



Spring 2-24-2023

The Stones in Sam Pillsbury's Bowl

Scott Wood

Follow this and additional works at: <https://digitalcommons.lmu.edu/llr>

Recommended Citation

Scott Wood, *The Stones in Sam Pillsbury's Bowl*, 56 Loy. L.A. L. Rev. 219 (2023).
Available at: <https://digitalcommons.lmu.edu/llr/vol56/iss1/9>

This Symposium is brought to you for free and open access by the Law Reviews at Digital Commons @ Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Loyola of Los Angeles Law Review by an authorized administrator of Digital Commons@Loyola Marymount University and Loyola Law School. For more information, please contact digitalcommons@lmu.edu.

THE STONES IN SAM PILLSBURY'S BOWL

*Scott Wood**

In the familiar parable, an old professor comes into class on the last day of the semester carrying a fishbowl filled with large, round stones. He asks: "Is this bowl full?" The students nod in agreement. The professor then reaches under the podium, pulls up a bag of sand and pours it into the bowl. He asks again: "Is this bowl full?" No nods. He reaches down again and pulls up a pitcher of water. Pours it into the bowl. "Now is it full?" All agree.

"So, what is the lesson?"

A student in the back pipes up: "There's always room for one more thing."

The professor shakes his head. "No, the lesson is that if you don't put the big stones in first, you'll never fit them in later. And what are the big stones? Your values, principles, relationships."

When Sam Pillsbury came to this law school in 1986, his bowl was already half full. After graduating from college at Harvard, he had gathered stones for ten years: first, learning compassion for the victims of violent crime while working as a reporter covering criminal trials, a job that inspired him to become a lawyer; then, intellectual stones from law school where he fell in love with not only criminal law but also every subject. He graduated first in his class at USC. He collected real-world courtroom stones while clerking for federal Judge Matthew Byrne. And then more grounding in the legal profession, gathering stones as a federal prosecutor until 1986 when he joined the faculty at Loyola Law School.

Time does not permit our inspection of all these stones in Sam's bowl.

* Professor Emeritus, LMU Loyola Law School.

Discussed below are core teachings that he eloquently shared in his 2019 capstone book, *Imagining a Greater Justice: Criminal Violence, Punishment and Relational Justice*.¹

In regard to these stones, Sam's bowl is unique because throughout his thirty-five years of teaching, he kept out the sand and water while adding and even reshaping his principles, values and, most of all, his understanding of relational justice.

Before considering Sam's philosophy, his foundational dedication to the law warrants emphasis. His first principle as a professor was to put students' needs first. He writes, "My job is to prepare young people for the practice of law."² He knew who those young people were. Most were in the middle of the class, juggling busy lives. Many had another job or profession, some were married, some had children. Sam aimed to deliver the blackletter on criminal law and criminal procedure. He respected those inevitable questions: "What will be on the test?" "How do you grade?" They want to know that what they learn will enable them to pass the Bar. So, Sam's vision of a greater justice is an enlargement and deepening of the rule of law, not a replacement.

I. GREATER JUSTICE FOR VICTIMS OF VIOLENT CRIME

Sam's fundamental concern is for the victims of violent crime, for law enforcement to accord them safety. He brought this concern with him from his experience as a federal prosecutor because although his client was named "U.S.," he empathized with the victim. He contends that "the first step to full justice for those hurt by violence must be to appreciate their hurt, which is to the soul as well as the body."³

Sam devotes many pages to explaining the harm to the soul, an earthy, commonsense discussion of "soul" as the center of a person's identity. Violence attacks the soul because, as social creatures, "violence destroys treasured relationships, leaving the soul and its connections bereft."⁴ "A full and just response must be relational as well."⁵

Given the depth and extent of the relational harm, it follows that mere enforcement of the criminal law is insufficient for full justice. Sam notes that "when historians of American criminal justice look

1. SAMUEL H. PILLSBURY, *IMAGINING A GREATER JUSTICE: CRIMINAL VIOLENCE, PUNISHMENT AND RELATIONAL JUSTICE* (2019).

2. *Id.* at 309.

