Scapegoats, the Bible, and Criminal Justice:
Interacting with René Girard

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Vern submitted this essay to the Mennonite Central Committee for publication as an Occasional Paper in September, 1990. He is also revising his manuscript with a view to publishing an anthology on this theme. The working title for the project is: They Had it Coming: Scapegoating, Criminal Justice, and Religion.

Vern welcomes feedback on this material, with a view to contributing both to his thesis and the anthology. Please write him either via the VOM office (address on back cover), or contact Vern directly: 5 Beddoe Lane, Gloucester Ont., K1B 3X9, CANADA.

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By Vern Redekop

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Vern Redekop

INTRODUCTION

"I wish they would lock 'em up and throw away the key."
"He only got 25 years for ..."

Statements demanding long prison sentences are uttered with passion. And an "objective" statement comparing a shorter penitentiary term with the maximum possible only thinly veils deep emotion. People desperately want "criminals" behind bars. As the Canadian Sentencing Commission states in its 1987 Report, a sentence may be too lenient, but there is never too much punishment.

Why the passion to punish people? Why is it that people vote for the politician who will "get tough" on criminals even though these tough approaches do not diminish crime?

Fear of crime and desire for security prompt some of the calls for confinement. Abhorrence at grotesque crimes stirs up bitter feelings. Besides these, could there be other deeper reasons why people wish to see a few members of society punished severely? Could it be that our systems of punishment provide the opportunity for society systematically to ventilate its pent-up violence? Is it possible that what we call a criminal justice system is really a scapegoat mechanism?

The idea is posed as a question because of the tentative nature of the suggestion. It is an idea, a hypothesis which needs to be tried, tested and compared to other theories.

It is the purpose of this paper to explore the idea of scapegoating as it relates to the criminal justice system. To do this it is necessary to deal with the work of René Girard who has been developing a theory of scapegoating over the last 30 years. He has drawn on a wide range of material from ancient and modern sources. When he finally directed his attention to the Bible, he did so through the lenses of his own theory rather than those of traditional biblical scholars. As a result he has made some startling observations of what lies in the sacred text as he has tried to uncover "those things hidden since the foundation of the world". His interaction with the biblical text provides unique insights concerning ways to escape the "scapegoat mechanisms" which we naturally tend to evoke.

There are several layers of scapegoat activity in the criminal justice system. Crimes can be expressions of scapegoating. The harsh treatment of certain types of prisoners by other prisoners has the appearance of scapegoating. And finally, the corrections system as a punishment system could be a scapegoat mechanism for all of society. If we conclude that it does make sense to think of the criminal justice system as a scapegoating mechanism, then we must ask some other questions: Is it right and good that convicted criminals become the scapegoats for society? Must there be scapegoats; i.e. if we do not use criminals for scapegoats can we, do we, use others for the same purpose or can we get by without any scapegoats at all? How does it change our concept of criminal justice if we acknowledge that scapegoating is, in fact, occurring? What would a justice system look like if scapegoating was not one of the dynamics?

Girard's observation that dealing with violence is one of the central purposes of religion puts a sobering touch on the discussion. As we study scapegoating, it just might raise a number of faith questions; we might begin to see a connection between criminal justice and religion. If it can be established that, yes, the criminal justice system is a scapegoat mechanism, and if we accept Girard's observation that scapegoating is a religious phenomenon then there are strong indications that our criminal justice system has a deep religious

significance within society. To put the question symbolically we ask, "Is the courthouse the modern cathedral?"

In what follows we will first work through René Girard's theory in order to establish a framework and vocabulary with which to talk about scapegoating. In order to make the necessary links with the religious traditions of Judaism and Christianity we will examine the interaction between Girard and the Bible. This will also help to draw out what might be the necessary conditions for a justice system which does not rely on scapegoating. Finally, we will examine carefully the phenomenon of scapegoating as it pertains to criminal justice.

RENÉ GIRARD'S THEORY OF SCAPEGOATING

Girard's theory has matured through an original analysis of many of the documents foundational to Western thought including interpretations of primitive culture and religion. An overview of his major works will help to put his theory into an evolutionary perspective.

After tracing the development of Girard's thought, his theory will be presented using four basic interrelated concepts which reappear throughout his work: mimetic desire, violence, scapegoat and scapegoat (or sacrificial) mechanism.

The Beginnings

Girard started to develop his scapegoat theory while studying literature. Examining the relationships among dominant characters he noticed that very often the key antagonists desired the same thing. The competition between them led to violent feelings and actions... From these observations Girard developed the concept of mimetic desire-imitating the desires of someone else.

Various books function as milestones along the way toward developing his thought. Each probes new intellectual vistas as he tests the power of his theory to explain human dynamics. With each new domain examined, Girard's theory becomes more nuanced, expansive and powerful.

In his first major work *Deceit, Desire and the Novel: Self and Other in Literary Structure,*(1966) Girard looked at classical fictional works of European writers. In it, he first set out his basic theory.

As he turned his attention to Greek mythology and to an anthropological study of religion Girard noticed the same set of

dynamics; namely, the building up of violence within a community as a result of mimetic desire. In *Violence and the Sacred* (French, *1972;* English, 1977), Girard describes both the build-up of violence through mimetic desire and the sacrificial mechanism used to get rid of the violence. For Girard, the myths of the Greeks and of other cultures are rooted in real events. As he reconstructed the events Girard noticed that again and again one person would be killed or sacrificed to relieve the tension within a community.

This relief of tension was necessary to get rid of the violence which had the potential of destroying the community through uncontrolled civil war. In a number of cultures, a mythic event was re-enacted on special occasions in which the person playing the scapegoat would be ceremonially, but not really, killed. In other cases animals were sacrificed as scapegoats. Invariably the animals sacrificed would be similar in temperament to the tribes, thus in some way representing the tribes.

Girard also noted that frequently the scapegoat was deified or honored after the fact. In the case of someone killed, he or she would become a mythical hero. In the case of a ritual, someone might be symbolically killed and then become a king or chief of the tribe.

In *To Double Business Bound* (1978) Girard argues his theory through a series of essays which answer his critics from various disciplines. In it he shows how societies in times of trouble or crisis look at those with "the evil eye" as being responsible for the problems. These are then persecuted in some way. Things return to normal and the scapegoating is confirmed as being effective. He points out that the Jews have been the favourite such scapegoats in Western societies.

Things Hidden Since the Foundation of the World (French 1978, English, 1987) takes its name from Matthew 13:35. It is really a compilation of three books on anthropology, on the Judaic-Christian Scriptures and on psychology. The implications of Girard's work for a study of the Bible are made explicit.

In *The Scapegoat* (French, 1982; English 1986) Girard launches a discussion of persecution and turns to a careful examination of several stories in the New Testament, among them the Passion of Christ, the death of John the Baptist, and Peter's denial of Jesus. He returns to the theme of persecution examining the role of the Paraclete, the Spirit of Truth in the martyrdom of early Christians.

Job the Victim of his People (French 1985, English 1987) makes the point that the suffering of Job had as much to do with his friends' trying to make of him a scapegoat as with loss and disease.

From this brief review of his basic writings we see the development of Girard's thought from literary criticism to an interaction with culture and the foundational principles of religion. Increasingly the relevance for an interpretation of modern history is apparent. Finally one cannot escape the sense that he is dealing with the passions that fuel the violent dynamics operative in the world today.

Basic Concepts

Girard's theory works on the connections between mimetic desire, violence, the sacrificial mechanism, and scapegoats.

Mimetic Desire

"Mimetic" comes from the same root as "mime" and "imitate". To have a mimetic desire is to have a desire which imitates the desire of another person.

The object of desire may be a person or a thing. The reason for the desire within oneself is the conviction that the other person is really desiring some thing or person.

We become jealous of another person's position or covetous of possessions because we are convinced that the other person really

desires or is attached to the position or possessions. We wish more than anything to get what the other desires.

This concept is illustrated by the dynamics which occur among children at play. One child chooses a toy thereby showing it to be the object of desire. A second child develops a mimetic desire for the same toy and tries to take it away. When the first child loses interest in that toy the second no longer has a desire for it. If the first child sets it down temporarily with an understanding that it is still an object of desire, the second child will snatch it up.

