Stephen Chapman

Stephen Chapman was an associate editor for The New Republic, the publication for which he wrote “The Prisoner’s Dilemma” in 1980. Since then, he has joined the staff of the Chicago Tribune, where his twice-weekly syndicated column on national and international affairs originates. Born in Texas in 1954, Chapman graduated cum laude from Harvard University in 1976 and did graduate work in business administration at the University of Chicago. He has contributed articles to national magazines including The Atlantic, Harper’s, Reason, and The American Spectator. Chapman lives with his family outside Chicago.

Pre-Reading Journal Entry

Should wrongdoing be punished in public? Why or why not? Use your journal to consider the pros and cons of public punishment for illegal actions. Think of three or four wrongdoings (from lesser offenses like shoplifting to serious crimes like armed robbery). For each offense, list possible forms of public punishment as well as the advantages and disadvantages of each form.

The Prisoner’s Dilemma

One of the amusements of life in the modern West is the opportunity to observe the barbaric rituals of countries that are attached to the customs of the dark ages. Take Pakistan, for example... President Zia, in harmony with the Islamic fervor that is sweeping his part of the world, revived the traditional Moslem practice of flogging lawbreakers in public. In Pakistan, this qualified as mass entertainment, and no fewer than 10,000 law-abiding Pakistanis turned out to see justice done to 26 convicts. To Western sensibilities the spectacle seemed barbaric—both in the sense of cruel and in the sense of pre-civilized. In keeping with Islamic custom each of the unfortunate—who had been caught in prostitution raids the previous night and summarily convicted and sentenced—was stripped down to a pair of white shorts, which were painted with a red stripe across the buttocks (the target). Then he was shackled against an easel, with pads thoughtfully placed over the kidneys to prevent injury. The floggers were muscular, fierce-looking sorts—convicted murderers, as it happens—who paraded around the flogging platform in colorful loincloths. When the time for the ceremony began, one of the floggers took a running start and brought a five-foot stave down across the first victim’s buttocks, eliciting screams from the convict and murmurs from the audience. Each of the 26 received from five to 15 lashes. One had to be carried from the stage unconscious.

Flogging is one of the punishments stipulated by Koranic law, which has made it a popular penological device in several Moslem countries, including Pakistan, Saudi Arabia, and, most recently, the ayatollah’s Iran. Flogging, or ta’zir, is the general punishment prescribed for offenses that don’t carry an explicit Koranic penalty. Some crimes carry automatic hadd punishments—stoning or scourging (a severe whipping) for illicit sex, scourging for drinking alcoholic beverages, amputation of the hands for theft. Other crimes—as varied as murder and abandoning Islam—carry the death penalty (usually carried out in public). Colorful practices like these have given the Islamic world an image in the West, as described by historian G. H. Jansen, “of blood dripping from the stumps of amputated hands and from the striped backs of malefactors, and piles of stones barely concealing the battered bodies of adulterous couples.” Jansen, whose book Militant Islam is generally effusive in its praise of Islamic practices, grows squeamish when considering devices like flogging, amputation, and stoning. But they are given enthusiastic endorsement by the Koran itself. “A styged a noyairer”

Such traditions, we all must agree, are no sign of an advanced civilization. In the West, we have replaced these various punishments (including the death penalty in most cases) with a single device. Our custom is to confine criminals in prison for varying lengths of time. In Illinois, a reasonably typical state, grand theft carries a punishment of three to five years; armed robbery can get you from six to 30. The lowest form of felony theft is punishable by one to three years in prison. Most states impose longer sentences on habitual offenders. In Kentucky, for example, habitual offenders can be sentenced to life in prison. Other states are more lenient, preferring the more genteel sounding “indeterminate sentence,” which allows parole boards to keep inmates locked up for as long as life. It was under an indeterminate sentence of one to 14 years that George Jackson served 12 years in California prisons for committing a $70 armed robbery. Under a Texas law imposing an automatic life sentence for a third felony conviction, a man was sent to jail for life last year because of three thefts adding up to less than $300 in property value. Texas also is famous for occasionally imposing extravagantly long sentences, often running into hundreds or thousands of years. This gives Texas a leg up on Maryland, which used to sentence some criminals to life plus a day—a distinctive if superfluous flourish....

What are the advantages of being a convicted criminal in an advanced culture? First there is the overcrowding in prisons. One Tennessee prison, for example, has a capacity of 896, according to accepted space standards, but it houses 2300 inmates. One Louisiana facility has confined four and five prisoners in a single six-foot-by-six-foot cell. Then there is the disease caused by overcrowding, unsanitary conditions, and poor or inadequate medical care. A federal appeals court noted that the Tennessee prison had suffered frequent outbreaks of infectious diseases like hepatitis and tuberculosis. But the most distinctive element of American prison life is its constant violence. In his book Criminal Violence, Criminal Justice, Charles Silberman
noted that in one Louisiana prison, there were 211 stabbings in only three years. 11 of them fatal. There were 15 days in a prison in Massachusetts between 1972 and 1975. According to a federal court, in Alabama’s penitentiaries (as in many others), “robbery, rape, extortion, theft and assault are everyday occurrences.”

