

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 1 September 2014  
PC-CP\docs 2014\PC-CP(2014)17e

PC-CP (2014) 17

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

**Council for Penological Co-operation**  
**(PC-CP)**

**Restorative Justice in Prisons:  
Methods, Models and  
Effectiveness;**

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## Introduction

Imprisonment of offenders is a central and seemingly indispensable part of the raft of methods used to respond to crime in contemporary societies. Walmsley (2013) estimates that, throughout the world, 10.2 million people are held in penal institutions and that prison populations are growing in all five continents at a faster rate than the general population. Yet, the practice of imprisonment is regularly criticised as an out-dated penal method which is ineffective (in either deterring crime or preparing offenders for life in the community upon release), inhumane, and very expensive.<sup>ii</sup> Critics of imprisonment argue both for a significant reduction in its use and for the reform of prison conditions to render the practice more constructive and civilised. They also argue for a change in the way prisoners are represented and seen: instead of being regarded as depraved, dangerous and polluting individuals to be shunned, it should be recognised that many prisoners are often deeply unhappy individuals who are frequently long-term victims of abusive behaviour and social neglect and that, with constructive intervention, many are capable of improving their attitudes and behaviour.<sup>iii</sup>

In recent decades, many who have voiced such criticisms of imprisonment have suggested that 'restorative justice' is the way forward. Restorative justice is most commonly presented as a viable *alternative* to imprisonment for many offenders.<sup>iv</sup> On this view, restorative justice interventions can perform many of the functions we expect imprisonment to perform, such as discouraging crime and reoffending, changing the outlook of offenders, and satisfying victims and society that something meaningful is being done in response to crime. However, its advocates argue, restorative justice can perform these functions, and perform them best, whilst keeping offenders in the community. But, in recent decades, some restorative justice advocates have acknowledged both that for the foreseeable future society will continue to send many offenders to prison and that, for some offenders, imprisonment is an appropriate and necessary sanction. Hence, they have concluded, if imprisoned offenders, their victims and society are to get the benefits of restorative justice, it will need to be used *within* prisons (Edgar and Newell, 2006; Dhimi et al, 2009). Accordingly, in recent years there has been a significant growth and development of restorative justice in prisons (Van Ness, 2007). This has taken a variety of forms, ranging from limited experiments with restorative encounters involving very small numbers of prisoners and a handful of crime victims to more ambitious efforts to introduce a restorative justice ethos throughout entire prisons. Moreover, many suggest that the ideas of restorative justice have important implications for our thinking about fundamental questions of prison policy, such as what prisons are for, where they should be located, what size they should be, how they should be run, and which government departments should have responsibility for them.

The focus of this report is on the fruits of these efforts to use restorative justice *within* prisons. To this end, the next section of the report will provide a brief explanation of what restorative justice is. The following section will look at how restorative justice is and could be applied within prisons. A number of different approaches to the use of restorative justice within prisons will be delineated, with each approach being illustrated by examples from actual projects. The final section will discuss the potential of restorative justice in prisons, some of its pitfalls, and how the potential might be realised and the pitfalls avoided.

## Restorative Justice

Since the beginning of the twenty-first century, 'restorative justice' has moved from being a term familiar to only a small number of people involved in shaping and carrying out penal policy in a few jurisdictions to becoming a term at the heart of penal policy discussion worldwide. Yet, such discussion often revolves around an impoverished and indeed inaccurate understanding of what restorative justice is (Johnstone and Van Ness, 2007). A very common mistake, for instance, is to regard certain characteristic practices of restorative justice, such as victim-offender mediation or restorative conferencing, as if they themselves were restorative justice (Johnstone, 2013b). Accordingly, this report will start with an attempt to get across, very briefly, the meaning of 'restorative justice'.

Restorative justice is best described as a distinctive way of thinking about how we should *understand* and *respond* to crime (and other troublesome conduct).

*A distinctive way of understanding crime:*

Responses to crime always embody particular *understandings* of crime. In contemporary society, responses to crime are shaped by and express a manner of understanding crime that emerged many centuries ago and is now often taken to be natural and obvious (see Johnstone and Ward, 2010: chapters 1-3). Crime is assumed to be a distinct species of wrongdoing: wrongdoing which is so morally grave and such a threat to society that it requires a particular response: punishment by the authorities in society. What makes crime so special and so problematic, on this view, is that:

- (i) it involves a breach of the most fundamental rules of conduct in society, rules which prohibit appalling activity such as murder, assault, rape, theft, fraud, assault, burglary and blackmail;
- (ii) it generally involves the intentional or at least reckless flouting of these rules of conduct - hence, those who commit crimes have demonstrated a lack of regard and perhaps even contempt for society's fundamental rules.

For restorative justice advocates, this understanding, whilst it certainly captures important aspects of crime, fails to draw attention to what it is that really makes crime problematic. Hence, they argue for a restructuring of our response to crime around a quite different way of depicting its essence. At its core, they argue, crime is a violation of a *person* by another person. As leading restorative justice advocate Howard Zehr (2005: 182) puts it, crime 'is a violation of the just relationship that should exist between individuals'. It is this interpersonal dimension of crime that restorative justice advocates seek to bring to the centre of our attention and which, they suggest, should be the starting point for our thinking about how we should respond to it. That is to say, when we discuss and debate how we should respond to crime, we should be thinking first and foremost, not about how we deal with somebody who has deliberately broken society's rules, but about what we should do in response to the fact that a specific person (or small group of persons) in our society have been violated by the wrongful actions of another person.

*A distinctive way of responding to crime:*

The characteristic response to crime in contemporary societies is for the authorities to punish, i.e. inflict something unpleasant – upon the offender. The great debates about penal intervention (about why we punish, how punishment is justified, what constitutes appropriate methods of punishment, how the severity of punishment should be determined, whether punishment should be combined with other interventions designed to reform the offender, the procedures to be followed in order to determine whether somebody qualifies for punishment and if so what their punishment shall be) all take place around the more basic assumptions that the core of our response to crime should be punishment of the perpetrator and that the central authorities in society should take charge of this process.

Restorative justice needs to be understood as something distinctive from this characteristic response. Its distinctive features can be summarised as follows.

