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Meeting Places for Pastoral Care Between Judiciary and Church

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John Patton in his volume *Pastoral Care in Context*¹ identifies three types of Pastoral Care. The meeting place for *Classical* Pastoral Care is primarily in the church and home and delivered through sermons, rituals, teaching, visitation and conversation. The meeting place for *Clinical* Pastoral Care is primarily in hospitals, prisons, retirement centres, counselling centres and offices with an emphasis on methods and skills. The meeting place for *Contextual* Pastoral Care is in the systems and the contexts and searches out both causes and resources related to people's problems in the context in which they live.

Recently a physician friend of mine said his diagnoses include not only clinical examinations in his office but also the context in which the patient lives and works. Likewise Pastoral Care's meeting places are also contextual including institutions, agencies, organizations and systems and courthouses where people live and move and have their being. Theoretically, then, even the judicial system is a meeting place for Contextual Pastoral Care.

Inevitably not only the Correctional Chaplain but also the Pastor will encounter the Judicial system. At first glance this is a foreign world. And the Pastor struggles to find meeting places between Church and Judiciary in which Pastoral Care can occur.

Such meeting places may sound preposterous to those who insist upon separation of Church and State. Is it not the Judiciary's

task to administer the law and the Church's task to save souls? Is it not the Judiciary's task to interpret the law and the Church's task to proclaim the Gospel? This article explores three meeting places.

I was an elected member of the Court of Adjudication of a National Church body. The Court membership includes clergy, laity and lawyers (male and female), one of whom is professionally a Master of the Court and also president of our Court. Following a hearing by our Court we reflected upon the interfacing of judicial principles and procedures and the Church's concern for compassion. We actually sat in the place where law and gospel met. We were gratified to discover more compatibility than conflict between law and gospel. One lawyer member quipped: "Wasn't it God who invented the law?"

The first meeting place for Judiciary and Church is law and gospel. A long standing challenge in the Church has been to use the law in the service of the gospel. Our court's primary task deals with the law, but this also includes concerns for change. Despite our society's clamoring for punishment, our courts, like Church, engage in the redemptive use of the law. Our first meeting place for Judiciary and Church is law and gospel, where law is used in the service of the gospel.

A second meeting place for Judiciary and Church is in the pursuit of forms of Justice. Here I am indebted to my colleague, social ethicist Dr. Richard Crossman, who, in turn, is somewhat indebted to the world-renowned theologian, the late Dr. Paul Tillich.

There are three basic forms of justice: There is, first, the *Justice of Certainty*. It is based upon the assumption of universal principles, true for all times and in all situations. These principles are presumed to be forever and always true. Decisions made on the basis of Certainty can indeed provide justice by sticking to the letter of the law: "an eye for an eye and a tooth for a tooth". Seeing situations from the perspective of absolute black and white avoids the confusion caused by areas of grey. But there is also a dark side to the Justice of Certainty. It can become authoritarian and forget that laws are made for people and not people for the laws. The Justice of Certainty is sometimes expressed as *Retributive Justice*.

A second form is the *Justice of Adaptability*. Because there are no universal rules, it is commonly known as situational ethics. The

approach is one of cost-benefit analysis, and is popular with the pragmatism of our time. The Justice of Adaptability is sometimes expressed as *Distributive* Justice. It currently comes under fire in this kind of news headlines: "A Judicial system that protects criminals more than victims."

A third form is the *Justice of Vision*. This form of Justice judges neither by universal truths nor by cost-benefit analysis but by setting up a vision of the Ideal. Ideals, while not achievable, can provide for positive motivation as Robert Browning said: "Ah, but one's reach should exceed one's grasp, or what's a heaven for?" But there is also a dark side. A person or a group or a movement can use their ideal to tyrannize those who do not subscribe to their ideal. Abuse may be heaped upon those who question their ideal. Ideals and visions can be turned into absolutes. An example of this is in today's need to be *politically* correct. As a word of caution about ideals and visions someone has said: "The Neurotic person builds castles in the sky, the Psychotic person lives in them, the Psychiatrist collects rent from both." The Justice of Vision is referred to also as *Idealistic* Justice.

All three forms of Justice, Certainty, Adaptability and Vision, have their own validity and integrity in making decisions. But they all have their dark side. When any one of them is absolutized, we may lose sight of the many ambiguities in life. And we may create a legalism that breeds prejudice and injustice. The Church employs these three forms of Justice in its attempt to instruct and to act ethically, and in its attempt to practice and preserve justice. Both Judiciary and Church are involved in the pursuit of these basic forms of justice. It is their second meeting place.