These dynamics are further illustrated in Mark Twain's story of Tom Sawyer painting the fence. Tom is first ridiculed by others when he starts his task. He convinces his peers that he really desires to paint that fence. Because he convinces them so well, they develop a mimetic desire — they wish to paint the fence too. Tom agrees to let the first boy paint in exchange for a prize. Since Tom shows a lack of desire for the prize it loses its worth and is gladly surrendered. As one lad begins to paint, the mimetic desire wells within another youth who gladly forfeits some prize for the chance to paint.

Mimetic desire for more substantial things than toys or a chance to paint can lead to intense rivalry, theft and eventually violence. The intensity of feeling is evident in the Bible story of Jacob and Esau. Jacob desires the birthright from Esau and tricks him out of it. Esau then is jealous and angry; he intends to kill his brother. Jacob then has to leave the family to survive. The family unit is broken.

The potential for mimetic desire increases as people become closer in class or status. The closer people are the greater the mimetic desire might become. Colleagues doing the same type of work, players on the same team or playing the same position (e.g. pitchers), siblings in a family-all are examples of people being relatively close and having a high potential for mimetic desire. If individuals cannot picture themselves in the position of the others, their mimetic desire is at a minimum, for example, a janitor might have very little mimetic desire

aroused by the president of a company but might have strong mimetic desire generated by a fellow janitor.

Within families mimetic desire can lead to violence and eventually to infanticide, fratricide, parricide or patricide (killing of child, brother, parent or father). The story of Cain and Abel in the Bible is one example of this. Cain desires to have the blessing which Abel receives. Instead of sacrificing an animal, Cain sacrifices Abel thus releasing the violence within him. The violence has been generated by both rivalry and a lack of acceptance of differences. Girard analyses many cases of murder within families in the literature of classical Greece.

Mimetic desire is a two way-street-with a constant flow both ways. Take Harry and Sally, project officers for an international development organization. Harry perceives that Sally wishes to travel to Africa and in response speaks to his supervisor about leading a delegation to that continent. Sally, getting wind of this development, makes a case to the supervisor that she should head the delegation because of special research she has done... The manoeuvering continues, each fuelling the other's desire for the same position. If the competition reaches the level of threatening the identity of either party the result could be resignation, transfer to another division or organizational backstabbing. If for some reason the supervisor did something to antagonize both Harry and Sally, the supervisor could become the scapegoat and be subject to harassment from both parties who would get over their differences and stop caring about who got to go to Africa.

Two problems result from this shared desire for the same thing. The most obvious is the conflict for the scarce resource. The second is the loss of identity as one's sense of self becomes intertwined with the identity of the other. In Girard's terms this loss of a sense of a distinctive identity is a loss of *differentiation.* This poses a problem and leads to violence both at an individual level and at a community level. Since we define our identity as distinct from someone else, if we, collectively or individually take on the characteristics of our rival our own violence is intensified. So great is the threat of lack of differentiation as one gets caught up in mimetic desire that primitive societies will destroy twins at birth because they symbolize the loss of distinctive "otherness."

Mimetic desire can function at different levels. Advertisers are aware of the tendency of people to mimic the desires of people they admire. Celebrities are used to endorse (i.e. show a desire for) given products. Another example: models are chosen for their ability to make clothes look attractive. People want to look like the models and they buy the clothes. At a deeper level, mimesis involves not only having things but having relationships with people or having power over people. As it moves deeper, the desire is to be like the other. Or to be the Other. When the intensity of mimesis grows to the point of confusing Oneself with the Other, or defining Oneself in terms of the Other, intense love-hate emotions set in. Love because one desires the Other and hate because One cannot be the Other.

The frustration of not being able to be another person or to have what another person desires or has leads to violence.

Violence

By way of definition, violence is that which is intended to hurt, harm, damage, destroy or otherwise disempower a person. It is an intrusion on the dignity of another. One can be violent to oneself or to others.

Violence, according to Girard, has its roots in our desires and the desires which we perceive others to have. This mimetic desire leads to mimetic rivalry-a competition. This then is intensified to the point of mimetic violence; that is, the tendency of people to mimic the violence they see in others. Once rivalry reaches the point of violence, feelings of revenge set in; the rivalry is intensified, and the hate side of the love-hate relationship finds expression.

Violence to Girard is much like PCBs are to society. Once PCBs are generated they are virtually impossible to destroy. They must be stored

safely. If they escape into the environment they become very destructive. Violence, according to Girard, builds up within people and communities. Up to a point it can be stored and controlled but not dispensed with. When there is a sufficient build up of violence there is a crisis which moves people to drastic action. When there are too many PCBs for the designated storage areas there is likewise a crisis within the community.

The built-up violence has to go somewhere. The situation is urgent. If it erupts in an uncontrolled fashion with people simply being violent to their antagonists the back-and-forth unleashing of violence will, like an uncontrolled nuclear reaction, destroy the community. One party will unleash violence, this will be reciprocated by the victim. Revenge will be reciprocated in an escalating cycle. Girard refers to this phenomenon as *reciprocal violence.*

Suppose the violent feelings provoked by mimetic desire threaten the survival of the community either through the potential of civil war or through the splitting of the community so that it is no longer viable. Members of the community are caught with conflicting feelings. On the one hand they wish to destroy their competitors who might have wronged them. On the other hand they depend on those they might be killing.

There are other dilemmas. If people desire to be like the others to the point of losing their identity-they want to be the other but cannot-then they end up hating those they desire to be like. If they completely identify with those they hate, that amounts to hating themselves.

As we move into the connections between violence and identity, allow me to introduce the following perplexing quote by a Girard scholar. Don't be alarmed if it isn't immediately clear; we will unpackage the parts in the paragraphs that follow.

> Mimesis is the foe of *differentiation*, another sacred technical term of Girard, meaning the division of society into proper

> categories and individualities...in Girard's view modern society fails to see that indifferentiation is violence and violence is differentiation. "The modern crisis, like every sacrificial crisis, is to be defined as the effacing of differences." (North, p. 7)

At first glance it appears contradictory to say that "indifferentiation is violence and violence is differentiation". Richard Foster, speaking in another context, uses the image of a road along a narrow ledge with a deep chasm on either side. Adapting this image to the present discussion, the road becomes the road of non-violence, positive self esteem, mutual respect and empowerment. On either side of the road is a chasm of violence. On one side is the violence of differentiation and on the other the violence of indifferentiation. Let's examine what each might mean.

The violence of differentiation is the violence of alienation and separation. In the category of Martin Buber it is treating the other person as an "it". It is the violence of slavery. It is treating the other as an object as in spousal assault or rape. In its extreme form it is murder.

The violence of indifferentiation is the violence of forced conformity and togetherness. It deprives the person of individuality and self esteem. It is the violence of the military boot camp, the totalitarian regime, the closed community–any context that insists on the conformity of thought, appearance and action to the exclusion of individuality. On an individual level it is the violence of dependent relationships and excessive parental control. It is paternalism. It is not allowing people to do things for themselves. It is standardization. It is regimentation. It is ridicule directed at the non-conformist. (For current examples of this type of violence see the film *The Dead Poets Society.*)

For mimesis to be the foe of differentiation is for imitation to be pushed to the point of making all the same. Mimetic desire pushed to

the extreme means also complete differentiation; i.e., thinking of the other person solely as an object.

The violent character of mimetic desire is inherent in Girard's definition. Desire does not come out of what is good for oneself but rather out of what one thinks the other desires.

If there is a build-up of either type of violence within a community the community is in crisis and in danger of unbridled reciprocal violence. If all of this violence can then be refocused on a common enemy (Aeschylus: "unanimous hatred is the greatest medicine for a human community") or scapegoat, the symbolic or real killing of the scapegoat reunifies the community in two ways. First, the violence is dissipated. Second the whole community is united in common purpose in destroying or vilifying the scapegoat. The peace that follows is temporary; it lasts only until there is another build-up of violence.

