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Editorial

From Retributive to Restorative Justice

The news of the quick execution of Saddam Hussein after his appeal was rejected shows that ours is a world of violent conflict and contradictions, reluctant to follow the ways of peace and reconciliation. The tragic contradiction in the execution is that the politics embroiled in a huge injustice of global proportion was the agent in the execution of a man who undoubtedly committed great crimes, yet stood for his country's dignity and right to choose its policy. In all conflicts we surely need to face the reality of the victims of violence, which includes a rightful claim to justice and restored dignity but also involves a certain degree of dehumanization (inspiring revengeful destruction of human life and property), and prolongs the rising spiral of violence in the aftermath. Can our world and all its nations learn to respond to violence in ways that would rather reduce or stop the growth of dehumanization and open ways to an effective peace-making that would include healing and reconciliation, without condoning injustice?

Violence in all its forms, personal or communitarian, structural or ideological, cannot promote a justice that heals, reconciles and builds. It cannot be a partner of a true and effective peace-making. It throws to the winds the basic ethical values and principles of action flowing from them that form the basis of a human civilization. The question for us is: Is any use of force ethically acceptable, and how can it avoid becoming 'violence'? From an ethical perspective, all use of force, whether between individuals, communities or nations that bypasses the personhood and dignity of any human being and the sacredness of all human life is ethically unacceptable and counts for violence. To deny the right of legal defence even to the worst criminal of history would have been certainly unethical.

The sacredness, dignity and worth of all human beings, free and equal before the law, and for us, Christians, created in the image and likeness of God, are foundational to a culture of human rights. Human

rights are the right to be human and to be inter-human. This was incorporated into the *Universal Declaration of Human Rights* adopted by the General Assembly of the United Nations on 10 December 1948. Its Article 1 declares: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Again Article 3 proclaims: "Every one has the right to life, liberty and security of person," and article 21 affirms: "No person shall be deprived of his/her life or personal liberty except according to the procedures established by law."

It is clear that ways of violence that forget the personhood and dignity of any individual cannot help build a just and peaceful world. We are faced with situations that generate and perpetuate violence, suffering and despair. For people condemned to suffering apparently without end, the word hope seems to lose its meaning. Such is the case in the political situation of Myanmar. Such situations surely call for the solidarity of people everywhere asking them to act for their cause. Injustice anywhere is threat to justice everywhere. The denial of justice and rights to the people of Palestine or Myanmar or Darfur is a threat to justice and peace everywhere. The systematic denial of rehabilitation to the displaced and to the Tsunami victims in our country is a violation of justice and a threat to peace and development of all. The challenge for transformation of unjust and violent situations is great. It calls for alternative ways of being human and inter-human so as to forge a strong sense of solidarity of all peoples, which alone may lead to a transformation of conflicts. We need solidarity of peoples across faiths and cultures.

We are told of a project of a private university in Europe to fashion a new study course aimed at creating a strong Eurasian identity: it would study five 'civilizational circles' (China, **India, Europe, the Arab world** and Japan) treated as perfectly equal partners. The project is **surely** attractive and to be applauded, provided it is carried out in **a true spirit** of collaboration of people belonging personally to these civilizations and provided they do not forget that the 'Eurasian identity' must live together and be interlinked with Africa, the Americas, and the Pacific, and whatever other civilizations one may count. Each identity is important and none may be ignored or rejected.

No just and peaceful society can be build through the use of violence that ignores the dignity of persons and the sacredness of life. Martin Luther King Jr said, "Violence as a way of achieving justice is both impractical and immoral. It is impractical because it is a descending spiral ending in destruction of all. The old law of an eye for an eye leaves

everybody blind. It is immoral because it seeks to humiliate the opponent rather than win his understanding; it seeks to annihilate rather than to convert. Violence is immoral because it thrives on hatred rather than love. It destroys community and makes brotherhood impossible. It leaves society in monologue rather than dialogue. Violence ends by defeating itself. It creates bitterness in the survivors and brutality in the destroyers." (*Nobel Prize Address*, Oslo, December 11, 1964)

More often than not we choose rather the beaten track of righting wrongs and injustice according to the grammar of retributive justice symbolized by the formula of 'tooth for tooth and eye for eye'. We fail to see the larger question of building a just, peaceful and non-violent society for which the ways of retributive justice are not adequate. Through retributive justice, we just tinker with conflicts caused by injustice and at best may tame the cycle of brutal violence, more often botch it.