3. *Id.* at 39.

4. *Id.* at 31.

5. *Id.* at 222.

back at the last 50 years in the United States, they will call it the Age of the Victim.”⁶ The “tough on crime” laws have brought greater support for the death penalty,⁷ more “life without parole” sentences, even for juvenile offenders, and “three strikes” legislation imposing life sentences for a third nonviolent crime. But victims of violent crime and their loved ones need more.

Sam adds valuable stones to his bowl in offering practical actions to help victims experience relational healing:

Make safe
Listen close
*Be with*⁸

He teaches that these are healing remedies anyone can offer. In addition, Sam devotes careful thought to relational values for the professionals: prosecutors, judges, and public officials. Prosecutors can take the time to listen to victims despite the pressure to move the case. “[I]f prosecutors can grasp the importance of *close listening* and *being with* for victim healing and if they can see how victim healing can be part of a larger justice, then time spent doing this looks much more valuable.”⁹ The greater justice for victims requires relational healing.

II. AN EPISCOPAL DEACON GOES TO JAIL

About halfway through Sam’s long teaching career, he surprised himself when he found that he was being called to religious ministry. He writes that a vocation in ministry “snuck up” on him.¹⁰ So, in mid-life he began a second, parallel career as an Episcopal deacon. As an added surprise, he discovered that, despite his long-standing concern for victims of violence, the subject of most of his scholarly writing, his ministry took him to jail. He began meeting with incarcerated men at the Twin Towers near Downtown Los Angeles.¹¹ Sam soon found

6. *Id.* at 197.

7. California voters rejected initiatives to abolish the death penalty twice: first in 2012, and again in 2016. Alexei Koseff, *Is This Another Way to End California’s Death Penalty?*, CAL MATTERS (Feb. 9, 2022), <https://calmatters.org/politics/2022/02/california-death-penalty-end/> [<https://perma.cc/EQ8B-SWK2>].

8. PILLSBURY, *supra* note 1, at 223.

9. *Id.* at 236 (emphasis added).

10. *Id.* at 310.

11. *Id.* at 311.

that the county jail “collects some of the most broken souls in the community: the homeless and the mad (in all senses), the dangerous and the frail.” He also saw that, notwithstanding the hellish conditions, this place of not-belonging “can sometimes be an excellent place to seek a larger justice.”¹²

Therefore, it is no surprise that several chapters in Sam’s capstone book are devoted to offenders. As is true of his discussion of victims of violent crime, Sam weaves in many stories and anecdotes about individual offenders and their loved ones. His academic research is much enriched by his justice work in the Twin Towers. He candidly admits: “I am conflicted about criminal punishment. I think we should all be conflicted about criminal punishment.” To confront this conflict, (society’s need to punish serious wrongdoers, yet without cruelty¹³), Sam returns again to the principle of moral regard. As a law professor and Episcopal deacon, a greater justice requires moral “regard for victims and offenders alike.”¹⁴

Moral regard for offenders first requires that a person who has inflicted criminal violence take responsibility. This is an inside job, which only the offender can accomplish by facing up to his or her past conduct and the pain involved. The offender has acted out of painful experiences and inflicted pain on victims. “Hurt people hurt people.”

Sam argues for redemption of the responsible. Society and, in particular, the prison and parole systems must support the offender’s efforts to change. Opportunities for education and vocational training are essential.

Parole hearings should focus on the changed person, not the original crime.¹⁵

Offenders who have shown through their actions that they are changed should be released back into society as persons worthy of redemption.

Sam describes moving examples of post-release programs that use victim-offender dialogues and other story-telling formats to advance such redemption.¹⁶ Although he candidly admits that not all

12. *Id.*

13. In his chapter “Cruelty By Law,” Sam probes the sorry history of California’s mandatory life sentences, including “life without parole” imposed on juvenile offenders and the history of the “three strikes” law. *Id.* at 129–55.

14. *Id.* at 101.

15. *See id.* at 262, 262 n.38.

