

Louisiana's habitual offender law is cruel and unjust

Just because something is legal doesn't make it morally right.

by [Peter W. Marty](#) in the [September 9, 2020](#) issue



(Photo by hiredmussel via Creative Commons license)

Louisiana is famous for many things—Cajun and Creole culture, jazz festivals, zydeco music, not to mention being the birthplace of several current Century editors. More infamously, Louisiana has been dubbed “the world’s prison capital”—it has the highest incarceration rate in the US. The state’s harsh sentencing laws have made incarceration its default response to crime. In particular, Louisiana’s habitual offender law, under which subsequent convictions are accompanied by longer and longer sentences, provides a convenient way to imprison a lot of poor, nonviolent offenders for life. Eighty percent of those convicted as habitual offenders are black.

Even given Louisiana's penchant for retribution, a recent headline stunned me: "Louisiana Supreme Court Won't Review Life Sentence for Man Who Stole Hedge Clippers." Fair Wayne Bryant stole a pair of hedge clippers from a carport in 1997. Since then he's been serving life without parole at the maximum-security Angola State Prison. Bryant was given the extreme sentence under the habitual offender law, having previously been convicted in 1979 for the attempted armed robbery of a cab driver and, years later, for trying to forge a \$150 check, for possessing stolen goods from Radio Shack, and for a house burglary.

The lone black justice on the Louisiana Supreme Court, Chief Justice Bernette Johnson, was the sole dissenter in the recent decision. Her dissent was scathing. "The purposeful imposition of pain and suffering [is] grossly out of proportion to the severity of the crime," she noted. Johnson drew a line backward from the cruelty of Bryant's sentence to 19th-century "pig laws" in southern states, under which emancipated slaves endured long and brutal sentences for the petty theft of stealing a farm animal or work implement. "Pig laws were largely designed to re-enslave African Americans," Johnson wrote. "Each of [Bryant's] crimes was an effort to steal something. Such petty theft is frequently driven by the ravages of poverty or addiction," she noted. "It is cruel and unusual to impose a sentence of life in prison at hard labor for . . . a failed attempt to steal a set of hedge clippers."

If Fair Wayne Bryant's case doesn't evoke righteous indignation in those of us who claim to walk by faith, something is deeply amiss with our understanding of divine justice. A righteous community is supposed to reflect the character of God and "defend the cause of the poor" (Ps. 72:4). I can't think of a greater calling for religious people than to yearn for the flourishing of vulnerable individuals.

Never mind what's on the books in Louisiana. Laws aren't the best place to discover right from wrong. As we know well from past segregation laws in southern municipalities, just because something is legal doesn't make it morally right. District attorneys in Louisiana don't have to be seeking the stiffest penalties, even if legislators there lack the spine to scrap the habitual offender statute. Prosecutors and judges are perpetuating racial injustice through inexcusable sentences like Bryant's.

When the Hebrew prophets raged, it wasn't because some law was broken. Their outrage was directed at the egregious abuses of those in power who had no sense of mercy. Prophets detested exploitation of the poor.

C'mon, Louisiana. Justice apart from mercy is cold and worthless. If ancient prophets aren't your thing, try paying attention to words of a more recent prophet: "The time is always right to do what is right."

A version of this article appears in the print edition under the title "Just wrong."