1. First, and most fundamentally, it focuses less on the question 'what should we do to or with the offender?', more on the question of what we should do in order to repair the harm the offender has caused. In this respect (but only in this respect), restorative justice has much in common with the way contemporary societies deal with 'civil' or 'private' wrongs which cause harm to others (wrongs such as causing somebody injury through negligence) (see Cornwell et al, 2013). Its priority is to identify who has been harmed, the nature and extent of the harm suffered, what needs to be done to repair the harm, and who has the responsibility to repair the harm. But, it is important to emphasise here that the sort of repair envisaged in restorative justice is 'moral repair': the restoration of right relations after wrongdoing (Walker, 2006; Sharpe, 2007). Hence, although restorative justice will sometimes involve wrongdoers making financial restitution to their victims, this is often fairly minimal and is valued more for what it symbolises (acknowledgement of responsibility for harm, remorse and a desire to make amends) than for its material benefit to recipients.
2. Restorative justice seeks to give those responsible for and affected by the harm caused by crime – i.e. the perpetrator(s) and the victim(s) – along with members of their 'micro-

communities' (people very close to them, such as friends and family members) a central role in the process of deciding what needs to be done by way of reparation. Hence, whilst the authorities in society still play an important role in the decision-making process, the role of restorative justice is to organise and facilitate discussion and decision-making by the parties directly involved, rather than to make decisions and impose them upon the parties.

3. In restorative justice the emphasis is on the power of dialogue (or at least a certain type of dialogue) to solve seemingly intractable conflicts and problems in human relationships and to bring about significant positive transformations in people's attitudes and dispositions (Miller, 2011). Restorative justice is therefore typically portrayed and understood as an alternative to the use of violent and coercive methods which are often regarded as necessary in order to bring about the compliance of individuals with social expectations of them or to incapacitate those who doggedly fail or refuse to comply with those expectations. The sort of dialogue to which restorative justice advocates attribute such remarkable power is hard to describe in brief. Basically it involves people in conflict (such as offenders and victims) having, with the help of a skilful facilitator, a relatively informal, emotionally rich, and mutually respectful face-to-face conversation about in what ways the actions of one party have harmed the other (often in ways in which the perpetrator of the harmful act did not realise or consider) followed by discussion of what the perpetrator can and should do in an effort to repair or make up for that harm. Often the conversation will be broadened to involve other parties closely connected to the perpetrator and victim, and sometimes representatives of various social services, in discussion of how they can provide the perpetrator with accountability and support and help the victim recover.

#### *Characteristic restorative justice practices*

As it has developed, certain processes or practices – often adapted from or with a resemblance to the indigenous justice practices of various peoples - have become viewed as exemplifying restorative justice principles and as particularly suited to the achievement of 'moral repair'. These include:<sup>v</sup>

*Victim-offender mediation:* a victim and offender (or, where a crime has multiple offenders and/or victims, victims and offenders) meet face-to-face to talk about how the crime affected the victim and to try to reach an agreement about what the offender should do in an effort to repair the harm caused. As the name suggests, the facilitator of this encounter adopts a role more like that of a mediator than that of a judge or sentencing authority. The facilitator uses mediation skills in order to help the parties talk openly and constructively and to reach agreement. There is an emphasis on empowering parties to solve their own problems, and to gain a sense of power from doing so, and upon humanising the parties to each other. (However, it is important to emphasise that victim-offender mediation differs from mediation in 'civil' cases, in that responsibility for wrongdoing and the resultant harm is pre-decided; indeed, it is usually a precondition of victim-offender mediation that the offender accepts such responsibility).

*Restorative conferencing:* Restorative conferencing is similar to victim-offender mediation, but differs in that a wider group of people take part in the discussion. These can include family members and 'significant others' of the victim and offender, as well as representatives of justice agencies and social services. For many restorative justice advocates, conferencing represents a significant advance upon victim-offender mediation, in that it enables conflicts and problems to be addressed within larger family and community contexts.

*Sentencing circles:* A circle is formed including those who would take part in conferencing, along with other interested community members. In a ritualistic process influenced by the way aboriginal peoples discuss and decide issues affecting the entire community, each member of the circle has the opportunity to speak, and to be listened to respectfully, about how they understand the offence and what they think should be done about it. The community's understanding and wishes are then considered by the sentencing authority and taken into account when deciding what should be done both in response to the offence that has been committed and to prevent future occurrences. Circle sentencing often overlaps with and may be used in conjunction with a range of other circle processes, such as 'healing circles' and 'peace-making circles' which are also generally considered to be vehicles of restorative justice.

### *The principle of voluntariness*

Virtually all restorative justice advocates and practitioners of restorative justice subscribe to the view that, ideally, all parties must participate voluntarily. For some, this as a 'core value' of restorative justice, with the implication that processes in which any parties participate without their free and voluntary consent cannot properly be described as restorative (Edgar and Newell, 2006: 27-9). Others are more willing to recognise that purely voluntary encounters between victims and offenders cannot always take place and that a 'purist' objection to the use of any coercion or force would result in restorative justice never occupying more than a marginal place in our repertoire of methods for responding to crime (see, especially, Walgrave, 2007: 564-6). Hence, they are willing to regard some 'imposed sanctions' which achieve a reparative goal as examples of restorative justice, whilst at the same time agreeing that voluntary participation should be the standard.

One matter which is seldom clarified in these discussions is that of what would vitiate voluntariness (Johnstone, 2012).<sup>vi</sup> Clearly, the use of force or threats to obtain cooperation with restorative justice processes would render the process non-voluntary (and for 'purists' non-restorative). But, a more common scenario is when suspects or offenders are explicitly or implicitly provided with an inducement to participate. For instance, in diversionary schemes, a suspect or offender is often invited to participate in restorative justice, and informed that they can turn down this invitation, but that if they do so their case may be dealt with in the ordinary way, meaning they will be liable to prosecution and punishment for a criminal offence. Or it is possible that, in a prison-based scheme, prisoners may be tempted to participate if they have reasons to think that by doing so they will obtain better conditions or even a reduction in time served. Such cases make it clear that coercion/voluntariness is not an either/or matter; rather there is a continuum with pure force at one end and pure voluntariness on the other. Locating a person's participation on this continuum requires a complex judgement. As we shall see, this is a crucial matter when it comes to thinking about the public and political acceptability of restorative justice schemes in prisons.

