

"Approaches to Justice"

10:00am-11:30am

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I. Forms of Justice

Retributive Justice:

- When an offender breaks the law, this theory requires that he or she suffer in return.
- Retributive justice is primarily concerned with punishment.
- La. C.Cr.P. art. 381. Nature of criminal prosecution:

A criminal prosecution is brought in the name of the state in a court of criminal jurisdiction, *for the purpose of bringing to punishment* one who has violated a criminal law.

The person injured by the commission of an offense is not a party to the criminal prosecution, and his rights are not affected thereby.

▪ Example:

770 So.2d 339
Supreme Court of Louisiana.

STATE of Louisiana

v.

Roy LINDSEY.
State of Louisiana

v.

Darryl K. Webster.

Nos. 99-K-3256, 99-K-3302.
Oct. 17, 2000.

At issue in these consolidated cases is whether the mandatory penalty of life imprisonment for each of the defendants dictated by the Habitual Offender Statute, La. R.S. 15:529.1, constitutes an **excessive sentence**.

Roy Lindsey:

- Crime arose from an employment-related dispute with a co-worker (that happened when the co-worker opened the register to complete his second purchase of chips). Defendant reached over the bar and took a handful of twenty dollar bills (\$400.00) from the cash register. When his co-worker attempted to close the drawer, Lindsey grabbed her wrist and tried to pull her over the counter. When she asked what he was doing, he replied “Just tellthe night manager.” He then ran out of the restaurant and into the street with the money but was subsequently arrested.
- No weapon was involved and the victim was not injured.
- Lindsey was thirty-one years old at the time of sentencing.
- For a period of almost six years, defendant remained crime-free. Before the commission of this crime of simple robbery on March 29, 1996, Lindsey had three convictions for attempted simple burglary, one in 1990, and two others in February and June 1988, respectively.
- Even though defendant's most recent conviction, simple robbery, fit the definition of a “crime of violence,” his three prior convictions did not involve crimes of violence.
- None of defendant's crimes involved the use of a weapon.
- The appellate court affirmed his life sentence without benefit of probation or suspension of sentence.

Darryl K. Webster:

- Snatched a purse from the shoulder of a tourist who was visiting the French Quarter. One of the victim's companions chased and caught Webster and he was arrested. The victim retrieved her purse, which had fallen to the ground.

- Sentenced to life imprisonment without benefit of probation or suspension of sentence after the trial court adjudicated him a third felony offender.
- Appellate court remanded for reconsideration.

CONCLUSION

“A sentencing court should exercise its authority to declare excessive a minimum sentence mandated by the Habitual Offender Statute only under *rare* circumstances....Defendant Lindsey's arguments, that this particular crime of violence against a person was really just an impulsive, employment-related dispute, that no weapon was involved, and that the victim suffered only minor injuries, were not accepted by the trial court as sufficient reasons for a downward departure from the mandatory minimum sentence and we agree. The fact that he has only committed one ‘crime of violence,’ his latest crime, does not justify a downward departure. In sum, Lindsey failed to carry his burden....Finally, because the court of appeal in *State v. Webster* failed to analyze the case under the law as set forth in *Johnson*, that case must be remanded for reconsideration.”

Restorative Justice:

- Restorative justice is a unique approach to crime which emphasizes that crime is a violation of people, not laws.
- A way of dealing with victims and offenders by focusing on the settlement of conflicts arising from crime and resolving the underlying problems which cause it. It is also, more widely, a way of dealing with crime generally in a rational problem-solving way. Central to RJ is the recognition of the community, rather than criminal justice agencies, as the prime site of crime control (Tony Marshall, author and researcher from Great Britain).
- Focuses on people and relationships. It involves looking at the harm caused by the incident: harm to the person(s) who were victimized; harm to the instigator/aggressor(s); and, harm to the larger community and asks “How can this harm be repaired?”

Restorative Justice



▪ Example:¹

Two young boys stole from a convenience store owned and operated by a Vietnamese family. After they were caught, the store owner and her college-aged son met with the boys and explained how the theft impacted their family. The store is their livelihood, they explained, and it's how they finance college for the son. They explained that these thefts, though seemingly insignificant, were hurting their business.

¹ What did this accomplish?

