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A Discourse On Recourse: Crime and Punishment

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by DR. BRIAN SMITHBERGER 2 years ago in CONTROVERSIES

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A Discourse On Recourse: Crime and Punishment

Today, during the modern time of technological advancement and the freedom of information, there is a new form of slavery. One in which freedom is hard to access, and that at the whim of mercy. Currently, an economic and judicial slavery is putting in bonds men and women, sincere in their pursuits of a good life. These bonds are technological, apprehensive, and withholding. They prevent mothers and fathers from caring for their children, much less redeem their rightful place in their children's lives if possible. These bonds restrict the free application of enterprise, as well as the attainment of prosperity. The bonds are known as felony convictions.

A felon can have all of the desired skill sets and qualifications as non-felon, but be barred from employment from upwards of 95 percent of employers because of the conviction. Can you imagine owning an ability to effectively and naturally lead and manage people, resources, or be a highly skilled technician, but be denied the right and access to it? Could you be able to mentally and emotionally endure the pain and hardships of being told "No" even though you paid your debt to society through jail or prison time, community service and activism, volunteering during and after probation periods, giving your time and attention to others, and working hard to gain access to education and improve yourself? This is just the tip of the iceberg. You have to include that people look down on you, shun you, talk good to your face ut want nothing to do with you otherwise. You may say to yourself, "I'm sure they can get a job at McDonald's!" Wrong! Most McDonald's franchises decline people with felony convictions. So you say, "I know for a fact they can work in the kitchen at Bob Evans in Ohio or Burger King nationally!" We have a winner! Yes, they may hire a felon. At what cost? In Ohio minimum wage is \$8.30 an hour so the kitchen may pay between \$9.50 and \$10.00 an hour, maybe. Then you say, "It's better than nothing." Are you sure? Let's do some mathematics; simple mathematics from grade school:

\$10.00 an hour times 40 hours per week equals \$400; minus Federal, State, local, school district, medicare, and FICA taxes equals \$310 a week; most adult felons have child support with about a minimum of \$43.00 a week at pay rate equals \$267 a week; minus \$125 a week for rent equals \$142; minus \$80 a week for utilities and phone card (to keep communication with work and at minimum an emergency) equals \$62; minus \$12.50 a week for a bus pass equals \$49.50; minus \$45.00 a week for groceries equals \$4.50; minus \$2.50 for a bus pass to and from the grocery store equals \$2.00.

Now unless he or she gives that \$2.00 to the church for a tithe, that is all the money left to even attempt to save. (No tuition or bus pass to college with that.) I am being extremely liberal with my numbers too. The cost of living is even higher in some places but the payday is still the same. Therefore, if the individual tries to apply him or herself to receive an education, who pays? Grants are given at taxpayer expense. If lacking food or medical coverage and the person goes to the local job and family services for help, who pays? If the person enrolls into a Workforce Investment Act (WIA) program successfully, who pays? Let's add Earned Income Credit (EIC), Child Tax Credit, and who pays for that? You see even more than you do. You're paying companies and yourself to hold an economic and judicial grudge through technological, apprehensive, and freedom of information tactics of slavery. The wiser decision would be to free both you and the felon from further hardship. Keep the public record, but make it discriminatory to decline an ex-offender. Is it worth it to hang on and pay for other people so you don't have to deal with them or fear working next to them, being hurt physically or socially?

Let us examine the psycho-social side. The belief that people will re-offend and use you as the target is roughly the same chance as a non-offender. Someone without a conviction, hired into the company with a squeaky clean record, educated, never even owned a gun, decides they are tired of being alone and feeling weighed down by loneliness. They decide the sexual urge is too much and they follow "Tara" to the bathroom to ask for a chance. She says something uninviting with a very nasty attitude and body language, her hand is grabbed, the person's impulses go unchecked, and no more is to be said! So no one is safe in a large economy or small community. If the police can be called for that incident, take 5-15 minutes to respond, so the same goes for a convicted felon. It is not implied that free reign be given to murderers, rapists, treasonists, mutinists, high-level fraud, felonious assault offenders, high-level drug dealers or high-level con artists. I am saying that everyone, even they, should have a chance if they have served their time and can show productive proof of recovery, but I am also saying that anything less should be given greater opportunity for advancement.

Moreover, the tendencies to re-offend are ranged so much closer than the gap in only some laws allow. Ohio, for instance, is without a seven-year law, a ban-the-box, or little initiative at all to help an ex-offender. There is plenty of money now for helping addicts though, which is great and that is needed too. However, seven years is so far away from the logical and realistic perspective of recidivism. Franklin D. Roosevelt, in 1944, in the "Second Bill of Rights" stated: "[T]he right to a comfortable home, right to a highly paying (remunerative) job, right to recreation..." If someone were going to re-offend, it would be within the first year, and more than likely because they cannot find a job, let alone an actual remunerative job, so they have much idle time to think and worry. Even if they volunteer like you may be thinking right now, it does not pay the bills or links them to someone with a job offer. If an individual is still enduring struggle after two years of conviction and release from jail, probation, etc., and still applying for your professional posting or skilled trade position, then you have a resilient, persevering, hard-working, person. Hire them! Take down the bar set so high and the stigmatic fear. Especially if an acquaintance is made at an interview with a person who has not been convicted of a felony in five years or more, holding diplomas, degrees, certificates, and transcripts to show

afforded improvement gained by their own money, hard-work, sacrifice, or a combination thereof, you have a winner.