### **Restorative justice in prisons**

For many restorative justice advocates the practice of imprisonment is so antithetical to the whole point of restorative justice that the only appropriate stance to adopt is to seek to divert offenders away from imprisonment towards community-based restorative justice programmes (Immarigeon, 2004). Moreover, from such a perspective, the idea of using restorative justice in prisons is not only futile – in that the prison culture and environment seriously hampers the possibility of doing anything that can seriously be called restorative justice – but also dangerous (Guidono, 2003). The danger is that raising the mere possibility that constructive work can be done with offenders within a prison environment might lend the prison a legitimacy it does not merit and provide sentencing authorities with a further spurious justification for sending offenders to prison.<sup>vii</sup>

On the other hand, some advocates of restorative justice argue that so long as restorative justice is developed only in community settings, outside the prison, it will be regarded as suitable for young and minor offenders and their victims, but not for serious offenders and their victims (Edgar and Newell, 2006: 24-5). Hence, Edgar and Newell argue:

While restorative justice and prisons continue to be seen as opposite points on a spectrum, the potential of restorative justice to work with serious offending will be severely restricted. The victims of serious crimes are let down when prisons are not used as places of restoration for offenders, victims and their communities. Prisons are full of people in desperate need of restoration – those most damaged and damaging in our society (2006: 24).

Hence, if the goal is to maximise the use of restorative justice within societal responses to crime, compromises need to be made. Restorative justice schemes will need to be developed within prisons, and the restorative justice movement will need to find ways of managing the tensions between imprisonment and restorative justice. Moreover, such advocates of restorative justice in prisons argue, there are many examples of restorative justice work within prisons that, despite the tensions and obstacles, do have good effects.

In practice, restorative justice in prisons schemes vary considerably in terms of: (i) who instigates and runs them; (ii) objectives; (iii) methods; (iv) participants; (v) role of victims; (vi) alignment with other

activities in the prison and criminal justice system; and (vii) underlying aspirations and ideals. Hence, in what follows, I will identify four *models* of restorative justice in prisons.

#### *Model 1: Victim awareness and responsibility acceptance courses*

One form which restorative justice in prisons takes is that of courses designed to enable prisoners to understand better the impact of crime upon victims and to take responsibility for their actions. Such courses include the Hope Prison Ministry (South Africa), the SORI (Supporting Offenders through Restoration Inside) Programme, the Forgiveness Project, the Insight Development Group (Oregon, USA), Opening Doors (Ohio, USA), and Bridges to Life (Texas, USA) (Liebmann, no date). Here, I will focus on one of the best known and most globally developed examples of such courses: the Sycamore Tree Programme.

A Sycamore Tree Programme is instigated and run by a non-governmental organisation: the Prison Fellowship.<sup>viii</sup> Prison Fellowships are Christian ministries, run by a small team of paid staff who support the work of larger number of volunteers. Their mission is 'to engage the Christian community to pursue justice and healing in response to crime, thereby proclaiming and demonstrating the redemptive love and transforming power of Jesus Christ for all people'.<sup>ix</sup> Today, Prison Fellowships exist in 125 countries, with national organisations being associated with each other through Prison Fellowship International (PFI).

PFI developed the Sycamore Tree Programme in 1996, with the name deriving from the Biblical story of Zacchaeus.<sup>x</sup> It was piloted in the United States, England and Wales, and New Zealand in 1997, and programme manuals were published in 1998. The programme has been run in 27 countries in all continents (Liebmann, no date). In the UK, a Muslim version of the programme has been developed and run in one prison (ibid.: 3). Other modified versions of the course are run in some places, under different names.

A Sycamore Tree programme is run in a prison by trained Prison Fellowship volunteers and small group facilitators (ibid). A course typically consists of 6-8 sessions of 2-3 hours. The objectives of the course are to meet needs of both inmates and crime victims who participate. With regard to inmates, the goals include: encouraging them to take responsibility for their actions; enabling them to experience confession, repentance, forgiveness and reconciliation regarding their offences; and to help them make amends through participation in acts of symbolic restitution (Marshall, 2005: 6). With regard to victims, the aims include: helping them to resolve issues around the offence committed against them; helping them to become better informed about crime, offenders and restorative justice; enabling them to see offenders take responsibility for their offending; and helping them gain a sense of closure, forgiveness and peace.

The programme brings together a group of prisoners with a group of 'unrelated' victims, i.e. the victims are not the direct victims of the offenders they meet. The ideal is to have an equal number of offenders and victims, although constraints posed by prison authorities in some countries may lead to modifications. The number of prisoners taking part in a course ranges from about six (in New Zealand) to about nineteen in England and Wales.<sup>xi</sup> The course consists of group discussions, role-plays, victim-offender dialogues, readings, and a workbook which inmates complete. A key part of the course involves victims telling their stories of how the crimes committed against them affected their lives. In the final session, prisoners may make symbolic restitution, which can range from a letter in which they say sorry through to the creation of pieces of art, craft items, and poems through which offenders express their repentance.

Once the Prison Fellowship has been given permission to run a Sycamore Tree course in a prison, prisoners tend to be recruited for participation in the course in one of two ways: either they sign up for the course after seeing posters or flyers distributed in the prison or by staff in the institution – such as officers, chaplains or behavioural experts – select them and offer them the opportunity to participate.<sup>xii</sup> Prisoners do not seem to be offered any inducements to participate.<sup>xiii</sup> Victims also tend to be recruited in one of two ways. Some hear about the course through articles in newsletters and so on and then approach the prison fellowship. However, there is also some proactive 'recruitment of victims' by prison fellowship volunteers. A fairly typical response of course organisers to the question of where they find victims is:

Well, we have several ways to find them. Often it is *via* our current volunteers, we ask them to look around in their own circles, we write about it in our newsletters and volunteer information bulletins. Sometimes victims find us, when they read an article in the newspaper or so. I found a victim *via* a victim offender mediation bureau, at a film premiere where she had participated! Once I read a book of a victim and I contacted him. So it goes both ways, we find them or they find us. But it is not easy to find them, we keep searching.<sup>xiv</sup>

Victims have a crucial role to play in Sycamore Tree courses, and are carefully selected and prepared for that role. As a 'real live person', victims can help offenders understand how their offending behaviour actually affects real people: how offending behaviour impacts upon the victim's daily life, work, health, sleep and so on, and how it also affects other members of the victim's family.<sup>xv</sup> Hence, offenders come to realise that their offences have harmed people in ways they previously had not considered or imagined, and that the harm extends well beyond that captured by the official, legal definition of the crime. At the same time, offenders also come to realise that 'not all victims are negative or vengeful' – again putting in question comfortable stereotypes which many prisoners have.<sup>xvi</sup> This helps them empathise with crime victims. This, in turn, tends to lead offenders to deep regret for the harm they have caused to *their* victims and to a resolve both to make amends for that harm and not to inflict such harm on anyone else in the future.