- ✓ Victims had a voice in the process, i.e. reclaim power, get closure.
- ✓ Boys reduce punishment and receive help that can prevent future crime.
- ✓ Less burden on taxpayers/improved democracy in the end.

Source:

[Restorative Justice Examples and Applications](#)

Something clicked for the boys—they hadn't really considered before that their actions might harm another family. The store owners decided that they wanted the boys to volunteer at a local refugee resettlement center as part of their community service. As a family that were once refugees themselves after the Vietnam war, they wanted to give back to the social services that had helped them in their time of need.

Transitional Justice (TJ)

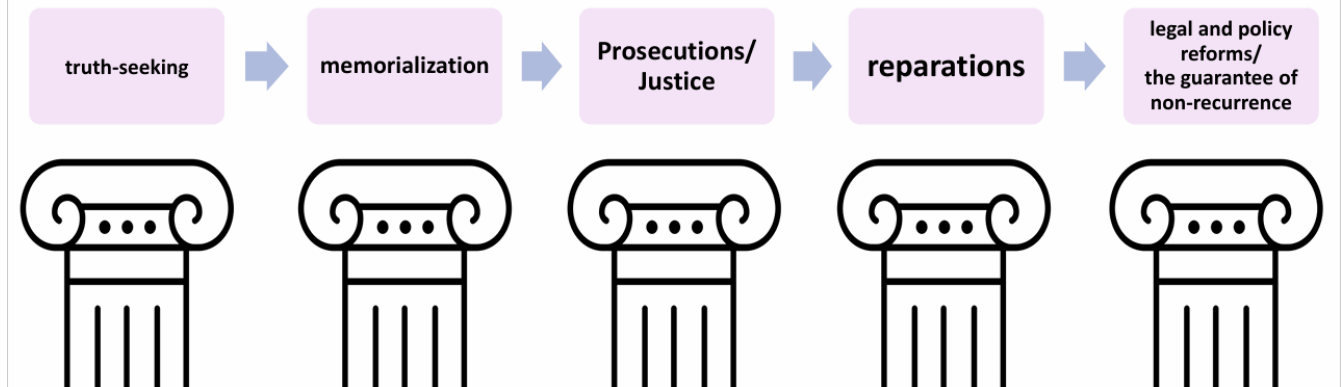
- TJ employs a “range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, enhance equity, inclusion and belonging, establish independent oversight of the security system, restore confidence in the institutions of the State and promote the rule of law.”²
- TJ originated in responses to some challenging questions: How should a society face the legacy of grave crimes against humanity? Should it punish perpetrators? Should it forget atrocities in order to favor reconciliation?
- TJ is an instrument for finding a middle point between full retributive justice and absolute impunity. TJ is about providing acknowledgement to victims and affected communities not just of their suffering but also of the fact that they were wronged. It contributes to restoring their dignity and to recognizing them as right holders and full and equal participants in society. TJ emerged as part of a recognition that dealing with systematic or massive abuses requires a distinctive approach that is both backward and forward looking; that dignify victims, but prevented similar victimhood in the future. The long-term goals of TJ measures are to promote peace, democracy and reconciliation, with the idea that these conditions help to prevent the systematic or massive violations of human rights.
- TJ must happen not only at an individual level, but at the level of social structures and institutional policies. This is normally applied when a jurisdiction is attempting to address the legacies of a violent past or collective trauma.

² Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, *Human Rights and Transitional Justice*, Rep. No. A/HRC/49/39, p. 2 (Jan. 12, 2022) (citing General Assembly resolution 67/1, para. 21; and S/2004/616, para. 8.), available at [G2200465.pdf \(un.org\)](#) (last visited May 19, 2022).

Transitional Justice

Aims to both redress legacies of atrocities and to promote long-term, sustainable peace.