At least in regard to cruelty, it’s not at all clear that the system of punishment that has evolved in the West is less barbaric than the grotesque practices of Islam. Skeptical? Ask yourself: would you rather be subjected to a few minutes of intense pain and considerable public humiliation, or be locked away for two or three years in a prison cell crowded with ill-tempered sociopaths? Would you rather lose a hand or spend 10 years or more in a typical state prison? I have taken my own survey on this matter. I have found no one who does not find the Islamic system hideous. And I have found no one who the choices mentioned above, would not prefer its penalties to our own.

Imprisonment is now the universal method of punishing criminals in the United States. It is thought to perform five functions, each of which has been given a label by criminologists. First, there is simple retribution: punishing the lawbreaker to serve society’s sense of justice and to satisfy the victims’ desire for revenge. Second, there is specific deterrence: discouraging the offender from misbehaving in the future. Third general deterrence: using the offender as an example to discourage others from turning to crime. Fourth, prevention, at least during the time he is kept off the streets, the criminal cannot victimize other members of society. Finally, and most important, there is rehabilitation. Reforming the criminal so that when he returns to society he will be inclined to obey the laws and able to make an honest living.

How satisfactorily do American prisons perform by these criteria? Well, of course, they do punish. But on the other scores they don’t do so well. Their effect in discouraging future criminality by the prisoner or others is the subject of much debate, but the soaring rates of the last 20 years suggest that prisons are not a dramatically effective deterrent to criminal behavior. Prisons do isolate convicted criminals, but only to divert crime from ordinary citizens to prison guards and fellow inmates. Almost no one contends anymore that prisons rehabilitate their inmates. If anything, they probably impede rehabilitation by forcing inmates into prolonged and almost exclusive association with other criminals. And prisons cost a lot of money. Housing a typical prisoner in a typical prison costs far more than a stint at a top university. This cost would be justified if prisons did the job they were intended for. But it is clear to all that prisons fail on the very grounds—humanity and hope of rehabilitation—that caused them to replace earlier, cheaper forms of punishment.

So the debate continues to rage in all the same old ruts. No one, of course, would think of copying the medieval practices of Islamic nations and experimenting with punishments such as flogging and amputation. But let us consider them anyway. How do they compare with our American prison system in achieving the ostensible objectives of punishment? First, do they punish? Obviously they do, and in a uniquely painful and memorable way. Of course any sensible person, given the choice, would prefer suffering these punishments to years of incarceration in a typical American prison. But presumably no Western penologist would criticize Islamic punishments on the grounds that they are not barbaric enough. Do they deter crime? Yes, and probably more effectively than sending convicts off to prison. Now we read about a prison sentence in the newspaper, then think no more about the criminal’s payment for his crimes until, perhaps, years later we read a small item reporting his release. By contrast, one can easily imagine the vivid impression it would leave to be wandering through a local shopping center and to stumble onto the scene of some poor wretch being lustily flogged. And the occasional sight of an habitual offender walking around with a bloody stump at the end of his arm no doubt also would serve as a forceful reminder that crime does not pay.

Do flogging and amputation discourage recidivism? No one knows whether the scars on his back would dissuade a criminal from risking another crime, but it is hard to imagine that corporal measures could stimulate a higher rate of recidivism than already exists. Islamic forms of punishment do not serve the favorite new right goal of simply isolating criminals from the rest of society, but they may achieve the same purpose of making further crimes impossible. In the movie Bonnie and Clyde, Warren Beatty successfully robs a bank with his arm in a sling, but this must be dismissed as artistic license. It must be extraordinarily difficult, at the very least, to perform much violent crime with only one hand.

Do these medieval forms of punishment rehabilitate the criminal? Plainly not. But long prison terms do not rehabilitate either. And it is just as plain that typical Islamic punishments are more cruel than the convict than incarceration in the typical American state prison.

Of course there are other reasons besides its bizarre forms of punishment that the Islamic system of justice seems uncivilized to the Western mind. One is the absence of due process. Another is the long list of offenses—such as drinking, adultery, blasphemy, “profiteering,” and so on—that can bring on conviction and punishment. A third is all the ritualistic mumbo jumbo in pronouncements of Islamic law. Even in these matters, however, a little cultural modesty is called for. The vast majority of American criminals are convicted and sentenced as a result of plea bargaining, in which due process plays almost no role. It has been only half a century since a wave of religious fundamentalism swept this country to outlaw the consumption of alcoholic beverages. Most states also still have laws imposing austere constraints on sexual conduct. The Washington Post reported that the FBI had spent two
and a half years and untold amounts of money to break up a nationwide
pornography ring. Flogging the clients of prostitutes, as the Pakistanis did,
does seem silly. But only a few months ago Mayor Koch of New York was
proposing that clients caught in his own city have their names broadcast by
radio stations. We are not so far advanced on such matters as we often like
to think. Finally, my lawyer friends assure me that the rules of jurisdiction for
American courts contain plenty of petty requirements and bizarre distinc-
tions that would sound silly enough to foreign ears.

