice and the Catholic Church* (Lanham, MD: Rowman & Littlefield, 2008). See especially chapter 4, "Prison as the Normative Means of Punishment," 73–114. Also, "Foundations Once Destroyed: The Catholic Church and Criminal Justice," *Theological Studies* 65 (2004): 792–816.

underlying these factors. It will draw us away from questions only about guilt and desert, about costs and benefits of particular criminal justice strategies, about profits and losses in our society, about deterrence, retribution, or incapacitation as justifications for punishment. An adequate response will require us to ask ourselves what kind of society we ought to become if we are no longer to be the first genuine prison society. Our answers to this question will provide a basis for addressing the social injustices tied to mass incarceration. In addition to satisfying these criteria, for a response to be called Catholic, it must also concur with the consensus among Catholic theologians and leaders described above while drawing upon the heart of Catholic moral and theological tradition.

In chapter 3, I argue that the sacramental and liturgical life lies at the heart of Catholicism and provides a moral and theological foundation for a new Catholic response to our criminal and social justice crises. Some challenges make an appeal to liturgical and sacramental ethics complicated, including the difficulties of the privatization and politicization of worship; pluralism both within and beyond the church; injustice within church practices and institutions; and issues concerning whether and how participation in sacrament and liturgy can be morally formative. To overcome these challenges, I argue for an expansive view of liturgy and sacraments as the public service of the church in making the grace of God perceptible to us, thus consecrating our lives in the world. Rather than otherworldly, apolitical, or privatized religious practices, the liturgy of the sacraments draws us more deeply into the world in anticipation of the ultimate mystery of God's reign in which life, freedom, justice, love, and peace fully take hold in our existence. Through our worship, we are called to emulate Jesus Christ, the Son of God, through the Holy Spirit, by serving God and neighbors, particularly our neighbors who have been victims of injustice. This more expansive understanding of liturgy and sacraments, while rooted in Catholicism, should be accessible to other Christian traditions as well.

The central insight here is that our ritual lives in church communities ought to shape Christians toward the justice disclosed in the vision of God's reign conveyed in worship. Liturgical theologian Don Saliers argues that liturgy shapes the quality of our consciousness by guiding us through this vision and presenting to us a "world-picture" that stands in contrast with our worldly perspectives.⁶ We are asked in liturgy and sacraments to adopt a world-picture from God's perspective, and with this perspective, we are led to appreciate the needs of others in light of God's outpouring of grace. This vision alters us as God's will for the world becomes our own will. Our consciousness is

6. Don E. Saliers, "Liturgy and Ethics: Some New Beginnings," *Journal of Religious Ethics* 7, no. 2 (1979): 180.

transformed as we continually reenter the world-picture rehearsed in liturgy and sacraments. The task of liturgical and sacramental ethics is to discern the world-picture revealed in our ritual lives and to examine how this vision shapes Christians to see the world according to the hidden reality of salvation and to work for justice in accordance with God's reign. The sacramentality of liturgy calls us to seek this vision in all of our experiences, including our experiences outside of worship practices.

The particular sacraments of Eucharist and of Penance and Reconciliation uphold norms and values for Christians that are relevant for how we enact justice in the world.⁷ An examination of the biblical roots of each of these sacraments and their development in Catholic tradition uncovers what they may indicate for responses to our criminal and social justice crises. On one hand, based on the openness of Jesus Christ's table fellowship, the Eucharist conveys a vision of covenantal relationships in which all people are included and the needs of everyone—especially the poor and oppressed—are fulfilled.⁸ This sacrament provides a foretaste of God's reign in which death, violence, hatred, indifference, and sin are ultimately overcome. As we participate in its liturgy, we recall Jesus Christ's death as a convicted criminal, which is emblematic of his ministry to the most despised and degraded in his midst. The Eucharist also awakens our "eschatological imaginations" by exposing the ways in which we continue to fall short of the world-picture of God's reign and by offering hope that God will ultimately triumph over the principalities and powers that contribute to the marginalization, disempowerment, and endangerment of our neighbors.⁹ As we are invited into the body of Christ in the Eucharist, we must

7. Throughout the text, I will occasionally use "Penance" and "Reconciliation" interchangeably to refer to the sacrament of "Penance and Reconciliation." Using "Penance and Reconciliation" every time is stylistically awkward, but choosing only "Penance" or "Reconciliation" alone fails to capture the full scope of this sacrament. The *Catechism of the Catholic Church* refers to the sacrament as "Penance and Reconciliation," and each of these terms describes different aspects of the sacrament that neither term fully encompasses alone. If we speak only of Penance, the end of reconciling relationships can often be lost. If we speak only of Reconciliation, the work that must be done by the penitent toward rebuilding relationships can often be lost. It is also important to note that the words one uses to designate this sacrament can often lead readers to make unfounded assumptions about the author's leanings: liberals use "Reconciliation" while conservatives use "Penance." I find that pegging an author in this way can be a distraction from what the author is trying to communicate; I am not making a political statement by using either "Penance" or "Reconciliation" at any particular point. Where readers see "Penance," they should think also "Reconciliation," and vice versa.

8. I recognize that non-Catholic readers may bristle at the claim of a Catholic author for the inclusiveness of the Eucharist, given their exclusion from full participation in the mass. However, I hope that throughout this book I can point toward the ideal of Jesus Christ's table fellowship while acknowledging the ways in which all churches, including the Catholic Church, fall short of this ideal.

examine our individual consciences and communal relationships so that sin and injustice cannot break that body. In this sacrament, we are reoriented toward justice in God's reign as we confront ongoing injustices in our world.