Five Pillar Transitional Justice Model



- Example:



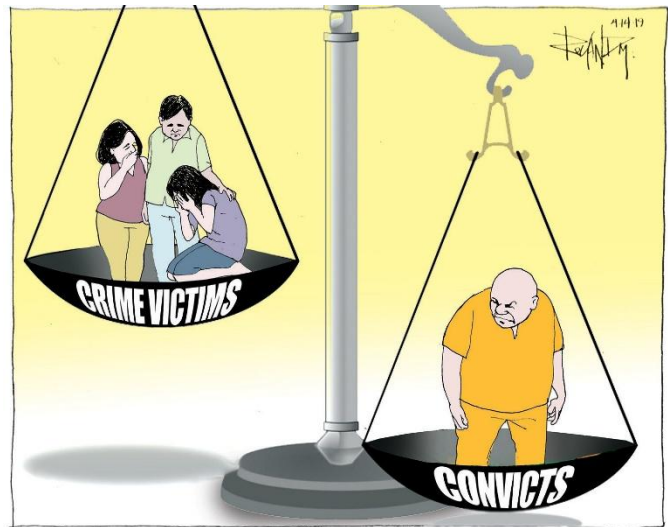
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Diversity in the Jury Box and Beyond

A Formula for Transforming Louisiana's Legal System



II. Application



I remember the process of my {Education} ?
While attending school; all that was needed:
(Just show up) ?

IN (High school) ? my {Phys-Ed teacher} ; IN my (12th yr) ;
EVERYONE ; WHO ; WAS IN (His) ; Jurisdiction :

{ IN Order to Graduate } ?

(He meant ; EXACTLY ; what ; he said) ;

WE ; had to - write - a - Essay ; (what ; we ;)

HAVE OR HAD LEARN : (these's last pass (12 yrs ;
IN school) ??

SO ; I wrote ;

I CAN ; READ AND WRITE ; (A lil bit) ;

I CAN ; COUNT to (100) ?

I CAN ; Add ; Subtract ; AND divide ;

SO ; THAT'S ALL ; I NEED ; ONCE I get a Job :

(Coach Harris ; GAVE me ; (A) ; (A+) ??

that was my ; (essay ; Right there) :

Society; said; you're not; (mis-educated);
(my parents; both have; when you compare them)
may be (A) 1st or 2nd grade education ??
(As for myself); I was fortunate enough;
to surpass them; (I have a High School Diploma)

This is a perfect picture; (Am I; a UN-educated;
By now; I hope;) (MAN; yes) ??
you all; see my view's
going to school in the 60's
finishing in the 70's
My Question? Is this
How is it; that;

Our Court's; allows a UN-educated still;
Represent; (themselves); with NO MORE than a;
1st or 2nd grade education: ? What? CAN WE DUE;
To stop? This-UN-NORMAL practices or behavior:

m. 2011. 11. 10. 10:10 P.S. What? I wrote about;

in the nine-teen fifties and sixties. I started getting involved with bad company. Because of the company I kept. I got involved with drugs and I started swallowing pills, drinking cough syrup, and using heroin at thirteen years old. I became addicted and started hustling to take care of my habit. My parents were very caring parents, but they could not keep up with what I was doing because both of them had jobs working trying make ends meet. They have never been in trouble with the law, nor have they ever been to jail, except to come see me. You see, I never really understood the seriousness of my actions, nor the consequences and affect they would have on my parents are others in the community. It was easy for adults to influence me. Then there was peer pressure. So I was notble to make rational decisions because I did not understand what rational thinking was.

"When I was a child, I spoke as a child, I understood as a child, I thought as a child, but when I became a man, I put away childish things." 1 Cor. 13:11.

The Corinthian scripture sums up the journey of my life. I entered the prison system at 16, charged with another 16 year old with attempted murder and murder. The events surrounding my case are complicated, criminal cases always are. My co-defendant, the shooter, plead guilty to a lesser charge of conspiracy. He received seven and one-half years. I went to trial. My jury acquitted me of the attempted murder, however, they found me guilty of principal to second degree murder. According to Judge ~~xxxxxx~~, my sentencer, the jury reasoned that it did not matter that I did not pull the trigger, I was guilty murder because they concluded that I participated in the armed robbery. He sentenced me to serve a natural life term. That year was 1994.

When I entered Angola prison I could not read beyond a six grade level. Looking back I believe that my elementary education contributed to my naivete about friends, life, and led me to making irrational and distructive choices. I functioned as a child.

We lived in a gang neighbor hood with Drug infested violence. My Father was disable and mother battle with health issue, such as Cancer. It was hard for my parents to keep food on the table due to unemployment issues. The bad environment drawed me to hanging in the streets and paying attention to all the wrong things in life. I begin to sale drugs to help provide for my family. I tried to

maintain schooling but failed. I dropped out of school in the 7th Grade and committed my life to the streets.