Although it is less part of the 'official' function, participation in the Sycamore Tree course also tends to benefit victims, and many organisers do regard this as an important benefit. For most victims who take part, the offence they suffered happened some time ago, and most seem to see themselves as already having recovered or adjusted to a large degree. However, according to the course organisers, victims do tend to report that telling their story has therapeutic and empowering effects; e.g. that before participation in the course they still thought of themselves as victims, whereas telling their story and seeing the reactions of the prisoners helps them 'process' what happened to them.<sup>xvii</sup> Victims are also reported as benefitting from the fact they get to understand that offenders have also suffered many problems, and yet are capable of feeling remorse and empathy.

The Sycamore Tree course is organised by agencies outside of the prison administration. To run the course, the organisers require permission for their volunteer facilitators, tutors and victims to come into the prison along with a suitable room in which to run the course, and some cooperation from the prison authorities in helping them secure prisoner participants. However, beyond that, the course need not be aligned with any other activities in the prison or criminal justice system.

At heart, the Sycamore Tree course seems underpinned by the idea of redemption. People who have made mistakes, done harmful things or even, as in the biblical story from which it derives its name, led bad lives, can be saved or redeemed. The course is also underpinned by particular ideas about what is required if redemption is to be possible. Wrongdoers first need to be awakened to the harm their behaviour actually causes to 'real live persons' and then shown that, despite the harm they have caused, these others are willing to help them and perhaps even offer forgiveness. But, this redemption must be earned. Offenders themselves need to go through the often painful, but ultimately liberating, experience of taking personal responsibility for their decisions, actions and life course. They must express remorse for what they have done and been, and commit to acting and being better in the future. Those who organise the courses are usually well aware that offenders will need much more, in terms of regular support, in order to help them keep that commitment. Here, the faith networks behind the Sycamore Tree course may be helpful for those prisoners who join them. However, the fact that the Sycamore Tree course is unaligned with other activities in the criminal justice system means there is only hope, and no guarantee, that any steps forward taken during the course will not be offset by other influences on the prisoner's future life. Finally, all of this is underpinned by the notion that in helping prisoners in this way, victims and others who take part themselves benefit.

#### *Model 2: Victim-offender mediation and conferencing in prisons*

As indicated earlier, restorative practices such as victim-offender mediation and conferencing are most commonly employed in community settings, as an alternative to conventional criminal justice processes for cases involving young offenders who have committed relatively minor offences. However, for most restorative justice advocates, the aspiration is to use restorative justice in a much larger proportion of cases, including cases involving adults who have committed serious crimes. In such cases, there is little or no chance of restorative justice being used as an alternative to

conventional criminal justice.<sup>xviii</sup> Hence, in order to have restorative justice in such cases, it needs to run in *parallel* with conventional criminal justice processes. For instance, many persons awaiting trial or sentencing for serious crimes will be remanded in custody. If their offence is to be the subject of a (pre-trial or pre-sentence) restorative justice process, it is necessary to organise that process in a custodial setting. Also, for the offences of persons sentenced to imprisonment, if a restorative justice process is to take place within a reasonable period after the offence, it needs to happen during the prison sentence. Accordingly, schemes have been established to conduct restorative justice processes such as victim-offender mediation and conferencing within prisons (Shapland, 2008; Van Ness, 2007). Such schemes emerged in the Canada, Switzerland and the USA in the 1980s and early 1990s (Liebmann and Braithwaite, no date). There are currently highly developed schemes in Hungary (Barrabás, 2012) and Belgium (Goossens, 2012) and a scheme in Germany.<sup>xix</sup>

When mediation and conferencing takes place within prisons, it tends to be organised in one of two ways. First, governmental and non-governmental (or voluntary sector) agencies and individuals who provide mediation and conferencing services in community settings extend their work into prison settings with the agreement of the prison authorities (Liebmann, no date: 5-6). Second, agencies working within prison services, often with experience of mediation and conference from previous work, start a prison-based scheme (ibid.: 6). Liebmann provides an example of the latter in the UK: 'A new service has just started in Gloucester Prison run by a prison officer who previously worked with Remedi Mediation Service' (ibid.: 6).

The basic objective of such schemes is to achieve some degree of reconciliation between the imprisoned offender and their actual victims (Barrabás and Felligi, 2012: 19; Immarigeon, 1994). This is regarded as beneficial to both offenders and victims. Offenders, especially when their release is impending, sometimes have a need to resolve what happened between them and the victim (or the victim's family in the case of homicide). They may wish to express their repentance to the victim, but will have had no opportunity to do so. And, they may have a need to know what the victim's attitude towards them is. A mediation process can be a way of meeting these needs. Victims, on the other hand, have a range of needs which have to be met if they are to recover from the trauma of their victimization. Restorative justice proponents have tended to identify four sets of needs which must be met if victims are to recover: the need for answers to questions about what happened (some of which can only be answered by the offender); the need to express and have validated their feelings about what happened; the need for empowerment - the regaining of control over their environment; and the need for reassurance about their future safety (again, a need which can often only be met fully by reassurances received directly from the offender) (Strang, 2002; Zehr, 2005: 26-8). Mediation and conferencing services provided in community settings have, as part of their objectives, the meeting of such needs. But, for victims whose offenders are imprisoned, the meeting of such needs requires the provision of such services in prison settings.

As these programmes involve the extension of restorative justice schemes developed in community settings into prison settings, their methods, participants and role of victims are the same as those described in the earlier account of 'characteristic restorative justice practices'. One issue this raises is that of whether prisoners receive any inducements to participate. In a helpful discussion of this, Szegő and Felligi (2012: 136) distinguish between the 'manifest' and 'latent' motivations and interests' of prisoners. Manifestly, prisoners participate because they want to make amends and repair their relationships with others. However, latently, prisoners may think (and may be encouraged to think) that through participation they will obtain more favourable conditions during their imprisonment and perhaps even earlier release. Whether such inducements or motivations would be legitimate is a moot question. However, a clear problem they create is that they raise the suspicion that prisoners who express remorse, a desire to make amends and to refrain from further harmful acts, and who perhaps apologise to their victims, are not being genuine. And this, of course, undermines the restorative value of such gestures. Hence, regardless of their legitimacy, the very possibility that such inducements and motivations exist can undermine the faith of others (victims and members of the wider public) in the integrity of the restorative justice process in prisons.

