

Justice Wanting: The Problem With Ariel Castro's Plea Bargain

By: Marni Soupcoff – August 2, 2013

There is little doubt in my mind that the plea bargain arrived at between Cleveland kidnapper Ariel Castro and his prosecutors was the best possible outcome given the reality of the U.S. justice system. This deal means that victims Michelle Knight, Georgina DeJesus, and Amanda Berry will not have to go through the emotional ordeal of testifying -- in a drawn-out highly publicized trial -- about the years of abuse they endured. These women have certainly been through enough already. I'm also glad that the deal spares Ariel Castro the death penalty -- glad not for his sake, but because it will save Americans the expense of the years and years of litigation that inevitably accompany any capital case, not to mention the publicity for the criminal that accrues with each new step in the seemingly endless process.

So, yes. A consensual agreement that results in life behind bars for Castro (a life sentence plus 1,000 years!), without a messy trial and without the almost interminable string of death row appeals, seems like the best that could have been hoped for here. But there is still something profoundly sad about the result. After all, what does it say about the justice system that in a case where almost everyone agrees about the profoundly cruel and disturbing nature of the crimes committed, the least satisfying or constructive thing most of us can imagine is the case actually going through the normal process of criminal prosecution?

In my opinion, this is a serious problem. Respect for the law is eroded when there is a pervasive sense that the law just isn't up to the job of delivering anything resembling justice. And as grateful as I am for all the ugliness and legal wrangling the Castro plea has spared everyone, it's really not the right way for the government to make decisions that determine the lives of its citizens. How did we end up here, at a juncture where the drawn-out trial and appeals process looms as such an unseemly and shabby alternative that just ducking the whole thing entirely, and splitting the difference on a penalty, seems far preferable? This must be the reflection of many factors, but I'd guess that chief among them are case overload (hence the delays and the sloppiness involved when cases do make their way to the fore), the way victims are often dragged through the mud on the stand, and the disconnect between the sentences those found guilty receive and what seems reasonable to the general public.

I don't think there is much to be done about the second factor. As unfortunate and unfair as it is that someone who has been victimized should have to relive her horror while being questioned aggressively and adversarially in a room full of strangers, it's a necessary part of giving an accused person a fair trial. And providing a fair trial is ultimately an overriding government responsibility. I do feel, though, that indignity of

the exercise would be lessened if the other factors were addressed to make the overall process seem more likely to be a means to a just result.

I think the key here is the case overload. Given the incredible growth of the list of behaviours and activities that constitute illegal activity, it's no wonder the U.S. justice system is simply overwhelmed by the volume it has to deal with. If it cleared out a host of the non-violent victimless crimes currently on the books, then suddenly the resources would be there to deal with cases like Ariel Castro's with in a thorough, timely, and transparent way. How much more swiftly and smoothly might criminal appeals progress if courts and prosecutors weren't tied up with the nearly half a million people they have behind bars for a drug offense? As the Cato Institute's Tim Lynch wrote in *Reason* magazine, a couple years ago: "Politicians chose to expand the list of crimes, eventually turning millions of Americans into criminals. Ending the disastrous war on drugs would unclog our courts in short order."

What's my point? A big part of the problem is that the justice system has been stretched so thin that delivering justice has become unworkable, even in cases that should be poster children for using the trial process to exercise the delicate balance between an accused's due process rights and the government's responsibility to hold a citizen who has violated someone else's rights to account. The return to a more focused and concentrated approach on crimes with clear victims might not be a cure-all, but it would certainly help matters a lot. And it would also serve to bring sentences more in line with the public's common-sense view of which punishments should fit which crimes: E.g., a life sentence for Ariel Castro would mean a lot more (and would be a far more definitive and powerful statement of society's outrage) if it came down in a country that didn't also dole out life sentences for first-time drug offences.

Forget about debating the death penalty here. That's a whole other article. But for as long as capital punishment remains on the books in many jurisdictions, decisions about when and whether to invoke it shouldn't have to depend on administrative considerations about the decades that will be spent on these cases. If the U.S. justice system must pour money and resources into something, pouring it into expediting and ensuring the fairness of capital cases would make a lot more sense than pouring it into the prosecution of drug offenses. It would also make debates about what to do with a case like Ariel Castro's more meaningful, since it would open up palatable options beyond weak compromises.

A plea-bargain half-measure should not be the best the U.S. justice system has to offer when three women have endured unfathomable pain and cruelty at the hands of a man who shows no remorse for his crimes.