Companies have shown a huge gap in middle-skills or skilled trade occupations for the last two years. It has been getting worse every week and month. The federal government, through the U.S. Department of Labor, has approved \$82.5 million dollars to be used to fund an apprenticeship program to give incarcerated people apprenticeship hours and knowledge in skilled trades. They have to find the companies willing to employ these people and finish their program and gain successful employment. Is that not putting the cart before the horse? There is another idea (Author's idea)! The funds from taxpayer receipts spent on food stamps, Medicaid, and tax credits can be invested, instead, into an insurance fund that holds financial fidelity on an ex-offender for two years of employment. No liability on the company. Another way, since going deep is the American way, is to waive liability on the company if they agree to hire the ex-offender, with a felony four or less with certain circumstances of acceptance to a felony three class, for a minimum waiver of two to three years. When people are gainfully employed, they feel and think more wholesome and healthy. It was said, "But we have come to the conclusion that man under modern conditions is primarily a member of society and that only as he recognizes his duties as a member of society can he secure the greatest opportunities as an individual."- Frank Goodnow, *The American Conception of Liberty*, 1916.

Furthermore, the burden on the taxpayer is relinquished. At that point, the ex-offender has relatively few options. First, take an offer of employment, gain skills and stay at the job, or gain skills and leave for a better one like most American do today. Second, the person could bounce around until no one wants him or her, has exhausted all remedies, then live at the mercy of society and constantly move. Finally, which is hoped does not happen, the person re-offends in some way and is incarcerated again. If given the opportunity for good the weeding out takes place between the good and the bad very quickly. In addition, since the thought is that most people are inherently good, the result will be many people accepting their opportunities and therefore finishing out the necessary change to be productive members of society. This, in turn, opens the market with fresh labor, skill sets, filling middle skills gaps and leading to a more productive economy. The burden is lifted from the nation and states at large, the ex-offender, and the gap is sealed. "Place three individuals in a situation wherein the interest of each depends on the voice of the others, and give two of them an interest opposed to the rights of the third? Will the latter be secure?" - *Vices of the Political System of the United States*, James Madison, April 1787.

In terms of fulfilling gaps, so many ex-offenders have a plethora of skills. Right now, private security companies, even ones in Las Vegas, employ convicted thieves and hackers, as well as non-convicted, to battle security infiltration by outside forces. Furthermore, former drug dealers are being used to take down larger drug bosses within that cartel or drug organization. It is done every day by the D.E.A. and state and local drug task forces. Even a small-time drug dealer possesses a vast amount of skill so that money, product, and security are accounted for and that knowledge of how much inventory went out, how much is still available, total cash on hand,

how much is owed, how much is still to be made (a financial forecast people!), and constant oversight to ensure the expedition and security of product. Oddly enough, that is amazing! The potential to take something negative and turn it into a positive is large. All of these gurus, self-help books, life coaches, sociologists, psychologists, criminal statistics analysts, even the community think, promote, and act on the same premise. Why not in an area beneficial for the greater good of society?

Society will no doubt have all of the congressmen and women looking to make a special legislation to protect the stigma. Before there is a consensus some stipulations will be involved to limit the acceptable type of third-degree felonies, etc. Sexual crimes will be a hard consideration with circumstances being considered, if considered at all. Therefore, violent crimes of a third-degree nature will be of circumstantial considered too. If guns, knives, or other weapons were involved in any altercation then what circumstances entailed the decision to use them would be analyzed. Otherwise, other than some high-level fraud, identity theft, theft, or deceit, everything else is victimless. Our forefathers stood on the premise of limited government and justice for all, that all are created equal. Most of these felonies are over-zealous lawmakers trying to make a buck for their districts from stock dividends and sale prices, or infuse their local economies with state and federal judicial budget dollars. Prosecuting an O.V. I. (Operating a Vehicle Intoxicated), for example, is completely understandable. If you drive drunk you should go to jail, period. If not for M.A.D.D. (Mothers Against Drunk Driving), then there would be no felony conviction after three in 7-10 years. Now, due to new law, you get a felony on your second O.V.I. within five years. If you step onto your porch or yard in most towns and cities with an open can of beer or liquor, it is public intoxication and open container. You can go to jail for having a drink on your own property! If two people fight because one is being belligerent and the one being assaulted fights back, without calling the police first, that is an assault in Ohio. If blood is drawn it is now aggravated assault, Felony of the Fourth Degree! So the question is, if that one being assaulted is alone, cell phone is dead or the person does not have one, and the other person starts to attack them, what should they do say, "Hang on a minute and let me call the police first"? The proceed to defend themselves but the only thing the neighbor sees is the one being assaulted punching the offender!?