This is a complex issue. At this early stage of the development of restorative justice in prisons, it seems clearly advisable to do all that one can to ensure that participation of prisoners is voluntary and *perceived* to be voluntary. For that to happen, it would not be sufficient that no inducements were offered to prisoners. Rather, they would need to be told quite explicitly that whatever happened in the restorative justice process would have no bearing whatsoever upon their conditions or sentence.

Then, that position would need to be adhered to strictly in practice. In the short term, this would perhaps reduce the number of prisoners willing to take part (and hence preclude the very real possibility that prisoners may initially participate, partly because of these 'latent motivations' but then become more committed to the 'spirit' of restorative justice once they are in the process). However, such a strict adherence to the voluntariness principle would help build confidence in the integrity of restorative justice processes in prisons, and hence be more helpful for the development of such schemes in the longer term.

Where programmes are initiated and run by agencies who work outside the prison service, as with victim awareness courses they are not necessarily aligned with any other activities in the prison or criminal justice system. These schemes might be understood as a supplement to what the criminal justice system usually does - and are designed to meet needs of offenders and victims which criminal justice, as currently constituted, does not meet.

The ideals and aspirations behind these programmes are, likewise identical to those of the restorative justice movement in general. The key idea is that criminal offences – as well as being legal transgressions that harm society – also cause harm to the people directly involved. Our criminal justice system is designed to redress the offence against society, but tends to do little to heal the harm crime does to people and relationships. Like all restorative justice schemes, mediation and conferencing in prison is motivated by concerns to identify and repair such harm.

### *Model 3: Restorative approaches to conflicts and offences within prison*

Models one and two, in quite different ways, involve the use of restorative justice as a response to the offence that resulted in a person being imprisoned. A third model involves the use of processes such as mediation and conferencing to handle offences – such as assaults and thefts – that happen within the prison. Here, restorative justice is used as an alternative to more conventional processes used to handle such offences. Within prisons, however, the conventional processes are not usually criminal prosecution and punishment. Rather, such offences are generally handled through the prison's own disciplinary system. Those charged with internal offences appear before the prison governor<sup>xx</sup> who makes a judgement and, if the person charged is found guilty, orders the penalty. In modern European prisons, this process tends to be governed by strict procedural rules. In the UK a number of prisons have experimented with restorative conferencing as an alternative to this quasi-judicial process (Liebmann, no date: 12). Elsewhere prison staff, and in some places some inmates, have been trained in mediation skills and encouraged to use restorative processes to handle lower-level conflicts which often result in (and sometimes arise from) offences within prison (ibid.: 13; Szegő and Felligi, 2012: 97).

A distinctive feature of this internal use of restorative justice is that it tends to be instigated and run by authorities within the prison. The governor of the prison has, of course, a very direct interest in the way internal conflicts are handled. Hence, the decision on whether to use restorative justice for handling internal offences and conflicts will be made ultimately by the governor. However, if the governor decides, in principle, to use restorative justice, there is still a range of issues to be decided. In particular, it needs to be decided, in any particular case, whether the case is one appropriate for restorative justice. There is little information available on how such decisions are made in existing schemes. Presumably, although the governor will have the final say, the decision is delegated to other officers in the institution.<sup>xxi</sup> Further, once the decision is made to use restorative justice, there are further practical questions to be addressed, such as what type of restorative process to use and who should facilitate it. In the Hungarian experiment run as part of the MEREPS (Mediation and Restorative Justice in Prison Settings) action research programme, conferencing was the preferred method. Conferences were facilitated by prison staff (i.e. the prison did not use outside facilitators) who had undertaken a three day mediation training course.<sup>xxii</sup> The methods, participants involved, and role of victims (in this case, victims of 'internal offences') will, of course depend upon the precise practice used.

The objectives and aspirations of using restorative justice for the handling of internal offences mirror those of schemes which use restorative justice for handling of offences in society. This is therefore a useful opportunity to explore those objectives in more detail.

The first thing to note is that there may be some purely pragmatic reasons for using restorative processes as an alternative or supplement to the prison's usual disciplinary procedures. One is to avoid the traditional disciplinary procedures becoming overloaded – what are regarded as less serious cases might be diverted to a speedier and less resource-intensive informal process such as a mediation. Another is that the use of restorative processes might – for various reasons - actually be more effective than traditional disciplinary procedures in preventing the escalation of conflicts or the repetition of offences.<sup>xxiii</sup> However, Edgar and Newell, who are leading proponents of restorative justice in prisons, provide a rationale which runs much deeper than these pragmatic considerations (2006: 49-55). In their account, one of the key advantages of a restorative process over traditional disciplinary procedures is that the former encourages and empowers perpetrators of harm and conflict to take meaningful responsibility for their actions and to appreciate that they – along with the prison authorities – have a stake in the creation of a safe and orderly prison environment.

To explain this point, let us look briefly at the logic behind traditional disciplinary processes. A fundamental task for those running a prison is to maintain social order within the prison. In practice, as in the wider society, order-maintenance depends not just upon the use of coercion by the authorities, but upon the operation of a range of informal mechanisms of 'social control'.<sup>xxiv</sup> Ultimately, however, the maintenance of order in a prison rests upon the capacity of those running the prison to use force to bring recalcitrant inmates into line. In modern prisons, this threat and use of coercion tends to be organised in a quasi-judicial way. The authorities in the prison decide upon a set of rules with which prisoners must comply. These rules are made known to the prisoners. Prisoners who break the rules are charged with an offence and, if found guilty, subjected to the penalty for committing that offence. The penalty involves the infliction of something unpleasant (such as longer periods of confinement and/or the loss of privileges) and frequently involves segregation from other inmates (e.g. solitary confinement).

Crucially, when confronted with a rule-breaker, the problem tends to be defined as one of defiance. Those who flout the rules handed down by the prison authorities represent a danger, less because of what they have specifically done and might do again, more because they have challenged the authority of those running the prison. If such defiance is not put down – and not seen to be put down – social order in the prison is threatened. Others may not only be encouraged to break rules, but may begin to regard the authority which the prison staff exercise over them as weak. Accordingly, the chief reasons for punishing rule-breakers are: (i) to deter them, and other inmates tempted to do so, from further violation of the prison rules; and (ii) to reassert the authority that has been challenged. The punishment of those who break prison rules serves the 'political' function of demonstrating clearly who is in charge.