The Scapegoat

So far we have constructed the theory as follows: through mimetic desire there is a build-up of violence within a community, society or tribe. The violence must be dissipated or it will destroy the community through reciprocal violence. One safe way to dispense with the violence is to have it directed toward a sacrificial victim who becomes a scapegoat. We now direct our attention to the scapegoat who plays a key role in the process.

To function in an optimal way, to relieve the community of its violence the scapegoat should have the following characteristics:

1. He or she should be powerful enough to evoke some mimetic desire so that the violence should be easily directed against the individual.

2. He or she should be perceived as having done something wrong or somehow be a threat to the community in order to legitimate being made a scapegoat.

3. The scapegoat must be vulnerable. Either he or she must be weak enough, in the minority, or in a vulnerable position. Otherwise the potential scapegoat could resist, fighting back in such a way that would trigger reciprocal violence.

Scapegoats have a unique combination of power and vulnerability which makes it possible for them to absorb the violence of a community or society.

At times a group of people can function collectively as a scapegoat for a society. The Jews have frequently been victims of scapegoating, most notably and recently in the holocaust. As is evident in the retelling of the story through its current 50th anniversary, the Jews were blamed for the problems of the German people. It was a murder committed by a Jew that provided the pretext (legitimation) for *Krystalnacht*, the night the Germans were encouraged to be violent against the Jews. This event was the beginning of what was to be a massive collective outpouring of violence against the Jews.

The Métis of Canada functioned collectively as a scapegoat helping to unite Canada in the late 1800's. Suppressing the Riel Rebellions diverted attention from political divisions in central and eastern Canada. The violence of Canada was dissipated at Batoche. The hanging of Louis Riel personified this scapegoat mechanism. Subsequently he became a Canadian hero, consistent with scapegoat theory.

Immigrant groups can become scapegoats. They are blamed for unemployment, crime, and a host of other societal woes. When seriously examined the blame appears to be unfounded. The scapegoat mechanism is operative through restrictive immigration policies and through harassment of minorities within society.

Good scapegoats, then, are people who have the right combination of strength and vulnerability and who have done something which the

wider community can seize upon as an excuse to make them suffer or die.

The Scapegoat Mechanism

The scapegoat or sacrificial mechanism is really the process of transferring the violence which has been generated through mimetic desire to the scapegoat victim. According to Girard, the mechanism must remain hidden in order to be effective. That is, people are never, ever aware of the fact that they are making a scapegoat of someone. This hiddenness is like the hiddenness of glasses to the person wearing them. In order for glasses to work one must not focus on the lenses but look through the lenses to whatever one wishes to see.

The hiddenness of the sacrificial mechanism is preserved in the following ways:

1. While it is being used it is hidden through the presumed legitimacy of the sacrificial act. The victimization is legitimate if the sacrificial victim has done something wrong to make him or her a threat, a menace or an immoral person. In the case of some tribes in which a future king is ceremonially sacrificed, the potential king is expected to commit incest before being sacrificed. This makes the sacrificial ritual legitimate.

2. The sacrificial mechanism is kept hidden after the fact by the deification of the victim.

As Girard analyses the book of Job both of these dynamics are visible. From the speeches of Job and his friends it is clear that Job was not only a wealthy man but a community leader. His friends used his material loss to justify making him a scapegoat since if he lost everything he must have sinned. His greatest suffering comes from all his friends (representing the whole community) turning on him. According to Girard, Job fails as a scapegoat because he never accepts the legitimacy of his suffering, thus exposing the scapegoat mechanism.

If the mechanism is exposed for what it is, it loses its effectiveness. That is, it no longer works as a means for the community to dissipate its violence. If people are aware that they are venting the violence they feel toward others onto an innocent victim, they can see the injustice of it and no longer can continue.

If, for any reason, the sacrificial mechanism loses its effectiveness, there is, in Girard's words, a sacrificial crisis. It is as though the PCB permanent storage units have been shown to be inadequate. A crisis demands creative action. The violent community must discover a new sacrificial mechanism with a new type of scapegoat.

The community facing a PCB storage crisis must find a new way of destroying or containing the PCBs.

The hiddenness and legitimization of the sacrificial mechanism are maintained as well by the power of religion, the next topic of consideration.

Religious Dimensions

For Girard, the central role of religion is to help people to deal with their violence. The survival of communities of all types, therefore, is dependent on religion. In many cultures this would not seem strange since cultures were built around religion. In cultures which call themselves "secular" one must look for new forms of the "religious".

Girard's conclusions about the relationship between "violence and the sacred" were based on a careful examination of Greek mythology as well as the ancient rituals of numerous tribes. These rituals and myths formed the bases for particular cultures and religions. Girard was able to distinguish the scapegoat pattern carefully disguised within myth and ritual. It needed to be disguised in order to remain hidden. It needed to be there for its basic efficacy.

Since religion gives expression to the deepest beliefs of humans concerning the meaning and rightness of life it is important that the religious dimension be evoked in the scapegoat mechanism. The process of scapegoating must have tremendous power if it is to purge the violence from society. It demands the legitimacy that religion can offer. It demands more than legitimacy, however. It demands the power of the Sacred.

In a secular democratic society, nothing is as sacred as the law code and the justice system which enforces it. The buildings in which laws are made are the most elaborate and the courts in which decisions are made about points of law are the most stately. Formality, uniforms, and respect surround the agents of law. We will examine more closely the implications of scapegoat theory for criminal justice but first we will look at Girard's interpretation of the Bible.

SCAPEGOAT THEORY AND THE BIBLE

In some respects, this section represents a diversion from the central concern, namely, the application of scapegoat theory to criminal justice. It would be possible to proceed directly to Part III which deals with criminal justice. This section is included for four reasons. First, it is anticipated that some of the readers will have a particular interest in the connections between scapegoat theory and the Bible. Second, René Girard's later work deals at length with biblical material. Third, and most important, Girard suggests that Job and Jesus in particular offer a way out of the scapegoat phenomenon and fourth, faith communities themselves must deal with their own tendencies to scapegoat if they wish to model alternatives to society.

Initial Links

Many stories within the Bible exemplify the elements of scapegoat theory. Most notable is that of Joseph who was sold into slavery by his brothers. After being separated from his family for years he ended up being the saviour hero. His initial victimization was justified on the basis of his exaggerated sense of his own importance.

In Judges a story is told of the tribe of Benjamin committing an atrocity. All the tribes of Israel declared war on Benjamin, killing most of the men. This occurred shortly before Israel was united under King Saul who happened to come from the tribe of Benjamin. Benjamin was the scapegoat; the violence of all the tribes was released making union possible. Having Benjamin chosen by lot as the tribe from which the first king was to be chosen was a way of honouring the scapegoat victim after the fact. Later, David was the scapegoat for King Saul and when David was king, his son Absalom was the scapegoat.

Girard himself makes the links between the global phenomenon of scapegoating and the Bible:

> When we do our "scapegoat analysis"... we do something very similar to what the Bible does in the psalms, in Job, in the writings of the prophets, and in all of its best-loved stories. These stories superficially resemble myths because many themes are the same, but more important, they rehabilitate the victims and overturn the scapegoating on which mythology is founded.
>
> You can see this immediately if you compare the Joseph story to the Oedipus myth. Oedipus is expelled from Thebes twice, and each time for reasons that the myth regards as valid. From the beginning, he constitutes a real danger to his family and to the entire city. The second time, he has really killed his father, he has slept with his mother, and he is responsible for the epidemic of plague. Joseph, too, is expelled twice, first as a child by his own family, and then as an adult by the entire Egyptian community, which regards him as guilty of sleeping with the wife of his protector. The crime is equivalent to the incest of Oedipus, but unlike the Egyptians and the Greeks, who believe that sort of accusation without proof, the Bible regards it as a lie... Joseph took wise measures and saved not only his own starving family, but the whole country. Instead of practising vengeance, he saved his own persecutors. (Girard, "Discussion" pp. 115-116)

Girard concludes that

> The Bible was the first to replace the scapegoat structure of mythology with a scapegoat theme that reveals the lie of mythology. (Girard, "Discussion", p. 118)

There are, however, Bible stories which seem to show the scapegoat mechanism at work without exposing it as such. One such story is that of Aachan who stole some goods from the fallen city of Jericho. This act was associated with the defeat of the Israelites in the battle with Ai. Aachan and his household were subsequently stoned and Ai was

defeated the next time around. Was Aachan a scapegoat? One can also raise questions about whether the defeated peoples of Canaan were scapegoats for the Israelites. With these questions in mind, the following qualifications put into perspective the role of the Bible in dealing with social analysis.

