

ON VIOLENCE

December 26, 2014

TO TALK OF “VIOLENCE” AS IF IT IS ALWAYS AND NECESSARILY BAD OR IRRATIONAL IS ITSELF IRRESPONSIBLE

James V. Schall, S.J.

Everyone is familiar with the principle, “an eye for an eye and a tooth for a tooth.” It is in fact a “principle”. As such, it is not a bad one. It was an effort to establish justice in a world where no effective legal system existed. The remedy for a crime depended on the relatives and friends of the victim. The retaliation was to be carried out according to proportion—an eye for an eye, no more, no less. It was in the name of deterrence and of restoring a just balance. The one who committed a crime should suffer the same penalty to himself that he meted out to another.

Generally speaking, the point of the “feud”, or the eye-for-an-eye principle, was subsumed into a legal order of a city or polity. This sub-sumption did not mean that the issue of just judgment, deterrence, and retaliation did not still exist. It just meant that the responsibility to define and repair the damage was placed not in the hands of the sufferer of violence but in those of the legal, judicial, and law-enforcement order. This aura of legality was, in turn, designed to eliminate, as much as possible, passion and prejudice from any unjust aggression. It could then be judged as objectively as possible. The norm of reason as defined by law and the judgment of peers was the rule. Both the victim and the attacker were required to follow this standard, however much either disagreed with the decision. This system was a key element of civil peace and of civilization itself.

The word “violence” is often used loosely. Such usage, without any distinction, causes enormous confusion and damage to everyone. Indeed, its loose employment often increases injustice by confusing what is legitimate and what is not. As such, “violence” means the use or threatened use of physical force against some other person. By analogy, we talk of “violent” storms or tigers. The “violence” of a truly “mad” man, one with no possibility of rational control, is not “voluntary”. It is closer

to the storm or tiger in its moral status. Such a man was described in the Gospel of Mark (5:3). He was running about the tombs and could not easily be subdued even by strong man. "Violence" is properly addressed as if it were voluntary. The degree of voluntariness or intent indicates the heinousness of the crime.

Thus, we distinguish between manslaughter, first, and second degree murder on the basis of voluntary intent. It makes no sense to implore someone not to be "violent" if he has no desire or will not to be violent. A Norwegian friend of mine told me that anyone on the northern Island of Spitzbergen had to be able to shoot a polar bear if it actually attacked him. But, if someone shot it just for the skin or for supper, he was arrested and fined for hunting without a license. Notice the relevant distinctions in the two cases. It is legitimate and reasonable to kill a violent animal attacking a human person. Without a hunting license, it is not legitimate just to shoot it.

The origin of the art of hunting animals and birds was for the provision of food or clothing for human beings. Aristotle said that man, without reason and law to rule him, is like a wild beast. Aristotle was not criticizing the wild beast. He meant that the only reasonable way to deal with some men was through the use of sufficient but reasonable force. Its use was both for the good of the violent man and for the safety of others.

In today's world, we lump together under a common heading the "violence" of the Islamic State's methods of decapitating its enemies, the "violence" of Ferguson, the "violence" of killing two Brooklyn policemen, the "violence" of football, the "violence" of movies, and the "violence" of a necessary cancer operation. The word "violence" thus can have a good or a pejorative meaning. All shades of meaning involve the use of physical damage to oneself or others as inflicted or administered by another. The popes are often cited crying out against "violence". When they see Christian massacred by the hundreds, they plea for someone else to "stop" the violence.

But who can do this? How can he do it? Can all unjust violence be countered by non-violent means, by dialogue? It seems highly doubtful.

First of all, we must realize that not everyone thinks violence is always a bad thing. Many social and political movements think it is a very good thing. It promotes some good or destroys some supposed evil. To never use violence, in principle, is a sign of weakness, as Nietzsche taught. But secondly, we instinctively and reasonably recognize that someone who uses force to defend himself or others is

also “violent”, but legitimately so. All means of “persuasion” have proved futile. So talk of “violence” without distinctions is a suspect way to speak of what goes on in many a dramatic scene. To talk of “violence” as if it is always and necessarily bad or irrational is itself irresponsible.

What is the difference between the famous “band of robbers” that Augustine spoke of as one definition of the State, and the police and armies of republics? No doubt, some utopians and anarchists claim that if we just rid ourselves of police and armies all would be well. Most sensible folks understand that the origin of the “violence” problem is not the law itself. It is about man’s condition, his will, his passions, and his lack of self-control.

Police and armies are deliberately set up by reasonable men in a constitutional/legal order to cope with the unjust use of violence toward others. Some writers want to distinguish between “violence” and “force”. “Force” would be the legally authorized use of “violence” in defined situations and ruled under specific law. “Violence” would thus mean the illegal use of force, that activity that law intends to regulate, judge, and, if necessary, punish. But even with legal enforcement personnel, individuals in particular circumstances may still find it necessary to protect themselves or others with “violence” against unjust aggressors when no law-enforcement is immediately available.

II.

The existence and use of force under law is to be defined by a legitimate state. This legal force is the means that any society must have to protect itself and its citizens. Illegitimate and tyrannical states also have armies and police to promote their view of the world. A civil society is responsible to decide, declare, and promulgate what actions are not permitted. If unjust actions take place, they are initially to be dealt with by police or law-enforcement agencies. For judgment of guilt and punishment, a system of courts is established. Its function is to decide whether a person has committed a crime, and, if so, what is his degree of responsibility. Finally, it needs to be decided how he will be punished if guilty. The punishment is usually stated in terms of fines or imprisonment or even execution. In a civilized society, citizens agree to obey the law even if they do not agree with its functioning in a given case. But this disagreement is itself to be dealt with according to law, not by arbitrary violence. Disagreement is not itself a license to overthrow legitimate civil society.