Perhaps it sounds barbaric to talk of flogging and amputation, and per-
haps it is. But our system of punishment also is barbaric, and probably more
so. Only cultural smugness about their system and willful ignorance about
our own make it easy to regard the one as cruel and the other as civilized.

We inflict our cruelties away from public view, while nations like Pakistan
stage them in front of 10,000 onlookers. Their outrages are visible; ours are
not. Most Americans can live their lives for years without having their peace
of mind disturbed by the knowledge of what goes on in our prisons. To
choose imprisonment over flogging and amputation is not to choose human
kindness over cruelty, but merely to prefer that our cruelties be kept out of
sight, and out of mind.

Public flogging and amputation may be more barbaric forms of punish-
ment than imprisonment, even if they are not more cruel. Society may pay
a higher price for them, even if the particular criminal does not. Reversion
against officially sanctioned violence and infliction of pain derives from
something deeply ingrained in the Western conscience, and clearly it is
something admirable. Grotesque displays of the sort that occur in Islamic
countries probably breed a greater tolerance for physical cruelty, for exam-
ple, which prisons do not do precisely because they conceal their cruelties.

In fact it is our admirable intolerance for calculated violence that makes it
necessary for us to conceal what we have not been able to do away with. In a
way this is a good thing, since it holds out the hope that we may eventually
find a way to do away with it. But in another way it is a bad thing, since it
permits us to congratulate ourselves on our civilized humanitarianism while
violating its norms in this one area of our national life.

Questions for Close Reading

1. What is the selection's thesis? Locate the sentence(s) in which Chapman states his
main idea. If he doesn't state the thesis explicitly, express it in your own words.

2. Chapman calls Islamic punishment practices "barbaric." What are some of these
practices? Why would they seem barbaric to most Americans?

3. According to our society's philosophy of punishment, what goals is imprisonment
supposed to accomplish? How successful, in Chapman's view, are U.S. prisons in
meeting these goals?

4. For Chapman, what is the core difference between the U.S. punishment
system and that of Islamic nations like Pakistan? Which system does he find
preferable? Why?

5. Refer to your dictionary as needed to define the following words used in the
selection:

- Barbaric (paragraph 1), stipulated (2), penological (2), malafactors (2),
  effusive (2), brazen (3), genealogic (3), indeterminate (3), superfuous (3),
  extortion (4), criteria (7), ostensible (8), recidivism (9), corporal (9), blasphemy (11),
  and sanctioned (13).

Questions About the Writer's Craft

1. The pattern. In paragraphs 7 through 10, Chapman contrasts the success of
the American and Islamic systems in meeting the five goals of punishment cited
in paragraph 6. How does Chapman help readers keep those goals in mind as he
develops his contrast?

2. Other patterns. In paragraphs 1, 2, and 6, Chapman provides a number of defini-
tions. How do these definitions help him convince readers to accept key points
in his argument?

3. Other patterns. Examine the examples that Chapman provides in paragraphs
3 and 4. Why do you think he sequences each set of examples as he does?

4. Examine Chapman's tone, especially in paragraphs 3, 4, 5, and 8 to 9. Where does
he shift from a fairly neutral tone to a more sarcastic and mocking one? How does
this change help Chapman convince readers of the seriousness of the problems in
U.S. justice?

Writing Assignments Using Comparison-Contrast

as a Pattern of Development

1. Select one situation in which people are, in your opinion, ineffectively punished
for violating a law or regulation. For example, you might focus on the punish-
ment typically imposed for driving while intoxicated, plagiarizing a school paper,
or habitually coming to work late. Write an essay describing the violation and its
customary punishment. Then contrast this punishment with a more effective way
of correcting the offending behavior. Whether you choose the one-side-at-a-time
or the point-by-point method, be sure to provide clear signals, as Chapman does,
to help readers follow your ideas.

2. Chapman contrasts two cultures' approaches to criminal punishment. Write an
essay comparing and/or contrasting two cultures' approaches to another aspect of
life. To structure your paper, use either the one-side-at-a-time or point-by-point
method of development. The cultures you discuss need not be nationalities or
ethnicities. You might, for example, focus on parents' and teenagers' preferences
in music, male and female expectations in a relationship, or high school teachers'
and college professors' attitudes toward student responsibility. If appropriate,
consider using a humorous tone to make fun of both sides—or to convey which
side's approach you find preferable.