> I certainly do not believe that the Bible gives us a political recipe for escaping violence and turning the world into a utopia. Rather, the Bible discloses certain truths about violence, which the readers are free to use as they see fit. So it is possible that the Bible can make many people more violent... Religious truth and social usefulness do not necessarily go hand in hand... In the Hebrew Bible, there is clearly a dynamic that moves in the direction of the rehabilitation of the victims, but it is not a cut and dried thing. Rather, it is a process under way, a text in travail... a struggle that advances and retreats. I see the Gospels as the climactic achievement of the trend, and therefore as the essential text in the cultural upheaval of the modern world. (Girard, "Discussion", p. 1440-1)

Having established initial connections between the stories of the Bible and scapegoat theory we will turn now to an examination of the story of Jesus which Girard sees as being "climactic". We must remember, in doing so, that we are becoming part of a process of coming to terms with deep feelings of jealousy, desire, violence and revenge. We will continue to be as much in travail as the texts we are dealing with. Our hope is that the names we give to evil within us will give the handles and levers to dislodge, disarm and disempower its hold on our psyches.

The Role of Jesus

While it is tempting to see Jesus as the paradigmatic scapegoat, Girard takes a very different approach in dealing with Jesus and the Gospels. He sees the Gospels as being profoundly anti-sacrificial and Jesus as

having disarmed the sacrificial system by exposing it. Jesus was not a sacrificial victim in the Girardian sense precisely because he was aware of the dynamics at work and chose voluntarily to make himself vulnerable to execution.

The Crucifixion of Jesus

Applying the insights gained from literature, classical studies and anthropology, Girard concludes that the act of Jesus' execution serves to unmask the scapegoat dynamics embedded in the thought patterns of humankind.

Jesus dies to put an end to sacrificial behaviour; he does not die to strengthen closed communities through sacrifice, but to dissolve them through its elimination. When the death of Jesus is presented as sacrifice its real significance is lost... (Girard quoted in Agnew, p. 500)

How does Jesus' death call into question the sacrificial mechanism? Girard gives two basic responses. The first is that simply unmasking the scapegoat mechanism robs it of its power. The second is that Jesus shows an alternate way of dealing with the phenomenon of built-up violence.

First let us examine the hypothesis that for scapegoating to work we cannot be aware that that is what we are doing. As soon as we become aware, we must conclude that it is not fair to take our violence and anger out on some innocent person. For instance, if we are angry because of a work situation we may take our anger out on our children when we get home. This relieves us of some pent-up feeling. As soon as we make the connection that our angry response to our children is really taking out on them the violence we feel toward our boss at work, we realize it is not right. With this awareness we stop our behaviour or end up being even more angry at the person at work who provoked us in the first place. What Jesus does is to unmask scapegoat tendencies. Through this unmasking the mechanism is no longer hidden so it no longer works. In his prayer on the cross Jesus referred to his

executioners as "not knowing what they were doing". He knew what they were doing and by his death he brought it to light.

> [W]e are told explicitly that the victim is a scapegoat, "the Lamb of God who takes away the sins of the world." (Girard, "Discussion", p. 145)

Girard also points out that not only the mob and the political establishment were against Jesus, so were the disciples whose leader was Peter. His analysis brings new meaning to John 11:49-50:

> Caiaphas, who was high priest that year, said to them, "You know nothing at all; you do not understand that it is expedient for you that one man should die for the people, and that the whole nation should not perish."

It may be that Jesus' death not only united rivals Herod and Pilate, but also united and therefore saved the Jewish community. Thus, Girard may not be entirely correct in asserting that the scapegoat mechanism was not at work in the crucifixion of Jesus. From the point of view of Jesus, his followers and the subsequent history of Christianity, Girard is correct in his assertion. Within the mythology, the scapegoat mechanism is exposed. From the point of view of the first century political establishment in Judea, the scapegoat mechanism may well have worked. We know that there was partisan rivalry between Judea and Galilee, among Pharisees, Sadducees, Essenes and Zealots and between Samaritans and Jews. That the antagonists, Pilate and Herod became friends after having dealt with Jesus is one indication that the scapegoat mechanism worked. That the Palestinian Jewish factions hung together from 30 C.E. until the revolt against Rome in 66 C.E. is another indication that Jesus' execution might have played a classic scapegoat function. And within that community the scapegoat function remained hidden: Jesus was crucified for being a blasphemous rabblerouser; his execution was deemed justified.

The story of the Gospels, however, is told from the point of view of Jesus the victim and therefore brings to light the scapegoat mechanism.

The second response Girard would make is that Jesus substitutes alternate ways of dealing with violence. His teaching was to turn the other cheek and his prayer on the cross was one of forgiveness for those who were crucifying him. Jesus voluntarily made himself vulnerable. He refused to go along with the escalation of violence making a choice to turn the other cheek himself... and accept the consequences. Through his actions he opened the possibility of simply refusing to give in to violent responses to conflict.

The Teaching of Jesus

Through his analysis of Jesus, Girard arrived at an approach to violence management resembling that of the early Anabaptists though his methods were very different. Based on Jesus' teaching the Anabaptists developed the ideas of non-resistance, loving one's enemies and not resisting their violence. In this way they could prevent community-destroying reciprocal violence. In their better moments they made the ultimate sacrifice for the sake of resolutely refusing to become violent. Lest any hints of self-righteousness creep in let it be acknowledged that anabaptist successors in their weaker moments found a variety of ways of being violent (albeit in more subtle forms than burning at the stake) within their communities, sometimes finding scapegoats and sometimes destroying community life. To make the connections more directly, see the discussion on the implications for community below, paying particular attention to Wieser's comments about the violence of expulsion from community.

Girard concentrates on Jesus' non-resistance at the time of his execution, as opposed to his teaching of non-resistance. Jesus exposed the scapegoat mechanism. His voluntary vulnerability provided an alternate response to the build-up of violence.

The Teaching of Paul

A further connection to the theme of non-resistance can be made on the basis of Paul's teaching to "Bless those who curse you." Cursing is of the same family as violence, for a curse implies the hurt, harm or disempowerment of another. Blessing is healing, helping and empowering. To bless those who curse, then, is to deal non-violently with the violent.

Attention to Victims

From a critical discussion of Girard's analysis of the story of Jesus we can establish that to expose the scapegoat mechanism we must take the perspective of the victim seriously. Since many human interactions blur the distinctions between victims and perpetrators of violence, it is important to give a sympathetic and honest hearing to all perspectives. When it comes to Jesus' death, victims and persecutors change roles through time. Jesus, the initial victim becomes the persecutor as his followers exact vengeance on the Jews through history. A story written in the context of a weak, persecuted group of Jewish followers of Jesus who expose the scapegoat mechanism later becomes the basis of persecution when the weak and vulnerable group is transformed into a Gentile powerful majority.

To deal with violence in a non-violent manner might take different forms in different cultures in which violence is differently defined. The example of Jesus, the teachings of Jesus and the teaching of Paul (based on the Torah) provide different expressions of some fundamental truths related to violence.

Implications for Community Life

Scapegoating is a way of removing a community member from a community, making the former member an enemy and justifying violence against that person who becomes a scapegoat. If Jesus calls for

an end to such a procedure he calls for an end to community distinctions which would make it possible so to alienate the non-member. This calls into question the very nature of community.