On the other hand, our practices of Penance and Reconciliation flow from the vision of ultimate justice found in the Eucharist. These practices offer alternative norms and values to retribution and punitiveness for responding to individual wrongdoing. While we need discipline and judgment within our communities, this sacrament guides us to uphold the possibility of forgiveness and to work toward the reincorporation in community of people who have harmed others and done wrong. Underlying the emphasis on eventual forgiveness in Penance is an understanding that individual wrongdoing (or sin, in theological terms) is primarily a wounding of relationships and not only a violation of law. Where discipline and judgment are necessary, the end of any penitential actions is not to cause pain to an offender for the sake of punishment or to exact retribution, but to bring about circumstances in which a wrongdoer could be restored to full relationship. Discipline and judgment must always occur in a communal context in which all community members take responsibility for the social reintegration and internal reform of wrongdoers by offering guidance and support. Practices of Reconciliation maintain the human dignity of sinners for the image of God within each person is inviolable and inalienable.

Although the emphasis within the sacrament of Penance and Reconciliation has typically fallen on responsibility for individual sins, this sacrament also offers guidance for addressing broken communal relationships. Penance reminds us that we are all sinners in need of forgiveness from God and our neighbors. In particular, everyone is complicit in social sin that creates the broader context of individual wrongdoing and that fosters the injustices that undergird poverty, marginalization, and oppression. Because we must seek redemption from social sin as well as personal sin, we may find in Penance and Reconciliation resources for responding not only to individual wrongdoing, but also to our participation in and responsibility for social injustice.

The response of liturgical and sacramental ethics to crime and individual wrongdoing is the topic of chapter 4. Standing alone, the argument of this chapter does not meet the criteria of an adequate response to our criminal and social justice crises because it focuses only on criminal justice reform. Readers should not read chapter 4 separately from the preceding or following chapters. Nevertheless, while insufficient for addressing mass incarceration,

9. Andrea Bieler and Luise Schottroff, *The Eucharist: Bodies, Bread, and Resurrection* (Minneapolis: Fortress Press, 2007).

criminal justice reform is necessary in order to present alternatives to prisons. Too often people assume that the only alternative to prisons is to let criminals go without any consequences for their actions, leaving victims without justice and communities vulnerable to more crime. Our options seem to be either prison or nothing. But they are not our only options; we have access to a range of alternatives to incarceration that are more effective than prisons at reducing reoffending, reintegrating offenders into society, maintaining public safety, and attending to the needs of victims.

As recommended by the USCCB, restorative justice is a viable alternative to incarceration. Also, evidence-based rehabilitative programs, based on what is called the “good lives model,” can potentially partner well with restorative justice as a base for our criminal justice systems.¹⁰ While incarceration unfortunately will remain necessary in some instances, use of restorative justice and rehabilitation could enable significant downscaling of our prison populations. As Catholics consider these alternatives, they should find that restorative justice and rehabilitation align well with the norms and values upheld by the sacrament of Penance and Reconciliation. Rather than being retributive and punitive, restorative justice and rehabilitation connect to the vision of forgiveness, humility, community, dialogue, healing, and service offered in this sacrament.

Because our crises of criminal and social justice are fundamentally intertwined, an adequate response to them cannot stop with criminal justice reform; we must also attend to the social injustices that mass incarceration both reflects and helps sustain and that are addressed in chapter 5 on a sacramental and liturgical basis. In attending to these social injustices, we must answer what kind of society we ought to become if we wish no longer to be the first genuine prison society. Michelle Alexander argues that our vision of a new kind of society depends upon a transformation of consciousness in which we recognize the human dignity of all persons and begin to care across barriers of race, ethnicity, gender, and class. Such a transformation would spark a multiracial movement for dismantling the first genuine prison society, the New Jim Crow, and mass incarceration.

Catholics and many other Christians experience in the Eucharist a transformation of consciousness; a vision of what a just society ought to look like; a call to defend human dignity especially among people who have been excluded through poverty, marginalization, and oppression. As the “source and summit” of our moral lives as Christians, the Eucharist beckons us toward justice

10. Tony Ward and Shadd Maruna, *Rehabilitation: Beyond the Risk Paradigm* (New York: Routledge, 2007).

both within the life of the church and in our public service of consecrating the world.¹¹ One aspect of this work for justice will be repenting of brokenness in our communal relationships and assuming personal responsibility for bringing about a new kind of society. Through Penance and Reconciliation, we may seek redemption from social sin, particularly through combined communal and private rites of this sacrament. Our penitential work will be necessary to unwind our criminal and social justice crises. The Eucharist feeds this work for justice as it nourishes hope that our vision of God's justice will ultimately reign. In response to liturgical and sacramental ethics, then, Catholics ought to join a multiracial—and interreligious—movement as an embodiment of our public service of consecrating the world in emulation of Jesus Christ, the Son of God, through the Holy Spirit. Only through such a movement will we be able to work toward a society in which everyone as a fully human person has access to conditions that foster the dignity, unity, and equality of all people.

Through this book, I hope that readers will come to care about people in prison as I have and to feel the same sense of urgency to act. For Catholics, I hope that as I appeal to liturgy and sacraments, you feel a similar compulsion to work for justice; for readers who are Christian, but not Catholic, I hope that I write about liturgy and sacraments in ways that foster possibilities for working together despite theological, ecclesiological, and practical differences between our denominations. Those with other religious commitments or no religious ties, I hope that I write about Catholicism in ways that show that Catholics share your commitment to justice. A movement to address our criminal and social justice crises must draw upon a multiracial and interreligious coalition. I intend this book to show why Catholics should participate in such a movement and how they could be good partners in such a coalition.

11. Second Vatican Council, *Sacrosanctum Concilium*, ¶10 and ¶14. See Austin Flannery, ed., *Vatican Council II: The Conciliar and Post Conciliar Documents*, vol. 1 (Northport, NY: Costello, 1998).