

## Session 204: The Practice of Restorative Justice in Prison Reform

“Restorative Justice in Prisons”  
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Most restorative programmes take place outside prison. There are several reasons for this. One is that it is far easier for offenders to make amends if they are not in prison. Another reason is that restorative justice is often community-based, which means that the programmes work with victims and offenders in the community. A third reason has been the hope of policy makers that restorative justice will be a method of reducing court and prison overcrowding. It may actually contribute to that if the people sent to restorative programmes would otherwise have gone to prison.

However, there have also been efforts to explore how restorative justice might fit into the context of a prison, and further, whether it would be possible to conceive of a restorative prison regime – one based fully on restorative principles and values. There are at least four ways these efforts have started.

One is when groups of prisoners have decided that they want to find ways to make amends and to meet with their victims.

A second is when leaders in correctional services in their countries become champions of restorative justice (two good examples can be found in Canada and the US state of Minnesota). “Corrections” is a broader term than prison; it can include community based sanctions such as probation and parole. As restorative ideas have been tried successfully in the community, these leaders have decided to see whether the programmes could be useful inside prison.

A third is when people working on prisoner rehabilitation have discovered that it is necessary to deal with prisoners’ responsibilities to those they have harmed as part of their reintegration process.

A fourth is when victims of serious crime decide that they would like to meet with their offender. This is usually years after the crime took place, and the offender will have gone through the criminal justice system and been sent to prison.

What I would like to do is briefly review attempts that have been made to introduce restorative practices or programmes into the prison setting. These efforts range from relatively modest experiments to those that are extremely ambitious. I will organise these programmes by categories based on their objectives, and will give illustrations of each.

I will conclude by reviewing issues that should be considered in attempting to include restorative justice programming into prison, and that must be considered if the intention is to permeate the prison with restorative values and

principles. The reality of prisons and of prison life raises substantial barriers to the success of restorative programmes.

Restorative programmes in prison may be categorized based on their objectives. I present them in order based on the increasing ambitiousness of those objectives.

1. Some programmes seek to help prisoners develop awareness of and empathy for victims.

a. An example is the Focus on Victims programme in Hamburg, Germany, which takes place during the prisoners' first three months in the institution. The project helps prisoners think generally about victimization, then consider people they know who have been victims, reflect on their own experience of being victims, and then look in more detail at the consequences and aftermath of victimization. It concludes with an introduction to victim offender mediation.<sup>1</sup>

b. The Victim Offender Reconciliation Group, initiated by prisoners at the California Medical Facility, operates weekly meetings to which they invite various victims groups to make presentations and participate in dialogue. For example, representatives of the Bay Area Women Against Rape victim support organization have met with them on a number of occasions to discuss the trauma of rape and its aftermath, and to lead discussions about the attitudes of men who rape. This has led to prisoners doing service projects or making products for sale so that proceeds can go to the victim rights groups that have participated in the programme.<sup>2</sup>

c. Still other programmes organise conversations between prisoners and surrogate victims – people who have been victims of crimes, but not those committed by the particular offenders they are meeting with. The purpose of these programmes is to make the victim experience real by allowing prisoners to develop a relationship with victims, to hear their stories, and to reflect together on how crime affects the lives of victims. An interesting side-benefit of these programmes is that not only do prisoner attitudes change, so do those of the victims, as they come to know the prisoners. An example is the Sycamore Tree Project, run by Prison Fellowship in a number of countries.

2. A second objective is to either require or make it possible for prisoners to make amends to their victims.

a. In some of these programmes, amends are made to the actual victim. Belgium gives prisoners access to a fund that allows them to earn money by doing community work. This money is applied to restitution to their victim.<sup>3</sup>

b. In others the emphasis is on the community as an indirect victim. The International Centre for Prison Studies in the UK initiated a “restorative prison” project in three prisons. One of the four key objectives was to create opportunities for prisoners to perform community service projects in and outside of prisons, such as reclaiming public parkland.<sup>4</sup>

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<sup>1</sup> Hagemann, Restorative Justice in Prison? 225-227.

<sup>2</sup> Liebmann and Braithwaite, Restorative Justice in Custodial Settings, 17-18

<sup>3</sup> Newell, Responding to the Crisis, p.4.

<sup>4</sup> Coyle, Restorative Justice in the Prison Setting, p.8.