This approach to the maintenance of social order in prisons does, however, have its limitations. One of these is that what it requires of inmates is no more than passive obedience to prison authority and compliance with rules for the purely instrumental reason of avoiding penalties. Prisoners are not encouraged to regard social order in prisons as something in which they have a stake. Hence, over-dependence on the coercive model just outlined can ultimately result in order being quite fragile. This, no doubt, explains why prison authorities tend to rely heavily on less official and less formal mechanisms of order maintenance in prisons, often involving prisoners policing each other. The use of restorative justice processes can be understood then as an attempt to devise informal methods which are on a more official footing and perhaps more just than existing informal mechanisms of social control in prisons.

Let us look now at what will happen, *ideally*, if the offences and conflicts that are handled through formal disciplinary processes are diverted to a restorative justice process.<sup>xxv</sup> Through 'restorative dialogue' (see above) perpetrators will become much more aware of how their conduct is not just rule-breaking but a violation of other people, which can have very traumatic effects. At the same time, restorative dialogue also enables the perpetrator to see their victims in a different light, and to have empathy for them. When this happens, they begin to reassess their behaviour. Whilst they may not care much about breaking prison rules and defying authority (from which they will desist only to avoid suffering penalties) they are likely to care about harming people with whom they can empathise. Hence, they begin to see compliance – and the social order in prisons - as something in which they have a stake. The social order is not just something imposed by the authorities upon them, purely for the benefit of the authorities. Rather, it exists for the benefit of each member of the prison community.

Moreover, in a restorative process, rather than having a penalty imposed upon them, wrongdoers are invited to engage actively in discussion and decision-making about what they should do in order to make up for the harm they have caused and to strengthen their ability to avoid causing such harm in the future. The perpetrator is therefore 'responsibilized', i.e. treated as a responsible person in a very full sense (not just answerable for past wrongdoing but with an obligation to do something to make amends in the future). The aspiration here is that by treating the perpetrator of offences within the prison as a moral being, with responsibilities and obligations, they will become more moral and more responsible. As well as handling the internal offence in an effective manner, the restorative justice process might therefore contribute to the moral repair of the prisoner.

It is possible, of course, for a prison to decide to deal with some internal offences and conflicts through restorative processes rather than through more traditional disciplinary mechanisms, without having any further commitment to restorative justice. As indicated above, a prison might decide to do this for purely pragmatic reasons. However, when restorative justice processes are introduced in this way in other organisations such as schools and workplaces,<sup>xxvi</sup> there is a tendency to want to deal with other issues in the organisation in a similar manner. Once people become trained in the skills of facilitating restorative dialogue, and start to employ these skills in carrying out their work, they tend to point to the dissonance involved in being 'restorative' in one part of the organisation's work, whilst using traditional, non-restorative approaches elsewhere in the organisation.<sup>xxvii</sup> Hence, we might expect an approach introduced to deal with breaches of prison rules to be advocated for use in dealing with complaints within the prison, and from there to be used more proactively (e.g. giving prisoners responsibility for deciding what the rules should be in particular aspects of prison life). It is, of course, too early to tell whether such 'seepage' found in other organisations is also likely to be observed in prisons.

#### *Model 4: Restorative imprisonment*

Of the models discussed so far, models one and two can consist of single projects which need not be connected to other activities in the prison. There are many actual examples of such projects around the world. Model three is different, in that it affects something at the heart of prison life: the prison's methods of maintaining internal order. It would be possible to introduce such a model whilst leaving the basic structure of prison life unchanged. However, as has been suggested, when restorative justice is introduced in other organisations in a similar manner, there is a tendency for those involved in delivering it to see possibilities for its use in other aspects of the organisation's work.

The fourth model is more of a vision of some restorative justice advocates rather than something which has actually been practiced, although there have been prisons that have experimented with some of its ideas. The vision is of a 'fully restorative prison' (Edgar and Newell, 2006: 80). Even if such a vision is seen as unlikely ever to be realised, it is important to consider it because it brings out more fully the implications of restorative justice for prisons and can also be a yardstick against which the 'restorativeness' of other models and experiments can be assessed. In a fully restorative prison, principles and practices of restorative justice would permeate the work of the prison. In addition, I will suggest, the idea of a restorative prison has implications for thinking about fundamental questions concerning the nature and purposes of imprisonment.

This fourth model would clearly incorporate elements from all three of the previous models outlined. There would be victim empathy courses in which prisoners meet with 'unrelated' victims, opportunities for prisoners to encounter their actual victims for restorative dialogue, and the use of restorative justice principles and practices to handle internal offences and conflicts. But in addition, the achievement of restorative justice goals – such as repairing the harm which crime causes to people and relationships – would be incorporated into the prison's mission, and restorative justice principles would influence the way society answers the question 'why the prison?'. In order to illustrate this idea, let us look at just a few of its implications.

*Induction and sentence planning:* The message which those sentenced to imprisonment receive from society and the courts is that they are being sent to prison as punishment for their offences. Not surprisingly, many offenders interpret this message as meaning that by suffering the hardships of imprisonment for a certain period of time they will have paid for their offence. As a penal sentence, therefore, imprisonment is harsh in the pain it imposes on offenders, but otherwise makes few

demands of them. Offenders can pay for their offences in a passive way, by undergoing the pain and deprivation of imprisonment.

In a restorative prison, this message would be countered at the induction and sentence planning stages, and constantly from that point on. Prisoners would be encouraged to take more 'active responsibility'. The message would be that they must use their time in prison to make amends for their offence in more active ways. Prisoners would be encouraged and assisted to think about how they could use their time in prison to help repair the harm they had caused to their victims and to the wider society and to ensure that, on release, they were less likely to engage in further harmful acts. The precise form this would take would, of course, vary from prisoner to prisoner. But, crucially, prisoners would be expected to play an active role in shaping their own sentence plan.