> Communities function to the degree to which they can create and maintain effective distinctions. One of the chief distinctions is that which separates those forming part of the community from those outside. It is the foundational distinction, and it is inherently violent. For those who find themselves outside are never there by their free will. They are outside because they have been expelled. (Wieser, p. 84)

After examining the role of Jesus in the house of Levi (Mt. 9:9-13) in which Jesus emphasizes his call "not to the righteous but the sinners" Wieser goes on to state

> The reversals of the roles in favour of the outsiders is not the real point of the story. Jesus is not a revolutionary. He compares himself to a physician. His is a therapeutic approach, steering a narrow path between the sacrificial approach and the revolutionary approach. Both of the latter have in common that they presuppose and depend on the distinction between insiders and outsiders. Jesus however, aims at abolishing the distinction altogether. (Wieser, p. 85)

Responding to the early church's sharing of goods, Wieser asks,

> Why this detailed emphasis on sharing? Because it represents the only logical alternative to the mimetic rivalry that pervades every other human community and which ultimately leads to its destruction. To say that none of the things one possesses are one's own is to totally reverse the process of mimetic appropriation in which each insists that what he/she possesses is his/her own. (Wieser, p. 88)

Wieser's observation does not take into account that even in the context of sharing, mimetic desire may still be intense. In fact, if one cannot acquire goods it may be that position, community favour, recognition, or special opportunities might be the object of desire.

As can be seen in the practical experience of those who have set up closed communities of shared possessions, the legalistic application of the Acts text can result in the violence of indifferentiation described above. There is no formula for getting out of human tendencies toward violence and scapegoating since new forms can always be found.

Agnew suggests that the memorial of the death of Christ ought to be an occasion for the rejection of violence:

> If the "sacrificial" meaning of Christ's death is a "revelation" of the profound violence that grounds our human institutions and continues in their victims–victims of persecution, of distorted economic systems, of war, of oppression–then his death must also serve as a summons to reject that violence. Further, the memorial of that death must be the place where that rejection is nourished, deepened, witnessed and celebrated. (Agnew, pp. 507-8)

It is further suggested that there is a need for continual conversion.

> The community that gathers in the memory of Christ's sacrifice must, then, be called to continual conversion to the situation of those "others" whom they have helped to marginalize, victimize and oppress... And if all are subject to the mimetic desire that begets endless rivalry, all are implicated in the conflicts that these desires generate... (Agnew, p. 508)

The positive outcome of this conversion to the needs of others is ministry to the victims of the violence of social structures.

> This understanding of Christ's sacrifice, then, suggests a community life based on a recognition of the violence spawned by even the most basic social structures. It suggests ministries to their victims, ministries particular to the gifts of each person, parish, diocese... It offers a thrust toward ministries other than those which surround the altar, ministries to all those who do not "fit": the ill, the retarded, the handicapped, the frail elderly and the mentally disturbed. All suffer because they have been pushed to the edges of the human table, forced to live off the crumbs that fall to the ground around it. (Agnew, p. 509)

It has become apparent that many biblical stories have within them evidence of mimetic desire and the dynamics of scapegoating. In so far as many Bible stories are told from the point of view of victims who maintain their innocence the stories show resistance to the scapegoat mechanism and, in fact, unveil the scapegoat mechanism.

For those who regard the stories of the Bible as sacred authority, letting Girard open our eyes to see new things which are there in the biblical text prompts a new call to self-examination, to social analysis and finally a conversion to ministry to those least empowered by the social structures in our society. Those who do not accept the Bible as a sacred text may be likewise challenged to action by what Girard would undoubtedly maintain is a universal truth; namely, that to get out of the dilemma of opting for either reciprocal violence or scapegoating a third option is open, that of vigorously exposing the scapegoat mechanism and the underlying mimetic desires which prompt the build-up of violence. Having exposed the mimetic desires there needs to be a willingness to renounce them personally; this renunciation involves making oneself vulnerable.

We now turn our attention to crime and the criminal justice system.

SCAPEGOATING AND CRIMINAL JUSTICE

It is in the world of crime that violence finds its most blatant expression within a society not at war. One would anticipate that connections could be made between the theory of René Girard which is preoccupied with how we deal with violence and the world of crime and criminal justice. Starting with the story of a simple crime we will begin to explore the relationships between crime and scapegoating. We will then examine punishment through the lenses of scapegoat theory. Third, we will look at the criminal justice system as a sacred institution. Finally we will consider some practical implications of this discussion as we consider the question

> Suppose the theory of scapegoating accurately describes the human condition, what difference should this make to how the criminal justice system does its work?

Crime

Joe (by probability a young man) commits a crime that offends the public consciousness (robbery, burglary, mugging, or assault). Suppose Joe is apprehended and there is evidence to convict him. He pleads guilty and is sent to prison.

As soon as Joe is found to be legally guilty society feels it is legitimate to be violent with Joe. What would be considered inappropriate anywhere else now becomes okay. Forcibly taking Joe from his family would be kidnapping ordinarily. Putting shackles and cuffs on his appendages is violence few would tolerate peacefully. His possessions can be taken from him and he can be put into a cage. In the process he is subject to involuntary body searches. This multiple violence is considered entirely appropriate by society under the circumstances.

Besides what is actually done to him, Joe suffers the countless curses of those who wish that he would be locked up and the key thrown away.

Others wish on him lashes like the good old days. No one would ever suggest that he is treated too harshly. The only complaint is that there is not enough violence directed his way.

In prison Joe experiences violence of many different types. If he becomes the victim of an incident similar to what he perpetrated, it is doubtful he will get much support or reparation. More on this later.

When Joe gets out of jail he is branded an ex-con. He can be humiliated, denied a job, confined to his country and hassled by authorities. He is the victim of psychological violence and discrimination which may last until death.

In short, Joe becomes a victim of much more violence than would be contained in the original "crime".

If Girard is correct, society needs an outlet to its violence. The criminal justice system is inherently violent in that it forcibly takes the freedom away from some individuals. Those who are too poor to afford top legal counsel are more vulnerable. For the system to work it must appear legitimate; punishment of "common criminals" is certainly seen as proper by most in society. Since the criminal justice system is probably the only institution within a country at peace which is given the moral right to be violent with its citizens, it has a monopoly on licit violence.

The irony is that if everyone who had violated the criminal code were to be punished similar to Joe, well over half the population (if not 99%) would be included. Shoplifters alone would take in a substantial percentage. In the course of a trial for common assault in which a teenager who had been hassling a widow for months was kicked in the rear by the accused, a man in the court turned to me and said,

"I'm sure that every male in this courtroom has the feeling, there but for the grace of God were I."

The true scapegoat accepts the fact that he or she has the violence coming. While many prisoners would quarrel with the degree of punishment, most resign themselves to "pay their debt to society".

How the scapegoating works with different types of "criminals" will be dealt with later; next we examine how crimes themselves can be expressions of the scapegoat mechanism.

Types of Crime

Armed Robbery — Many who commit this type of crime feel marginalized by society. A particular bank or institution may symbolize a system which inspires mimetic desire. The way to vent one's violence against an economic system is to commit a robbery. This not only gives one the means to participate more fully in that system but also by means of getting power over a particular scapegoat victim gives vent to the pent up violence of someone in a marginalized sub-culture.

Shoplifting — There are two types of shoplifters–those who are in a situation of economic hardship and those who are not. Among the second group are those experiencing a crisis or a high level of frustration. Children having problems in the family, school or among peers might shoplift as a nonverbal expression of the violence they feel within.

Wife Assault — Wife battering exemplifies the pouring out of violence upon a victim. Often the violence is generated outside of the home but finds expression upon an innocent victim. The scapegoat mechanism is hidden in that there is often a "trigger" to the violence by which the violence is legitimated. Those working with men who batter their wives report that abuse "works" in that there is a release of tension on the part of the batterer. On the average, women are battered over twenty times before taking any action. As victims they become scapegoats for the violence of their husbands.

Common Assault — Assault is by definition violent. It is hard to find a perpetrator of assault who did not think the victim "had it coming".

Within that phrase lies the sense of legitimation demanded by the scapegoat mechanism.