16. *Id.* at 263–67, 264 n.43.

offenders can be redeemed, a greater justice recognizes that, as Mother Teresa said, the problem with the world is that we have “forgotten that we belong to each other.”¹⁷

III. RACE AND CRIMINAL JUSTICE

Sam’s treatment of race—in some ways the heart of his book—is candid and prophetic. He begins with the sobering reality: “Race is the great fault line in America’s past which makes it the great fault line in society today. It remains our greatest barrier to the belonging needed for a peaceful and just community.”¹⁸ But even after providing a deeply thoughtful analysis of race and criminal justice, he candidly admits: “People like me, meaning white folks, will never entirely get it when it comes to race in America. There is too much difference between the white experience and the experience of people of color for complete understanding.”¹⁹

Despite his reticence to claim expertise, he probes the most challenging topics. For example, in discussing race and the police use of excessive force, he recalls in detail the worst chapter in Los Angeles history: the Rodney King case. Beginning in 1990 with the videotaped beating of a Black motorist by four white LAPD policemen, a scene replayed endlessly on TV, the obvious wrongdoing was compounded in 1992 when a mostly white jury acquitted the four. The ensuing riot began in South Central and spread throughout many parts of Los Angeles. Over three days, sixty died, and hundreds of stores and businesses were looted and destroyed. Following the rioting, Los Angeles was forced to face the facts about racial discrimination in policing and the criminal justice system.²⁰

Remembering the Rodney King case is one powerful example of America’s need to acknowledge the whole truth of its history of race. Sam cites the public memorials in other countries, including days set aside, for remembering historic injustices. In our country, such a memorial would remind every American of the dark history of chattel

17. See GREGORY BOYLE, *TATTOOS ON THE HEART: THE POWER OF BOUNDLESS COMPASSION* 187 (2010) (quoting Mother Teresa).

18. PILLSBURY, *supra* note 1, at 278.

19. *Id.* at 298.

20. *Id.* at 277. The civic introspection following the riots led to many positive changes: major investigations into the police and sheriff’s departments and a Department of Justice lawsuit ending in a consent decree. *Id.* During the thirty years since the riots, the police department has been racially diversified with greater efforts to improve community relations. *Id.*

slavery and its post-Civil War aftermath of racist laws and legalized segregation. “This would be a time for sorrow and stillness.”²¹ It would also be an annual reminder of work to be done.

The long-standing and ongoing attempts by American white populations to achieve racial separation are the other main topics of Sam’s chapter. He notes the continuing racial segregation within and between American communities. He thoughtfully analyzes “white fear” and common misunderstandings about the causes of higher crime rates in urban, predominantly African American neighborhoods.²²

But despite racial separation, Sam contends that *relational* separation is impossible. “No one can opt out of race relations in America. We can physically separate, but that only changes the nature of our race relations, it does not end them.”²³ Sam likens the relationship to those in families—our race relationships, too, were established long before we came on the scene.

He concludes: “To heal the American community from past race violence, we need to remember and accept the worst of our past, which is the past of all of us Creating just relations in the American community requires engaging across race lines: speaking honestly and listening closely.”²⁴

Prophetically, a few months after his book was published, the world witnessed the police murder of George Floyd. Across America, millions of people of every race and ethnicity marched in support of the Black Lives Matter movement, the largest interracial movement for criminal justice reform in American history.²⁵ More Americans

21. While Sam was writing this book, Bryan Stevenson’s Equal Justice Initiative dedicated the National Memorial for Peace and Justice on a six-acre site near Montgomery, Alabama. *The National Memorial for Peace and Justice*, EJI, <https://museumandmemorial.eji.org/memorial> [<https://perma.cc/DPH4-FWDS>]. Over 800 steel rectangles, each in the shape of a coffin, are hung in rows. *Id.* Each rectangle is engraved at eye level with the name of an African American and the date of the lynching. *Id.* The so-called “Lynching Museum” memorializes over 4,000 deaths between 1877 and 1950, almost all in the Southern states. PILLSBURY, *supra* note 1, at 285 n.28.

