

Proposed Lecture on Penal Abolition

My name is Frank Dunbaugh. I am an abolitionist. This is so, because I advocate for the abolition of the criminal law and of all the mechanisms of state administered punishment.

In my judgment it would be wise to dismantle our punitive system of justice for a number of reasons.

1. It does not achieve any justice.
2. In fact, it thwarts justice being achieved.
3. Criminal prosecutions can, and do, result in irreparable wrongful convictions.
4. Criminal prosecutions normally result in racial injustice.
5. Criminal prosecutions normally produce injustice for the poor and the weak.
6. Criminal prosecutions are intended to inflict serious harm on persons who are convicted of criminal behavior.
7. Criminal prosecutions normally inflict serious harm on related innocent persons.
8. The criminal law does not provide an effective remedy for the victims of crime.
9. The criminal law does not achieve its purported goals.
10. The criminal law results in citizens being deprived of the benefits of citizenship.
11. The criminal law alienates people and thereby undermines confidence in our government.
12. The criminal law system is so under funded that it can not search for the truth or for justice. It can only process people through the system, like a sausage factory processes meat. Grind them up, wrap them tightly and ship them off.

I could spend a lot of time amplifying each of these points. But the main thrust of my argument is that the criminal law serves no useful purpose. If we were to look carefully at it, using normal management techniques, we would find that a routine cost-benefit analysis would not justify the continuation of our punitive law system.

Let me ask you these questions:

What is it that the punitive law system does that you want your government to do?

If it were abolished, what functions would have to be restored in some other way?

Can we agree that what we want from the criminal law is (1) restore justice to the victims and (2) reduce crime? If so, can we agree that the criminal law does not succeed with either of these?

This being so, what other government agencies have functions along these lines? Can we help them to do the jobs we want done?

Restoring justice to the victims. The criminal law was not designed to do this. All crimes are offenses against the state (or government). The victims of crimes do not have any standing in criminal proceedings. A victim has no say as to what charges should be brought against the offender. A victim has no control over the plea bargaining process. A victim has no

control over the investigation or over the production of evidence. A victim has no say over the sentence to be imposed, and has no right to appeal the result of a criminal trial. A victim is only a witness to the facts of the offense, with a limited right in some states to inform the court at sentencing how the crime has impacted the victim's life.

The civil law is the law that provides for and was designed for victim restitution. In a civil case, the victim sues the offender for damages or for other remedies. The state is not a party. Here the victim has standing and controls the litigation.