Murder — This is the most obvious form of scapegoating. It is the pouring out of violence on a victim. Those murders which are crimes of passion manifest the growth of violent impulses which often are caused by mimetic desire and reciprocal conflict. Murders which take place in the context of organized crime may well be cases of one "family" venting its own violent impulses on a vulnerable member of another "family". The hit may be legitimated by an unpaid debt.

Mass Killing — The massacre of 14 young women by Mark Lepine in Montréal on December 6, 1989 is an example of scapegoating. All of the pent-up violence generated by mimetic desire on the part of Lepine was unleashed on those women and then himself. They were the innocent victims sacrificed to give vent to Lepine's violence. This violence was in large measure inspired by the violence he had experienced as a child as his father battered his mother. Since his father was dead he could not retaliate directly. To take out his violence on other males would have prompted either defeat or eventual revenge. Lepine took out his violence on women who were unarmed and could not fight back. In his own warped mind the violence was legitimated by their being female engineering students–women who deprived him of a place within the school.

At a symbolic level, Lepine's act brought together the many male voices within our culture crying out that their monopoly on engineering (and other professions) ought not to be surrendered. Lepine was in touch with a thousand subtle sarcasms scarcely shrouding a deep violent urge to snuff out those women who think they can help redesign the world in which we live.

Without stating that all crime is scapegoating, I have tried to show the potential for applying the analysis of scapegoating to criminal activity.

Types of Criminal

The best scapegoat is the most powerful; one who can inspire a substantial amount of mimetic desire. There are many types of power — psychological, physical, political, economic, etc. A powerful person who is processed through the criminal justice system allows for considerable release of violence. Take the situation of Colin Thatcher, wealthy son of a former premier of Saskatchewan. When convicted of killing his former wife, many both in Saskatchewan and across Canada wished the worst for him. The fact that he had been a former cabinet minister and exercised considerable power over people meant that people felt even more vindictive. His sustained pleas of innocence make him less than the perfect scapegoat.

Prostitutes are potential scapegoats in that their sexual power shows up the vulnerability of men. That they have little social status makes them vulnerable.

Young muscular males of a lower class or from a visible minority are prime candidates for scapegoating. They have a greater tendency to break those particular laws which the public wishes to see enforced. This, combined with a lack of resources makes them vulnerable to the system. Their physical strength together with their aggressive tendencies helps them fit the macho ideal for which many men would have a mimetic desire.

Those who commit civil disobedience have the power of moral conviction and are vulnerable because their breaking of the law is blatant.

On the horizon, the next type of criminal who stands to become a prime candidate as scapegoat is the executive of the polluting company. The violence done to him or her releases the violent urges inspired by frustrations over pollution and guilt over personal lifestyles which contribute to the problem.

Murderers of police officers are often potent scapegoats. Police officers are subject to harassment and anger by the public; they in turn develop hostile feelings toward those they consider "scum." To have one of their own killed legitimates directing hostility toward the one who is the worst of the worst. Society sees the murderer of a police officer as a prime sacrificial victim because he (virtually always a male) has cut down one of those to whom society looks for its ultimate security.

Women who murder husbands who have beaten them over the years do not invoke the same outpouring of violence; rather they get a certain amount of sympathy, probably because their situation does not evoke any mimetic desire. They act out of an extreme sense of powerlessness.

Punishment

Within the punishment system scapegoat dynamics are evident. These dynamics help to ensure that punishment is intensified. This makes it all the more evident that the punishment system as a system functions for society as a scapegoat mechanism.

Scapegoating within the Prison Culture

A penitentiary is essentially a violent institution. The very practice of people putting other people into cages is dehumanizing. Within an institution which intensifies violence one would anticipate the frequent need for a release of violence both on the part of prisoners and guards who are caught in a fiercely partisan struggle. The worst case for either is to confuse identity. The guard who pays attention to the needs of prisoners is considered soft, or a bleeding heart and becomes the object of ridicule by peers. The prisoner who is suspected of cooperating with the system is subject to severe injury or death. The first level of scapegoating, then, is legitimated by the perception that one's sympathies lie with the other side.

Among prisoners there is a further build-up of violence precipitated by mimetic desire. This desire could have to do with a place within the pecking order, special privileges, relationships or the number of visits. When the violence of the whole prison population is focused on an individual or sub-group that individual needs to be put into protective custody or else would face loss of life. The usual scapegoats are sexual offenders or child murderers.

Punishment as Scapegoating

Within a secular society, the institution which manages systematic violent response of society is the criminal justice system. Girard's own analysis makes the parallels between religious ritual violence and criminal justice.

> Instead of following the example of religion and attempting to forestall acts of revenge, to mitigate or sabotage its effects or to redirect them to secondary objects, our judicial system rationalizes revenge and succeeds in limiting and isolating its effects in accordance with social demands... The judicial system never hesitates to confront violence head on, because it possesses a monopoly on the means of revenge... In the final analysis then, the judicial system and the institution of sacrifice share the same function, but the judicial system is infinitely more effective. (Girard, *Violence and the Sacred*, pp. 22–23)

It could be argued by those with experience in criminal justice that it is not necessarily more effective and that it does function as a sacrificial system. It should be pointed out that Girard made the above observations in his early period, before his analysis of the Bible. Considering what he has written about the Gospels in particular he might now be less interested in defending the systematic revenge of the criminal justice system. It is possible to think of the criminal justice system as one gigantic scapegoat mechanism for society. When one considers how much crime is unreported, how few crimes are brought

to trial and among those how few result in conviction and prison sentence it turns out that we imprison in the order of 3% of criminals. (See the report of the Canadian Sentencing Commission for a detailed breakdown.) This tiny percentage of offenders who are severely punished can be thought of as a collective scapegoat for society. Those individual criminals who warrant sensational news coverage, can function as scapegoats themselves. In order to be satisfying, the sentences must be long enough. For some crimes, there is a call for the death penalty.

Let's examine criminals with regard for the criteria for selecting scapegoats.

1. **He or she should be powerful enough to evoke some mimetic desire so that the violence should be easily directed against the individual.**

Just one casual visit to a penitentiary for men illustrates that most of these are young macho males. They are looked up to for the risks they have taken and the romance associated with the commission of crimes. People wish they had the guts to act out their violent inclinations. So much is this the case that literature on prison volunteers cautions about those prison volunteers who get involved vicariously to live out their own fantasies.

2. **He or she should be perceived as having done something wrong or somehow be a threat to the community. This legitimizes the sacrificial mechanism.**

No question on this one. Being a criminal legitimates just about any kind of punishment in the mind of the public. Few tears are shed over those who die in prison. If anything, there is a hue and cry over any amenities afforded people in penitentiaries.

3. **The scapegoat must be vulnerable. Either he or she must be weak enough, in the minority, or in a vulnerable position. Otherwise the potential scapegoat could resist, fighting back in such a way that would trigger reciprocal violence.**

Most people in our prisons are of a race or class with neither money, numbers, prestige or influence. Given the fact that they do not generally have connections in the corridors of power, they are especially vulnerable. Stories can be multiplied of political figures who have silently been let off the hook after driving drunk or committing fraud. On the other hand, the poor, not having the same access to legal counsel are vulnerable in court and vulnerable in prison. Canadian inquiries into the Donald Marshall case and the Manitoba criminal justice system highlight the vulnerability of aboriginal people in particular.

The other side of this is that people of power who might be charged can well become especially vulnerable because the system bends over backwards to avoid media charges of favoritism. Rivals can use the vulnerability of someone charged to their own advantage.

The Criminal Justice System as a Sacred Institution

In a recent statement justifying the use of the army in a standoff with Mohawks, the Canadian Minister of Justice maintained that the Government's position was necessary to "maintain respect for the law". In this she echoed the Canadian Sentencing Commission which holds that the purpose of sentencing is to preserve respect for the law. "Respect for the law"–the phrase roles out like a creed or ecclesiastical liturgy – sometimes with the fervor of the true believer and at other times as a rote recitation delivered unthinkingly.

The court rises when the judge walks in to show respect for the law. Police are believed above other witnesses because they are "law enforcement officers". Behind all the formality and decorum is the

ultimate realization that if the law and those who administer and enforce the law are not respected, then one is subject to the violence of the state.