Retributive justice is mimetic and cannot bring about a lasting transformation of conflicts. Though it brings out the responsibility of the perpetrators of injustice, punitive justice alone is inadequate to break the cycle of violence and initiate a process of healing and reconciliation. We have to work for the transformation of conflicts. This requires that we pass from retributive justice to restorative justice, which includes the promotion of justice, healing and reconciliation and building up relations of solidarity. The Reconciliation and Truth Commission set up in South Africa after the dismantling of apartheid regime intended to promote restorative justice as the way to undo the injustice of apartheid and build a reconciled and multiracial society for all. Leaders like Nelson Mandela and Desmond Tutu made an option for this process for the new future of South Africa.

Restorative justice aims at healing and reconciliation. It is symbolized by the words of Micah and Isaiah about "beating swords into ploughshares." In the words of the statement of the Philippine Bishops' Conference on the abolition of capital punishment in their country, "We need justice that heals rather than justice that kills." True peace-making calls for the foundational values of justice, respect for the dignity and worth of every human person and community of persons, especially the powerless poor, respect for the sacredness of human life and human rights. It demands solidarity and participation of all in building a just, equitable, humane and compassionate social order.

We need the resources of all faiths and cultures to inspire and sustain people's movements of solidarity for building a world of justice and peace. For us, Christians, the Gospel of Jesus and his cross are the most powerful

essential source of healing and reconciliation for transformation of conflicts. They offer us the paradigm of non-violent love challenging us to build a world that is free, just, humane, non-violent, compassionate and peaceful for all. Brahmabandhab Upadhyay spoke powerfully of the need "to bear one another's burdens" as the foundation for a true and great India as he envisaged it. Mahatma Gandhi made this theme the core of his Satyagraha social philosophy.

However, the non-violent ways of peace-making have to respond in an effective and adequate way to the long-standing grievances of injustice and structures of discrimination and oppressive dominance of some cultures over people of the little traditions. Here we need to be clear on the use of means which have to be scrutinized with ethical and Gospel principles. In this approach to the humanity of people, no person is more worth than another person. As Daniel Berrigan said, "no principle is worth the sacrifice of a single person" (quoted in *Religion and Violence* by Robert McAfee Brown, 1978, p.7).

In a world of violent conflicts..people may be tempted to reject the axiom, "The end does not justify the means." Correctly restated, the axiom means: A good end does not justify the use of evil means because the good end is in the means. We cannot move through the use of evil means with its embodiment of evil towards achieving a good end. A good end can be achieved only through the partial embodiment of the good in the means used. As Martin Luther King Jr said, "Constructive ends can never give absolute justification to destructive means, because in the final analysis, the end is pre-existent in the means" (*Stride Toward Freedom*, New York, 1958, p.92).

The Indie tradition of ahimsa need contemporary and contextualized interpretation in the way Gandhi did. For us Christians, this tradition in dialogue with the Gospel of Jesus and the Cross will help us learn the ways of non-violent love for peace-making. The choice given by Jesus is not between violence or withdrawal, but between doing good or doing evil, to save or to kill (cf Mk 3:1-6). As Andre Trocme observes, "By choosing to save at the cost of his life, Jesus forever joined two realities: redemption and non-violence. Because Jesus is the Redeemer, no one can any longer save by killing or kill to save. Life alone, life given, not life exacted from others, can save life" (*Jesus and the Non-Violent Revolution*, New York, Orbis Books, 2004, p. 148).

The spirit and the season of Lent we enter this month will continually remind us of the mystery of non-violent love summed up in the image of

the redeemer on the cross: "He saved others by not saving himself." Lent is a fitting moment of grace for conversion to the ways of non-violent love in peace-making. This belongs to the heart of the Gospel of healing, forgiveness and reconciliation. To move away from a culture of violence to a culture of just peace is a daily struggle. Communities of faith are called to embody and share the peace blessing of their faiths both individually and collectively not only within the community but with society at large. They will become sacraments of non-violent love in a dynamic sense when they participate in movements for human rights and peace-building, live the preferential option for the powerless and vulnerable neighbours as a path to an inclusive society, and continually opt for a justice that heals rather than a justice that kills.