There is a third meeting place for Judiciary and Church. It is in the search for a new paradigm for doing Justice, a paradigm which can permeate our traditional forms of Justice and simultaneously reach beyond with humanizing and wholistic perspectives. Such a paradigm would in fact be a "paradigm shift". In a paradigm shift you get "the rest of the story". You get the different perspective. You have a change of understanding of the situation.

For example, a sophisticated well-dressed gentleman is riding on the bus, reading his morning paper on his way to work. At the next stop, on comes a father with his five children totally out of control. They run up and down the aisle, scream and climb over the seats

and grab the newspaper, creating havoc and chaos. The father, tuned-out, seems totally indifferent. After a few moments of watching this chaos the gentleman turns to the father of these children and says: "Sir. Would you please keep your children under control." With that the father shakes his head and comes back to earth. "I am sorry, I do need to control my children, but I don't know how to handle them. You see we just left the hospital. My wife died. Their mother is dead. I guess they don't know how to handle it either. I'll do what I can to control them."² Suddenly, the gentleman has a paradigm shift. He receives the rest of the story. He begins to see the whole picture. And the paradigm shift is revising his judgment and response.

Such a paradigm shift in doing Justice is called *Creative Justice*. Creative Justice looks for the rest of the story. It begins to see the whole story. Creative Justice seeks the perspective of the whole picture. The Creative Justice paradigm sees the situation with wholistic, humanized understanding.

Volumes have been unable to communicate Creative Justice completely. Nevertheless I will try to offer a brief glimpse. Creative Justice means establishing policies, procedures, laws, customs, relationships and *decisions* which facilitate the greatest amount of empowerment and the greatest amount of compassion in any given situation. Let me illustrate with reference to the individual and the community.

A task force in the United States stated: "The lack of self-esteem is central to most personal and social ills plaguing our nation, as we approach the end of the 20th century." In response to this lack of self-esteem our society has pressed for individual rights — human rights! The bright side of this is the empowerment of the individual. The dark side of this is the fostering of the anti-social attitude, "I've got to be me", and the narcissistic demand, "I want it all now". Someone said to me recently: "If our narcissistic life-style escalates it will soon come to the point where we won't speak to one another without our lawyer present."

Dr. Donald Morgenson in a recent article in the Kitchener *Record* wrote: "I firmly believe in self-esteem as important, but something has happened to self-esteem. Whereas once it was defined as a sense of personal efficacy, when we speak of it today we mean merely feeling good about oneself...In the past our self-esteem was built

from a sense of caring for others.”

A sense of caring for others! A sense of compassion! Creative Justice calls for situations not only with the greatest amount of empowerment, but also with the greatest amount of compassion. Empowered individuals need situations to experience a sense of compassion and they need situations which create communities where persons value and listen to each other, relate to and protect each other. By the same accounting, a community, group or movement seeking only its own empowerment will inevitably become, as Dr. Morgenson says, “cultures of contempt”, where communities, like individuals, treat each other with contempt. Yet communities, like individuals, need to receive and to give the greatest amount of empowerment and simultaneously the greatest amount of compassion to enact Creative Justice.

The Church understands itself as a community, a communion of saints, a community of empowerment and compassion, because saints are sinners being transformed, and that’s Creative Justice! Creative Justice does not eliminate Retributive, Distributive or Idealistic Justice, but it redeems them from becoming ends in themselves. Creative Justice is not without risk and vulnerability, but it creates hope for the future. Creative Justice is “possibility thinking”.

Creative Justice *has been* and *is being* practiced in our Courts in one form or another. Our Judiciary is to be highly commended for this venture and vision. But some forces in our society are clamoring for “zero tolerance” and “guilty until proven innocent”. Therefore, wisdom, imagination and courage need to be recruited and revived in support of the redeeming potential of Creative Justice. Creative Justice is where God’s will and God’s love meet and where Judiciary and Church meet.

A judicial friend of mine from Western Canada wrote recently to me: “Creative Justice started with Solomon; it doesn’t have to stop now. It requires creative minds, a truly independent Judiciary and long term public acceptance.”

Creative Justice is a special meeting place for Judiciary and Church.

Of the three meeting places for Pastoral Care between Judiciary and Church, creative justice appears as a particularly special place. As a meeting place for contextual Pastoral Care it has a two-fold concern. Pastoral Care has a concern for persons, both offender and offended, who are or have been in the context of our Judicial System. Pastoral Care ministers to persons in context. Furthermore, contextual Pastoral Care is concerned also that the methods, procedures, laws and decisions of our Justice system practiced by the Judiciary will maximize the healing and health of both offender and offended through Creative Justice.

Notes

- ¹ John Patton, *Pastoral Care in Context: An Introduction to Pastoral Care* (Louisville: Westminster/John Knox Press, 1993).
- ² Stephen R. Covey. *The 7 Habits of Highly Effective People* (Fireside: Simon & Shuster, 1990) 30-31.