The violence of the criminal justice system is brought into focus by North:

> But the primal violence lives on not only in sacral reenactments or myths. Men continue to feel hostilities, and these erupt in violence unanimously shared. This violence gradually becomes disguised as police, prison, judiciary–and eventually war and nuclear armament. The more religion is pushed out of the picture by these rationalized "humane" violences, the more we are left in the dark about the real role played by violence as the foundation-stone of society. (North, p. 6)

Can it be true that the criminal justice system of the Western world, considered the apex of civilized behaviour, is nothing more than a dressed-up primitive religious cult? How could this be possible? To unravel the awesome power that this system has over our psyche let us follow the lead of Girard himself who unearths the clues in the origins of the words we use.

"Persecute," a religious term, comes from the same Latin root as "prosecute," a legal term. The more negative connotation of the former comes from the early Christian experience of being brought to *trial* for their faith. From the point of view of Ancient Rome, they were justly "prosecuted"; from the perspective of the church they were unjustly "persecuted." It is only because the former "offenders" eventually came to dominate the Roman Empire and the writing of its history that the connotation of the Latin *persequi* as applied to early Christians took on the sense of being unjust.

This raises the question of perspective. From the perspective of many brought to trial the prosecution is considered persecution. It is only

because most of those tried are from a vulnerable class that the view of just prosecution is maintained. Many aboriginal people, however, see prosecution as persecution. Similarly friends of people of influence who are brought to trial see in an isolated case that the system of prosecution can, indeed, be persecution.

So much depends, not only on the perspective, but the value base as well. A South American recently pointed out the value differences between Latin and North American culture. In his country when a family is hungry and impoverished it is up to the man to provide. If in his fulfillment of his duties he picks something up in a store it is considered legitimate. If he is caught he is scolded by the irate shopkeeper or the police but not arrested. It is a great shock to South Americans moving to Canada that they can be prosecuted on a charge of shoplifting for taking something they need.

The word "martyr" in Greek stood for witness, another word which has strong legal and religious connotations. In both court and church a witness is the bearer of sacred truth. In fact, it is the witness who must swear on a Bible to tell the truth. (Within the Anabaptist/Mennonite tradition the refusal to swear an oath in effect called into question the assumption that the court system was in fact a sacred one.)

With regard to crime itself, let us allow Girard to speak for himself and to qualify his observations in his own way:

> Stereotypes of persecution cannot be dissociated, and remarkably most languages do not dissociate them. This is true of Latin and Greek, for example, and thus of French or English, which forces us constantly in our study of stereotypes to turn to words that are related: *crisis, crime, criteria, critique,* all share a common root in the Greek verb *krino,* which means not only to judge, distinguish, differentiate, but also accuse and condemn a victim. Too much reliance should not be placed on etymology, nor do I reason from that basis. But the phenomenon is so constant it deserves to be mentioned. It

> implies an as yet concealed relationship between collective persecutions and the culture as a whole. If such a relationship exists, it has never been explained by any linguist, philosopher or politician. (*The Scapegoat*, pp. 22-23)

Any study of criminal justice statistics reveals that minority groups tend to be dominant within prisons. Some would tend to explain this on the basis of links with poverty, social deprivation, etc. If what is really happening, however, is a collective persecution resulting in many prosecutions, it may be that the poverty and social deprivation are more the result of the persecution than the cause of the prosecution.

Defenders of the system would argue that these individuals who happen to be from visible minority groups truly *are* criminals. In terms of scapegoat theory this defence indicates that the scapegoat mechanism is hidden–there is no awareness of scapegoating and it demonstrates that the recipients of punishment have done something which in the eyes of the punishing society legitimates the punishment. The punishing society does not acknowledge that its values are culturally based–the severity of a crime depends on the values of the community. Within some cultures the casual theft of property is not nearly so severe a crime as, say, trophy hunting.

Just as the vocabulary of religion shows up in the vocabulary of the court, so the vocabulary of the court plays a significant role within Christianity.

Among the most sacred of Christian terms are those referring to the Holy Spirit or to Jesus. "Paraclete" is used of the Holy Spirit in the book of John and in I John it refers to Jesus. As Girard suggests below, the image is of a moral defense lawyer.

> *Parakleitos*, in Greek is the exact equivalent of advocate of the Latin *ad-vocatus*. The Paraclete is called on behalf of the prisoner, the victim, to speak in his place and in his name, to act in his defense. The Paraclete is the universal advocate, the

> chief defender of all innocent victims, *the destroyer of every representation of persecution.* He is truly the spirit of truth that dissipates the fog of mythology.(*The Scapegoat*, p. 207)

Girard uses strong language to indicate the power of the Passion and eventually the Holy Spirit to rehabilitate the victim.

> Christ is the Paraclete, par excellence, in the struggle against the representation of persecution. Every defense and rehabilitation of victims is based on the Passion's power of revelation. When Christ has gone, the Spirit of Truth, the second Paraclete, will make the light that is already in the world shine for all men, though man will do everything in his power not to see it. (*The Scapegoat*, p. 208)

The language of the court not only shows up on the side of the defense, the grand archetypal prosecutor is the "Adversary", the Greek of which is *satanos*, or Satan. It is ultimately a trial, on the judgment day which will make the connections between heaven and earth. Girard puts it this way:

> There can only be a question of an intermediary process between heaven and earth, the trial of "heavenly" or "worldly" powers, and of Satan himself, the trial of the representation of persecution in its entirety. Because the gospel writers are not always able to define the place of trial they make it sometimes too transcendent or too immanent, and modern commentators have never escaped this double hesitation, not understanding that the destiny of all sacred violence is at stake in the battle between the Accuser, Satan, and the advocate for the defense, the Paraclete. (*The Scapegoat*, p. 209)

According to Girard, the significance of martyrs then, is that they bear witness to the propensity of humankind to spill innocent blood. The term has been transformed in English from its original Greek sense of "witness" to that of innocent victim. The martyrs are scapegoats. They

bear witness "less by their words or beliefs" than by "dying as Jesus died".(*The Scapegoat*, p. 212) Girard's bottom line as he appropriates the Gospel message is that

> In the future, all violence will reveal what Christ's Passion revealed, the foolish genesis of bloodstained idols and the false gods of religion, politics, and ideologies. The murderers remain convinced of the worthiness of their sacrifice. They, too, know not what they do and we must forgive them. The time has come for us to forgive one another. If we wait any longer there will not be time enough. (*The Scapegoat*, p. 212)

To take this discussion to its conclusion, we must introduce Girard's sense of myth; namely that it is "an account of scapegoating from the viewpoint of the persecutors". He is using the term "myth" as being a construct of reality as opposed to the popular sense that a myth is something necessarily false (myth as opposed to reality). The result of his argument is that the construct of reality reflected in myth is one which hides the scapegoating and in that sense does not tell the whole truth. Putting it all together, it can be expressed this way: The criminal justice system is based on a mythology which legitimates and hides the scapegoating in that it is based on the viewpoint of the persecutors who within the mythology are the prosecutors. To express it metaphorically, crown prosecutors and district attorneys are the priests of a secular culture. They represent society as they call for the punishment and in some cases the death of those who have done something which legitimates the sacrifice of their well-being or lives. Again, allowing Girard to argue first-hand,

> [W]e can expect from this myth only what we would expect from any account of a violent deed provided by its perpetrators. We can expect the victim to be seen as guilty and therefore to be mythically guilty. We can expect the violence of the group to be condoned and justified. This violence will be presented as a legitimate defense against a fearsome monster, as the just punishment of a guilty criminal. (Girard, "Generative Scapegoating", p. 79)

The relative nature of this process of pronouncing people to be mythically or legally guilty is illustrated by political revolutions. After a revolution, the same system is used but the laws are changed such that the former prosecutors are themselves the persecuted. Those who did the punishing become the victims of the guillotine, firing squad or gulag.

With the realization that the criminal justice system is one of many mythologies, it loses its monopoly over our minds. We can see that there could be other ways of organizing society. We now turn our attention to some of the practical implications of the theory of scapegoating to our present system of criminal justice.