22. PILLSBURY, *supra* note 1, at 292–94.

23. *Id.* at 295.

24. *Id.* at 298.

25. At Loyola Law School, as is true of schools and universities across the nation, concerted efforts have been made to advance these reforms through courses and clinics. Loyola has added an Associate Dean for Equity and Inclusion, Professor Kathleen Kim. *New Academic Year, New LLS Academic Leadership*, LOYOLA MARYMOUNT UNIV.: LLS, <https://www.lls.edu/academicdeans/newacademicyearnewllsacademicleadership.html> [<https://perma.cc/T5QX-WRGP>]. Although she and many of her colleagues have already devoted years of their professional careers to educating law students on social justice, under Dean Michael Waterstone’s leadership, they have expanded those efforts. *See id.* Loyola now celebrates one of the most uniquely diverse student bodies in the nation and offers around twenty Social Justice clinics. *The Loyola Social Justice Law Clinic*,

than ever are speaking honestly and listening closely about reforming criminal justice.²⁶

IV. SAM'S OWN HOPEFUL STRIVING

So, the old professor asks again, "Is Sam's bowl full?" Not at all.

Not only does his Episcopal ministry continue to thrive, both in church and jail, but so does his scholarship and creative writing. As for now, his work at Loyola Law School is done. Reflecting on Sam's remarkable teaching career, we can easily imagine the greater justice being done every day by thousands of his former students.²⁷

Lines from the great Jesuit poet, Gerard Manley Hopkins, capture Sam's dual career. In Hopkins's poem²⁸ about the ideal life's work, he writes:

[Some say] *What I do is me, for that I came.*
I say more: the just man justices;
Keeps gráce: thát keeps all his goings graces.

Sam Pillsbury leaves Loyola to gather more stones of hope, keeping all his goings graces.

LOYOLA MARYMOUNT UNIV.: LLS, <https://www.lls.edu/academics/experientiallearning/clinics/> [<https://perma.cc/3T8F-NRGP>]; *2020 Raw Data Law School Rankings: Minority Student Population (High to Low)*, PUBLICLEGAL, <https://www.ilrg.com/rankings/law/1/desc/MinorityStudents> [<https://perma.cc/2LEW-43D9>].

26. A note of realism is also in order. In California, statutory changes making criminal sentencing less cruel are currently under attack. See, e.g., Editorial, *Yes, There Are Problems with Prop. 47 and \$0 Bail. Just Not What You Think*, L.A. TIMES (Dec. 29, 2021, 5:00 AM), <https://www.latimes.com/opinion/story/2021-12-29/prop-47-zero-bail-crime> [<https://perma.cc/9UP7-AYYZ>]. Also, recently elected Los Angeles District Attorney, George Gascón, faced a recall campaign by those attacking his reform policies. David Lauter, *George Gascón Recall Effort Had Good Chance to Win Had It Made the Ballot, Poll Finds*, L.A. TIMES (Aug. 26, 2022, 9:57 AM), <https://www.latimes.com/california/story/2022-08-26/failed-effort-to-recall-george-gascon-had-a-good-chance-of-winning-new-poll-shows> [<https://perma.cc/2W2U-7CG2>]. "Tough on Crime" redux.

27. Early in his career, Sam observed that "we teach students how to separate the law from life, how to pull out of life's complexities the few key principles which decide discrete legal disputes. Yet the best lawyers know that law is much more than legal analysis. They know how to reweave the cloth of life, with legal principles intertwined with the rich warp and weft of human experience." Samuel H. Pillsbury, *Creating Freedom: Birmingham, 1963, a Legal Sermon in Celebration of Martin Luther King Jr.'s Birthday, January 15, 1999*, 33 LOY. L.A. L. REV. 747, 773 (2000).

28. Gerard M. Hopkins, *Kingfishers Catch Fire, Dragonflies Draw Flame*, in THE NORTON ANTHOLOGY OF POETRY 858, 858 (3d ed. 1983).