*Prison work:* Throughout the history of imprisonment, prison work has been conceived and organised in a variety of ways (see Radzinowicz and Hood, 1986). Hard labour and degrading work has been used to enhance the pain and disgrace of imprisonment. Efforts (invariably unsuccessful) have been made to make sufficient profit from the labour of prisoners to make prisons self-sufficient and hence to reduce the costs to society of imprisoning offenders. Since the emergence of the rehabilitative ideal in the late nineteenth century, the aspiration has often been that prisoners will learn good work habits in prison, to counter the bad work habits which many of them come to prison with and that were often a factor contributing to their criminal lifestyle. In contemporary society, many espouse the related idea that prisoners should be taught useful skills, so that they will be more employable when released, and hence less likely to drift back into offending (see, for example, Ministry of Justice, 2010).

In a restorative prison, work would certainly be used in an effort to 'normalise' prisoners – to improve their chances of being reintegrated into society upon their release. But crucially, work would take on a more reparative function: as an opportunity for prisoners to do something to make amends to their victims and society for their past wrongdoing. Hence, the emphasis would be in prisoners doing constructive work for others and especially for the communities that they have harmed through their past behaviour. Where possible, the ideal would be that prisoners would actually do work in the community (i.e. outside prison) in order to enhance its reparative nature and effects (Stern, 2005)

*The prison and its surrounding community:* The boundaries between a prison and its surrounding community tend to be formidable, even if a prison is located in the middle of a town or city. A restorative prison would have a different relationship with its local community. The core purpose of it would be to prepare prisoners for return to the community as law-abiding citizens. But to achieve this, as well as working on offenders within the prison, strong links should be created between prisons and the communities in which they are located. Prison walls would be more 'permeable' with members of the community coming in to participate in its work and prisoners going out to do constructive work in the community (Stern, 2005).

*Why the prison?:* Whilst the practice of imprisonment goes back to ancient and medieval times (Peters, 1995) and has been a central part of the system of judicial punishment since at least the nineteenth century, the question of why we imprison people and what functions imprisonment is supposed to perform has never been settled. Throughout its history, there has been dispute and debate over fundamental questions such as what prisons are for, what purposes they should serve, what prison conditions should be like, and what sorts of obligations and rights prisoners should have and forfeit? (Morris and Rothman, 1995: ix). To advocate the idea of a restorative prison is to do more than argue for some small innovation or reform in the way prisons are currently run. Rather, it is to provide a new and distinctive answer to these fundamental questions about the nature and purpose of imprisonment. The answers are not wholly novel. They overlap, in many respects, with many of the things that penal reformers have been saying since the birth of the institution. So, whilst restorative justice might not provide a wholly novel way of re-imaging imprisonment (cf. Carroll and Warner, 2014), it has the potential to provide a new 'working ideology' for the prison.<sup>xxviii</sup> An important research task, for forthcoming years, is to explore both the potential and problems of 'restorative imprisonment' as a working ideology for the practice of imprisonment.

## **The potential of restorative justice in prisons**

Discussions of the idea of restorative justice in prisons, and reflections upon existing experiments with this idea, suggest that there are many potential benefits. Prisoners can gain important insights into the

effects of their offending behaviour, and at the same time develop empathy for those they harm. At the same time, they can gain a valuable opportunity to make amends for their past offences through symbolic acts of restitution and reparation, including making efforts to reform themselves. Some schemes also provide opportunities for prisoners to repair damaged relationships with their own families. Hence, for those prisoners who are inclined to avail themselves of it, the availability of restorative justice in prisons can provide an opportunity for them to start repairing, morally, the damage their wrongdoing has caused to other people and hence help reconstruct their moral relationships with the community.

For those victims who take part in it, restorative justice in prison also seems beneficial. In general, restorative justice has the potential to meet many of the needs of victims which, if left unmet, can hamper recovery from the trauma of crime (Strang, 2002). However, at the moment, victims are likely to have the opportunity to take part in restorative justice only if their offender is (i) apprehended by the criminal justice system and (ii) then manages to stay out of custody. If restorative justice is to deliver on its claims that it can deliver an experience of justice to all crime victims who wish to avail themselves of it, ways need to be found to overcome both of these limitations. The development of restorative justice schemes in prisons is one step towards overcoming the second of these limitations. To date, however, such schemes have been accessible to a very small, and probably unrepresentative, cohort of victims. One of the challenges facing those advocating restorative justice in prisons is to devise ways of making a much wider group of victims aware of their existence and overcoming the many obstacles to bringing victims into prison (Barr, 2013).

Perhaps one of the most important potentialities of restorative justice in prisons is, however, its capacity for prompting a 're-imagining of imprisonment' (Carroll and Warner, 2014). As indicated earlier, whilst imprisonment is an ancient practice and has occupied a central place in the penal systems of modern societies since at least the nineteenth century, its precise purposes have always been contested.

The function of prisons can, of course, be perceived in purely negative terms. They serve as places for isolating and containing people who we do not wish to remain in our society either because we regard them as a nuisance, or dangerous, or because we find them disgusting and repellent. However, society has seldom been satisfied with using prisons purely for the purpose of containment. Various other purposes have been mooted and grafted onto prison's containment function. For some, the practice of imprisonment should serve to deter people outside the prison, who have the opportunity and inclination to commit crimes, from acting on those inclinations. Hence, they have been concerned to make imprisonment a painful and degrading experience and, crucially, to ensure that it is seen in that way by potential offenders. Others, however, have insisted that an important function of prison is to transform and improve those who are contained in them, rendering them able to live in society without being a nuisance and danger to others (Johnstone, 1996). Hence, since the nineteenth century at least, the idea of rehabilitation has occupied a central position in the discourse through which we seek to make sense of the purpose and justification for imprisonment and make it appear meaningful (Garland, 1990: 6). But, as Garland (1990) and others have noted, since the 1970s, society has lost faith in the notion of rehabilitation (and in particular in the idea that prisons might be places of rehabilitation). Moreover, no other positive 'working ideology' for imprisonment has emerged. In this vacuum, we have reverted, in rhetoric and to some extent in practice, towards a more limited understanding of prisons as secure warehouses for those unfit, on account of their dangerousness and/or moral laxity, to live in our midst (Irwin, 2004).