The Implications

Suppose the theory of scapegoating accurately describes the human condition, what difference should this make to how the criminal justice system does its work?

1. **The Criminal Justice System would recognize its own inherent violence.**

There are many ways in which the violence of the criminal justice system becomes disguised. Prisons become "secure custody institutions" and those in cages become "inmates". The scapegoat mechanism is hidden by calling the phenomenon "bringing people to justice" and legitimizing the enterprise by talking about the "deterrent effect". "Rehabilitation programs" have made prisons palatable for liberals and softened the sense that prison is really punishment. The callous disregard for the rights and roles of the victims of crime and their need for restitution has made the punishment mechanism take centre stage.

2. We might change the perspective of the story.

The Story of one convicted of a crime as we commonly hear it is from the perspective of the prosecutor who represents us all. This Story develops the mentality that the "criminal" is what we must fear the most.

The guilt of the convict is attributed by the prosecutor and determined by judge or jury. The story is told from the perspective of the legitimacy of the mechanism of the criminal justice system. If the stories were told from the perspectives of the "criminals" there would be accounts of other "harms done" which may or may not be crimes but which would be considered to be equally wrong in the mind of the criminal and ultimately the public if they heard the story from that perspective. *Les Misérables* is an illustration of this phenomenon.

The general point to be made is that the judgment about the legitimacy of any violent action be it crime or punishment depends very much on the perspective of the story-teller. The black and white categories of "guilty" and "not-guilty" generally mean that ultimately only one story gets told. Perhaps we need to hold several stories in dialectical tension. It will become increasingly difficult to punish people if their stories are validated.

3. We might begin to ask, "Why?"

During a break in a trial I was witnessing, a lawyer mentioned that one of the first things one learns in law school is that when cross-examining a witness one never asks, "Why?". In fact, lawyers will frequently cut off a witness who tries to explain why. The theory of Girard as it relates to violence is all about the question "Why?". Why is there violence? From which feelings does it arise? Why the violent response? How does violence fit into individual and community instincts for survival?

Presently our system is not concerned with "why did you do it?" it only has room for an answer to the question "did you break the law?"

Getting at the "why?" questions enables us to get at the root causes of the problem behaviour. We need a justice system prepared to deal with the deeper problems of which "crime" is only a symptom.

4. We might reconsider the purpose of the criminal justice system.

The Criminal Justice System is seen as being necessary for the well-being of all society.

The Canadian Sentencing Commission sees the purpose of sentencing and sanctions as promoting respect for the law. If people were not punished the population would lose respect for the law. In other words punishment of some helps the general population deal with its own violent tendencies. It feels that all society would be in peril were it not for the fact that some are punished. Since it points out that only a tiny percentage of law breakers ever get sentenced, it stands to reason this tiny percentage is to function as a class of scapegoats for society. Among them are some labeled "dangerous" who serve to legitimate the scapegoat mechanism. In the case of the debate on the death penalty (communal sacrifice) the case of Clifford Olson was used to argue for the legitimacy of taking the lives of a whole class of people.

> In primitive culture, the belief is extremely widespread that parricide, incest, bestiality, and other transgressions destructive of elementary forms of human kinship can bring about deadly epidemics. Contagious disease is not clearly distinguished, it seems, from acute internal discord. This type of transgression is punished with a view to forestalling possible disasters. (Girard, "Generative Scapegoating", p. 84)

The disaster prevented by sentencing is for people to lose respect for the law.

If the criminal justice system were transformed into a social justice system or a reconciling justice system or a problem solving system or a healing justice system, then it could alter its purpose. Presently, the

purpose presupposes a view of humanity that the basic motivator is the threat of punishment. Is it not possible that we could develop a justice system which would be respected for no other reason than that it was worthy of respect because it empowered people to come to grips with deep conflicts, harms and hurts in a way that was healing and life-giving?

5. We would recognize the tendency to make scapegoats of minority groups.

Police shootings of members of minority groups, high percentages of aboriginal people in prison and the tendency for black people in the United States to be on death row–all show that visible minorities are often chosen to be the scapegoats for societal violence.

6. We would recognize the origins of violence and take steps to prevent it at its roots.

There is another aspect of Girard's thought which is pertinent to criminal justice; namely, mimetic desire as the origin of violence.

> Rivalry is too much the rule, especially among the males of our species, to be always ascribable to scarcity or to the fortuitous convergence on the same object of two or more desires that arise independently of one another...As I imitate the desire of my neighbour, I reach for the object he is already reaching for, and we prevent each other from appropriating this object. His relation to my desire parallels my relation to his, and the more we cross each other, the more stubbornly we imitate each other. My interference intensifies his desire, just as his interference intensifies mine. This process of positive feedback can only lead to physical and other forms of violence. Violence is the continuation of mimetic desire by violent means. Violence does not play a primordial role in my perspective; only mimesis does. (Girard, "Discussion", pp. 122-123)

This has implications for crime prevention. Much of crime is violence or some kind of theft both of which can be traced to mimetic desire. To prevent crime then means to expose this mimetic desire. Taking it one step further, we must learn to prevent entrenched violent rivalries. As Girard continues,

> Mimetic rivalries... can easily become lethal. Even if one of the antagonists kills the other, a mimetic rivalry is not necessarily over. Some next of kin may take up the cause of the dead man and imitate the killer, doing to him, mimetically, what he had done to his victim: kill him. This diffusion of mimetic violence beyond the boundaries of the initial conflict is called vengeance...It can transcend all limitation of time and space and turn into the interminable vendetta or blood feud. (Girard, "Discussion", p. 124)

7. We would offer support for victims.

Victims may be thought of as the scapegoats of the criminal world. In any case, all who feel victimized in the cross currents of violence should take some reassurance from the following observation:

> We go on persecuting, but in our world everybody persecutes in the name of being against persecution; that's what we call propaganda. We have our own scapegoats, but they are always the people who make scapegoats, and we never persecute directly any more. The honesty of the primitive culture is that you do what you do and do not pretend. So the gospel tells us there will be many victims, but they will always be helped by the Paraclete. I long pondered what that could mean, and suddenly I realized it's so simple. Satan means "the accuser," the word of accusation made true. Paraclete means "the lawyer for the defense," the defender of victims–nothing else. The Holy Spirit is the defender of victims. (Girard, "Discussion", p. 142)

There are victims on all sides of the criminal justice system as it is presently construed. If we claim to be people of the Spirit, the fruit of our activity ought to be the support, healing, and vindication of victims whoever they might be.

Some Personal Reflections

To be aware of the dynamics of mimetic desire and scapegoating, forces those honest with themselves to reevaluate their own responses to events. At least that has been the case with me. In retrospect, I can see ways in which I have been motivated in my actions by mimetic desire and as I meet new people who fit into categories close to my own I note the Siren call.

The awareness of these dynamics serves a highly preventative function. At the first stirrings of feelings of mimetic desire, awareness is the first step of elimination. One can ask, "Do I really want what the other person has?" Sober thought generally clears up the problem allowing one to celebrate with the other an acquisition, skill, achievement or opportunity.

Awareness of these phenomena helps to explain interpersonal dynamics involving other people. That is, I think that I can recognize mimetic desire as the root of interpersonal problems between other people. The problem is, it is difficult to know how to intervene without sounding judgmental or self-righteous. Besides, it is not at all clear that awareness of the problem would necessarily prompt in others the will to change.

Just as I have come to recognize my own tendency to develop mimetic desires I encourage others to use this category for their own self-examination. When I acknowledge that my violent feelings and frustrations are rooted in a desire which may not even be the best thing for me, the new perspective empowers me to be content with my own lot. When I feel like a victim, I am tempted to imitate the actions of those who have hurt me. That realization gives me the psychic strength to follow the way of the One who taught to bless those who curse, to turn the other cheek and forgive those who are ignorant of what the hell they are really doing.

The more the theories of Girard are studied and tested in real life situations, the better chance of gaining the skills and understanding necessary to "deliver us from evil".

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