No District Court Judge have a law clerk that's experienced in post conviction litigation. Finding a clerk that is familiar with post conviction litigation can be a challenge. With the exception of Orleans Parish, no other judicial district has employed a law clerk with experience in this field of law. Yet, areas like East Baton Rouge, Shreveport, and Jefferson Parish receive a lot of applications for post conviction relief. Law schools in the state of Louisiana do not emphasize collateral litigation, this is a specialized field. Lawyers and Judges might not like this statement, but this experience entails the formerly incarcerated.

I've been incarcerated for 9yrs) now and my lawyer XXXXX of [redacted] has let my time pass to go to Federal Habeas. I need help!!

A limit needs to be establish by the Judges, DA's, and lawyers, which assures the defendant has a fair trial

I have assisted inmates in two separate instances wherein the prosecution dropped the ball and the judge, prosecutors and public defenders banded together as brethren of legal and social circles to protect the reputation of a colleague at the expense of the accused (granted, neither defendant was of sterling character).

He has had 2 court dates and hasn't talked to his court appointed attorney once. I personally know he had a attorney visit before this last court date but it was cancelled because the attorney didn't show up. XXXX says he went to his court hearing and the state offered him 10 years consecutive to the charges his now serving time on.

Because many are asked do they understand their rights. One says "yes" because moments before the attorney advise them to do so but in retrospect they were totally ignorant to the law.

unnecessary; before the judge ruled on the motion for Mistrial, my counsel [Public Defender XXXXX] did the one thing that I appreciate to this day. Before the judge ruled on the Motion for Mistrial, Mr. XXXX motioned the court for a Dismissal based on Prosecutorial Misconduct, that even Ray Charles could see through, and Stevie would not have to Wonder about it.

IT'S SO HOT RIGHT NOW, THAT I'M DRIPPING WITH SWEAT. I HAVE TO LAY A TOWEL ACROSS THE PAPER SO THAT I WON'T SOAK IT WITH BOILING WATER. I FEEL LIKE I AM SITTING IN A MIST OF HOT WATER.

It would be wonderful if you were to inspire my Granddaughter, letter, toward a higher education. She is 13 years old now, in 7
Her address is:

I WISHED WITH ALL MY HEART THAT I COULD HAVE BEEN THERE TO SAY GOODBYE TO MY FRIEND & COMRADE! THAT HAS BEEN THE STORY OF MY LIFE FOR THE LAST 42 YRS NEVER BEING ABLE TO SAY GOODBYE TO FAMILY, (MOTHER, SISTER, CHILDHOOD FRIENDS, COMRADES, & DISTANT RELATIVES.) FRIENDS, & COMRADES.

I just got of Suicidal watch I am back b. e She is always reach out to people who reach out to her.. she is a positive lady.. I like books about the law no gangsta books.. Thanks for listening.

I'm proposing a new orientation plan that will give us the opportunity to introduce new intakes to the positive leaders and opportunities here. It was jarring to realize that there was nothing like it in place already. It's as if they expect these men (especially the young ones) to be inundated with drugs, phones and etc and just organically seek out positive mentors as an alternative. I hate the idea of seeing these young men come back to prison. So we're going to do our part to catch them as early as possible and introduce them to positive leaders and programming opportunities.

We are being put on the shelves in a warehouse with no hope of returning back into society as better law-abiding citizens.

You may ask the question why I don't go to the Law Library. We have a pretty good Law Library, but offenders are prohibited from using those computers for research.

How can we remain hopeful when we are constantly told that we won't get out of this place. The Shaman spirit can be a powerful thing.

... can you please call my mom at XXXXX ind XXXXX I tell them I'm so sick of these people playing with my mental health they are justifying the things they are doing to me..u can't talk to social workers without them repeating what we say to them. I fight the feelings of taking my life everyday. Abraham went to sacrifice him own child so the book tells me its OK to sacrifice myself for what I believe in.. Then Scar trying to send me back to the very place were the guards trying to kill me and have sex with us.. I will die first.

I had a wonderful time with my son over the weekend and he gave me your message. I love spending those time's with my son you know it seem like he & I was close from the moment he kicked his way into this mean