3. A third group of restorative programmes are aimed at facilitating mediation between prisoners and their victims, their families and their communities.

a. The State of Texas developed a programme at the request of victims that facilitates meetings between crime victims or survivors with their offenders. Most of the offenders are serving very long sentences; some are on death row. The programme does not affect the prisoners' sentence length; however, the victims' opinions are very influential in parole hearings and some victims have decided not to contest parole after their meetings. Typically, the victim requests the meeting, although this is not always the case. There is, however, a lengthy preparation process designed to ensure that the victims and prisoners are ready for such a meeting and that it will not result in secondary victimization.

b. Many prisoners have alienated their families because of their involvement in crime, the embarrassment and harms they have caused their families, and in some cases because of the crimes they have committed against family members. Consequently, it may be necessary to facilitate interaction between prisoners and their family members in order to discuss how to re-establish a meaningful relationship together. An example of this would be a project of Prison Fellowship Cambodia that is part of their non-residential aftercare programme for prisoners. Volunteers with Prison Fellowship will initiate conversations with family members about the prisoners' expected re-entry, and where there is interest will facilitate meetings between family members and the prisoner.

c. Communities can be fearful and angry at the prospect of a prisoner returning. Restorative justice programmes have emerged to address this particular problem. In Zimbabwe, the Prison Fellowship affiliate acts as a facilitator in conversations between the head man of the prisoner's village and the prisoner related to the prisoner's return to the village.

A remarkable Canadian programme, now used in England as well, is called Circles of Support and Accountability. These programmes assist in the reintegration of serious sexual offenders, usually men who are paedophiles, into communities. There is understandable apprehension on the part of both the communities and the released offenders. The Circles work with the offender, social services, local law enforcement and community members to organize a treatment programme and to negotiate conditions related to community safety and security.

4. A fourth objective was set by the Restorative Prison Project in the UK: to strengthen ties between prisons and the communities in which they are situated.

This was an institutional objective that acknowledged that isolation of prisoners from the community while within prison is exacerbated by the lack of productive ties between prisons and the communities in which they are found. The strategies used to overcome this included public awareness activities, recruitment of volunteers to help in the prison, and negotiation of community service projects that would be valued by members of the community.<sup>5</sup>

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<sup>5</sup> Coyle, p. 10.

5. A fifth objective of restorative justice programmes in prison is to create a culture within prison in which conflict is resolved peacefully. There are multiple layers to this objective.

a. The first is to teach prisoners how to deal with conflict in a peaceful way. One example of this is the Alternatives to Violence Workshops developed by Quakers at the request of prisoners in Attica, New York. This project is used throughout the world. It helps prisoners recognize when potentially violent situations are likely to arise, learn communication skills to alleviate the potential for violence, and learn to value others, which it is believed will reduce their resort to violence.<sup>6</sup>

b. A second kind of programme helps prisoners who come into conflict with other prisoners find peaceful ways to resolve it. An Ohio programme called Resolution trains prisoners to serve as mediators. These prisoner-mediators help prisoners in conflict find their own solutions.<sup>7</sup> A closer example is the peace table in Bellevista Prison in Medellin, which is where imprisoned gang leaders meet to resolve disputes inside and outside the prison.

c. A third category of programme addresses workplace conflict between correctional staff members, including senior management. Programmes like this have been used in Philadelphia City Prisons and the state of Ohio. The programme has not only helped staff address their own conflicts, it has also improved their ability to deal with conflict with prisoners.<sup>8</sup>

d. A fourth category of programme deals with prisoner discipline and grievance processes.<sup>9</sup> This is a sensitive area, because it addresses the issue of power in prisons. The staff and management of the prison have power, and prisoners have far less. An attempt to introduce conflict resolution to deal with prisoner complaints against staff members, or disciplinary proceedings initiated by staff against prisoners, must tackle this directly.

6. The sixth objective, and by far the most ambitious, is to create an environment in which the prisoner's entire self may be transformed. Cullen and others have called this a Virtuous Prison, one in which restorative justice and rehabilitation would be combined in an effort, they write, "to foster 'virtue' in inmates, which is usually defined as 'moral goodness' or 'moral excellence.... Prisons should be considered moral institutions and corrections a moral enterprise. Inmates should be seen as having the obligation to become virtuous people and to manifest moral goodness. This statement announces that there are standards of right and wrong and that offenders must conform to them inside and outside of prisons. The notion of a virtuous prison, however, also suggests that the correctional regime should be organized to fulfil the reciprocal obligation of providing offenders with the means to become virtuous."<sup>10</sup>

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<sup>6</sup> Sloane, A Study of the Effectiveness of Alternatives to Violence Workshops in a Prison Setting, p. 3.

<sup>7</sup> Roeger, Resolving Conflicts in Prison, p 4

<sup>8</sup> Roeger, p 5.