"[O]r how will the Possession even of the whole Earth, give anyone a Sovereign Arbitrary Authority over the Persons of Men? The Most specious thing to be said, is, that he that is Proprietor of the whole World, may deny all the rest of Mankind Food, and so at his pleasure starve them, if they will not acknowledge his sovereignty, and obey his Will...[T]han to make them depend upon the Will of a Man for their Subsistence, who should have Power to destroy them all when he pleased, and who being no better than other Men...[T]o tye them to hard Service, than by liberal Allowance of the Conveniencies of Life...He that doubts this, let him look into the Absolute Monarchies of the World, and see what becomes of the Conveniencies of Life, and the Multitudes of People." - John Locke, Two Treatises of Government, c. 1680.

Oppression and judgement come in many forms. To create synthesis from the two is a greater punishment than separate recourse by either. Historically, if judgement was passed on a crime

not punishable by death, the convicted served sentence in a debtor's prison, paid the fine in full, or possibly received of both. In some cases, the retribution was carried as an indebtedness to the victim and the restitution was servitude in the form of labor or goods. Then, upon release the convicted resumed position in society, and if staying in the same community, then worked to prove himself (or herself) honorable and redeemed. Contrariwise, these modern times have made it mandatory to serve a term in a correctional facility of some sort, pay fines and court costs, any due restitution, any probation, be shunned harder by society, be deprived of the Right to a skillful, remunerative job (if skilled), and be deprived of good housing. The last two are being done by the requirement to authorize a background search. It is also a catch-22 situation. If you say no to an authorization, no employment. If you are honest, then 90 percent of employers decline you, and those are the skillful and professional jobs. If you say you have no felonies, sign an authorization, then they find your record and deny you for falsifying information. So at what point does society forgive like the Judeo-Christian scriptures say to do? Many CEOs are professed Christians, regardless of denomination. When do the American companies that have H.R. management that are "moral" atheists, agnostics, Buddhists, Taoists, Hindus, etc., forgive and appreciate determination?

In some instances people are looking for jobs because not only do they have to live, but they have a probation officer mandating employment. Otherwise, people with a record have a conscience that finds them guilty, no need for society to repeat history for them. In those terms it is feasible to see and understand that those that are still looking for an opportunity to prove themselves are not trying to rely on the welfare system. Therefore they are showing the effort and determination by still applying to jobs. In 1948 the United States, assembling with allies across the globe, established the United Nations. The document they established, as a form of constitutional policy, titled: The Universal Declaration of Human Rights, states specifically in Article 23, subsect. 1: "'Everyone' has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment." (Emphasis added). That is a shame to say the least about our "declared" principles! There was made an international compact meaning global agreement, to assure "everyone" the right to choose a job and be protected from not having one. Yet, our country that established this United Nations cannot live up to the contractual duty therein. An obligated responsibility! If taxpayers did not live up to their word, but not even attempt to sign into the contract to pay taxes, they would be sued and property confiscated for just compensation. If a criminal contract were broken the rescinding offender would be incarcerated with fines, fees, and any declared restitution, etc.

Being a traditionalist or conservative is good. A nation that holds onto morals, values, and a strong belief system, stands on a solid foundation that builds on consistency and reliability. The more you chip away at morality, family structure, and a faith-based belief system (Judeo-Christian), you create an opportunity to change the political landscape, as well as economic. It has yet to be read from the pages of history how socialism, communism, Marxism, or even a combination of any with capitalism has created a utopia or close, for any society. The greatest gains have come from a free republic, with democratic principles for election only, and a capitalist economy. Which is why every nation is now embracing some form of capitalism into

their enterprise: real wealth. When you start blending beyond that, you invite destruction. It is understood that life is not going to be fully fair. To the contrary, open opportunity creates fairness. So many programs are pushed to educate the lower class (the library is free), give boost to minority hiring (hard working people and neighbors are always appreciated), and provide alleviance for single-mothers in programs like W.I.C., daycare or pre-school to name a few (teach the father of the children to be men and educate them, the library is free). If you give a skilled father with a felony conviction, the ability to employ his skills and talents, through competition as men like it, have a real equitable relationship with his child's mother (maybe even encourage him to marry her and keep the family together) that encourages loyalty, the funding and need for those programs diminish drastically.

In conclusion, therefore, let recourse and relinquishment reason together. They show proof of equality in that people that have and have not made illegal decisions still share common goals of improvement and success. Moreover, they share a concern for happiness in productivity using their skill set. They have equality even in skills and traits to make life better for the communities of these United States. Making ex-felons feel at home again in their community, just as the non-felon, starts with giving access to the ownership of success. It is not in anyway to disregard one's actions, the conscience and the mandate for redemption take care in that regard. Inclusion gives a sense of belonging and accomplishment. Change that is needed in the country begins with the individuals inhabiting it and moves to the collective of legislators that the electorate give consent to, to govern and make or change laws. The letter of the law begins and ends with the people.

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