Does the Ferguson case represent something new? Its logic represents the potential breakdown of constitutional and legal order. Well-publicized “violence”, not just “protest”, flared up after the legal

processes functioned as they should in giving a responsible verdict on the individual case. The “violence” resulted from a refusal to accept such a civil judgment. “Violence”—the burning of stores and shops of innocent people and the interfering with traffic—was “justified” in the name of a form of justice outside the existing law and its procedures. Police were the problem, not the ones causing the “violence” that the police had to deal with. This resultant “violence” implies that legal justice decisions must agree with those who refuse to accept the rules and decisions of established state procedure. If they do not agree, “violence” is “justified”. The subsequent damage it causes is not the fault of those who cause it; the whole system is corrupt. With this sort of rationalization, the very existence of the civilized state is in question.

The “execution” of two Brooklyn police on December 20th has served to call up short the Ferguson protests. In 2012, twenty-seven police officers, two of whom were black, were killed in the line of duty in the United States. It is often pointed out that black men between the ages of 16 and 40 are most likely to be murdered, not by police, by other black men. Many of these murders are not solved as if they were unimportant. Police have to be present in areas where most crime exists. So questions of why crime, how is it related to the breakdown of the family, as well as to other social factors, including prejudice, make it very difficult to see the current turmoil to have a single cause.

It is, furthermore, interesting to look at world murder rates. The highest rates are now found in central and Latin America, though high rates are found in the Caribbean and in several African countries. There is no one single factor, of course. One suspects the dope business has much to do with the high Latin American rates. While firearms do much of the killings, knives and other such weapons, even fists, are also widely used. I frankly think that even if we confiscated all the firearms in the world it would not change these murder rates significantly. Weapons are not the problem.

This violence calls attention to another concept of justice besides the one based on reason, of returning what is due. If, for example, the grand jury had declared that the Ferguson policeman was guilty because it feared this anticipated “violence”, it would mean that the system of justice as we know it had already broken down. The legally innocent officer would be declared guilty. Is it better for one innocent man be declared guilty than a city go up in flames?

In any case, we find here an implicit appeal to a “higher law.” It looks like this “higher law” is becoming the will of those who refuse to abide by the reasonable procedures of the law designed precisely to protect others, including police. Instead of placing judgment in the hands of the courts of civil society, it is now placed on the will of those who impute guilt outside of law.

III.

The present system of law is itself a product of reason designed to settle problems caused by unjust violence and personal passion. An appeal to a “higher” law than civil law was once a part of our heritage. This appeal meant that civil law was itself subject to reason. We sadly have to note that our own constitutional system no longer is based on anything but civil law, whatever the courts decree or the president directs is the law. The “higher” law tradition recognized that any state can establish laws that violate human dignity. The whole argument against abortion, itself a state-sanctioned violence against innocent children, is a refusal to accept the ongoing civil law that justifies such killings. But who is to stop this latter “violence”? Should we strive to overthrow the government by force or violence? Or is it more reasonable to resist within the law? Admittedly, this turn of the State from “higher” law to only civil law may eventually mean that those who uphold a “higher” law will be completely excluded from this particular polity.

Likewise, in the Ferguson case, do we really intend to overthrow, rather than obey, the system of civil order that we have established, because we disagree with a particular ruling? Do we really want to tell the police that certain crimes committed by certain kinds of persons are not to be prevented no matter how unjust? Was the reaction to such cases as the Ferguson case one that justifies “violence” in the name of one’s feeling about justice? Is this to be compared to non-violent protests against abortion clinics?

The issue in both cases is: Are there objective abuses going on? If so, what is the proper procedure to deal with them? If one thinks that the civil order is so far gone, then, even in our own constitutional heritage, the only solution is revolution to put in another concept of “justice”. If not, the proper solution is to obey the law. One can speak and parade, but not outside the law—especially one so serious and based on civilization’s effort to control violence and render just judgments by known and agreed on procedures.

But what about “-ism” crimes—racism and such things? One of the fundamental steps of civilization is that each individual is to be judged on the basis of his act, not his belonging. If I am guilty because I belong to some class or “ism”, then I am guilty as a member of a class, whatever I do or do not do. If I am innocent, whatever I do, because of the group or function or type that I belong to, then, again, it does not matter what I do. In either case, civilization no longer exists.

The real issue in the Ferguson case was not the case itself that the grand jury decided. Rather, it was the spreading public “violence” beyond the case. It implicitly held that the entire system needs to be replaced by a new “-ism”. I take the reaction to the assassination of the Brooklyn police to indicate a sudden realization on the part of the public of what it means to undermine the police as a force needed for their own protection.

The irony is that the constitutional order functioned as it was supposed to. What we have among us are certain people who no longer are willing to accept and obey its terms. The first principle of constitutional order is that we agree to follow its procedures. This case would be relatively easy if the government, in all its branches, had not itself chosen to base itself on the voluntarism and absoluteness of its own civil laws, executive edicts, and arbitrary judicial decisions instead of on its own dependence on the law of reason, of a “higher” law.

James V. Schall, S.J. taught political philosophy at Georgetown University until recently retiring. He is the author of numerous books and countless essays on philosophy, theology, education, morality, and other topics. His most recent book is Reasonable Pleasures: The Strange Coherences of Catholicism (Ignatius Press). Visit his site, "Another Sort of Learning", for more about his writings and work.

All comments posted at Catholic World Report are moderated. While vigorous debate is welcome and encouraged, please note that in the interest of maintaining a civilized and helpful level of discussion, comments containing obscene language or personal attacks—or those that are deemed by the editors to be needlessly combative and inflammatory—will not be published. Thank you.