<sup>9</sup> This approach has been used in dealing with citizen-police complaints, which raise similar issues of power. Restorative Justice Consortium, Restorative Justice and Prison Staff, pp. 4-5.

<sup>10</sup> Cullen, et al, The Virtuous Prison, p 268.

Clearly, certain realities of prison life work against efforts to establish restorative regimes and certainly against virtuous prisons. Vidoni Guidoni, writing of his experience with a restorative justice initiative in an Italian prison, identifies a number of obstacles.<sup>11</sup>

1. First, prison regimes control the lives of prisoners, making it difficult for them to exercise personal responsibility. Yet, responsibility is a key value of restorative justice. Barb Toews, who has worked on restorative justice initiatives in Pennsylvania prisons, found that many prisoners would like to have direct or indirect contact with their victims, but they are prohibited by law from contacting them. So they wait, hoping that the victim will initiate contact.<sup>12</sup>

2. Second, prison subcultures are typically deviant, making rejection of deviance more difficult for prisoners. Inviting them to participate in a process of restoration and transformation requires tremendous strength on their part to move against the prevailing culture.

3. Third, prisons use or threaten physical and moral violence, making adoption of peaceful conflict resolution more difficult. Force is used or threatened to keep prisoners from escaping and to control their movement in the prison. Furthermore, life among prisoners is typically characterised by threatened or use of violence.<sup>13</sup> These realities work against efforts to instil in prisoners a strong value for conflict resolution.

4. Fourth, prison administrators, staff and prisoners seldom have the same goals, making it difficult to maintain a single restorative purpose. Restorative justice programme directors may be victim-centred, while the prisoner is interested in getting his sentence reduced. The prison administration may resist the programme because of the increased burden on staff.

5. Fifth, prisons are authoritarian and hierarchical, making it difficult to develop prisoner autonomy. This is related to the issue of prisoner responsibility and to the reality of power imbalances in the prison setting.

6. Finally, prisons are offender-focused, making it difficult to for restorative justice programmes in the prisons to maintain a focus on the needs of victims. This is a problem confronted by all restorative justice programmes, but it is particularly acute in prisons because it is there that prisoners, not victims, reside. Perhaps the best example of a restorative prison, a virtuous prison, that I have seen is the model developed by the Brazilian affiliate of Prison Fellowship. The acronym of their Portuguese name is APAC. I will call this model APAC.

The APAC prisons use no correctional or police staff. It is run entirely by volunteers from the community who come to express the love of God for the prisoners. It is believed that if the staff were paid, both prisoners and staff would recognize that they come because they receive money to do this. No payment means they come out of love.

The philosophy of the methodology is that crime is the violent and tragic refusal to love. We were all made to love and to be loved. But love is like speaking and writing; we are born with the innate ability but need to be taught

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<sup>11</sup> Vidoni Guidoni, *The Ambivalences of Restorative Justice*.

<sup>12</sup> Toews, *Listening to Prisoners Raises Issues About Prison-Based Restorative Justice*, p 5

<sup>13</sup> Joanna Flanders-Thomas, et al, *Advancing a Human Rights Culture in our Prison*, p 1

how to do it. Unfortunately, some families are not able to love or to teach what it means to love. When that happens, and when the result is criminal behaviour, the prisoner needs to be taught how to love. APAC creates a community in which that can happen.

There is a strong emphasis on prisoners taking responsibility for themselves, for each other, and for the community within the prison. Prisoners are given positions of trust; a prisoner acts as the doorkeeper to the prison, for example.

The regime is progressive in nature. Prisoners start in a closed unit, then move to a unit where they live at night and work in the community during the day, then they move outside the prison entirely and report back on a weekly basis. The time in the closed unit is spent helping the prisoner understand his unique gifts and the remarkable person that she is, while also addressing medical, social and psychological needs. Prisoners are admitted in small numbers so that the prison culture of what they call human valorization remains strong.

Family is very important in the APAC regime. Families are treated with great respect and dignity when they visit, and there are many opportunities for them to come. The APAC volunteers have special seminars for the families, with the goal being to prepare the prisoner to return to a healthy family on release. If the family of the prisoner wants nothing to do with him, a volunteer couple will become his godparents, taking on some of the roles the prisoner's parents have relinquished.

The one important restorative ingredient that has been absent has been the victims of the prisoners' crimes. But lately, in response to requests by prisoners, the APAC leadership has been exploring ways to help the prisoners deal with the guilt and responsibility they have for what they have done to others, and to respond in love and compassion to those victims.

There are many opportunities, and many perils, in introducing restorative justice into the prison setting. Nevertheless, experience is showing that restorative programmes can be of significant value to prisoners, their victims and the community.