For various reasons, however, this way of imagining the prison remains unattractive to many and especially to those working in the system or who otherwise have more detailed knowledge of its costs and effects. There are purely pragmatic reasons for thinking that such a model of imprisonment is unsustainable. Its financial costs are becoming an increasing concern and, unless we commit to permanent detention, we are left with the problem of people returning to society coarsened and embittered by their prison experience. In addition, there are still many people who find the notion of warehousing morally repulsive. There remains a powerful current in our societies which has resisted what criminologists call 'the new punitiveness' (Pratt et al, 2005) and who insist on seeing prisoners as people who have certainly done wrongful things, but are essentially like us and hence deserve to be re-integrated rather than excluded from our society. Moreover, modern societies have become increasingly sensitive, in recent decades, to the plight of crime victims; and an important concern has been to ensure that our criminal justice system does something to meet their needs. Hence, there is a

deeply felt need for a new 'working ideology' for imprisonment, and restorative justice has some potential for meeting that need. It is perhaps the one positive term which stands a chance of becoming the unifying, uplifting and talismanic reference point that 'rehabilitation' once was (cf. Garland, 1990: 6).

There are, however, more cautious and sceptical voices which need to be heeded if we are to have a rigorous discussion of the potential of restorative justice in prisons. One of the most systematic statements of the sceptical case is that of Guidoni (2003). Although he himself was involved in restorative prison project in Italy, his attitude towards such projects ended up as being ambivalent. Whilst some good came from the project he was involved with, he suggests that rather than prisons being transformed in line with restorative justice principles, the more likely outcome of such projects is the temporary adoption of limited aspects of restorative justice, which are then used to add legitimacy to an institution which remains essentially punitive.

Importantly, Guidoni identified what he saw as a number of structural obstacles to the success of restorative prison projects (ibid.: 62-5). According to Guidoni: prisons alter the 'identity' of their inmates in ways that are diametrically opposed to the sort of positive reconstruction of identity which restorative justice schemes aim to achieve; prison sub-cultures act to constantly pull offenders away from the 'new worlds' into which restorative justice schemes seek to bring them; the nonviolent conflict resolution dream of which restorative justice advocates is virtually impossible in prisons; in prisons there are incentives to take part in restorative justice schemes without making any commitment to the ethos and goals of restorative justice; the idea of empowering prisoners which is central to the ethos of restorative justice is anathema to most prison staff; and the hardships which most prisoners now experience are so severe that any scheme that involves getting prisoners to focus on the plight of others is unrealistic. These are important considerations. Advocates of restorative justice are often so overcome with enthusiasm that they frequently fail to see, let alone acknowledge, the obstacles to, and limitations and potential dangers of, what they propose (Johnstone, 2011). Guidoni's scepticism, although somewhat overstated, can serve as an important counter to this tendency.

Yet, the case for restorative justice in prisons is a powerful one, which must be taken seriously by any agency in a position to exert influence over the practice of imprisonment in modern society. Although the evidence base remains limited, the task of developing and evaluating this idea fully and rigorously is now a pressing one.

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## Notes

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<sup>i</sup> Draft report prepared by Gerry Johnstone for the PC-CP Working Group. Draft circulated on 10<sup>th</sup> July 2014, for discussion at the Working Group's meeting on 1<sup>st</sup>/2<sup>nd</sup> September, 2014.

<sup>ii</sup> The critical literature on imprisonment is enormous. Here, rather than attempt to refer to sources for each point, it might suffice to refer readers to some useful anthologies such as Jewkes and Johnston (2006) and Carroll and Warner (2014).

<sup>iii</sup> For a classic statement on these different images of the prisoner, see Klare (1960).

<sup>iv</sup> Again, the literature is now huge. For a critical introduction to the ideas and values of restorative justice, and to debates about its meaning, potential, limitations and possible dangers, see Johnstone (2011). Johnstone (2013a) is a collection of classical and contemporary readings.

<sup>v</sup> McCold (2008) provides a useful overview of restorative justice practices.

<sup>vi</sup> But see Van Ness and Strong (2006), who make a concerted effort to address this issue.

<sup>vii</sup> Sparks and Bottoms (2006) is a general discussion of the concept of legitimacy with regard to prisons.

<sup>viii</sup> The Prison Fellowship movement was founded in 1976 by Charles Colson, following his release from prison for a Watergate-related crime. In general, see <http://www.prisonfellowship.org.uk/who-we-are/our-story-so-far/> (last accessed 25/06/2014).

<sup>ix</sup> <https://pfi.org/who-we-are/> (last accessed 25/06/2014).

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<sup>x</sup> Zacchaeus was a superintendent of taxes in Jericho, and a rich man. When Jesus was visiting Jericho, Zacchaeus was eager to see what he looked like. Being a small man, he climbed a sycamore tree in order to see him. Jesus looked up and told Zacchaeus to come down because he wished to stay at his house. The crowd around expressed disapproval of this because Zacchaeus (as somebody who had got rich by taxing others) was a sinner. However, Zacchaeus proclaimed that he would give half of his possessions to charity and that if he had defrauded anyone, he would repay them four times over. Jesus replied: 'Today salvation has come to this house, for this man too is a son of Abraham. The son of man has come to seek and to save what is lost'. The story can be accessed in Law (2005: 508).

<sup>xi</sup> On the New Zealand figures see Marshall, (2005). In England and Wales see the blog 'Penny and Prison': <http://pennyandprison.blogspot.co.uk/> (last accessed 25/06/2014). This blog provides important insights into a course as seen through the eyes of a course tutor.

<sup>xii</sup> In researching this report, I have found nothing published on how offenders and victims are recruited for participation in Sycamore Tree courses. The following observations are based on interviews with a handful of course organisers conducted as part of the European Commission funded action: 'Building Bridges: Restorative Dialogues with Victims and Offenders' (JUST/2013/JPEN/AG/4479), on which the author of this report is a scientific partner.

<sup>xiii</sup> In sessions observed by the author, it was clear that participation of prisoners was quite voluntary. Indeed, the chaplains who 'recruited' the prisoners had to use a lot of persuasive skill to encourage some prisoners to 'give it a try'. Some prisoners informed the author that they were initially quite sceptical and thought they might come along for just one session, but then tended to stay the course because they enjoyed it and found it valuable.

<sup>xiv</sup> Interview conducted with Sycamore Tree course coordinator (interview 1, 020514) as part of 'Building Bridges'.

<sup>xv</sup> Ibid.

<sup>xvi</sup> Ibid.

<sup>xvii</sup> Interview conducted with Sycamore Tree course coordinator (interview 5, 080514) as part of 'Building Bridges'.

<sup>xviii</sup> Few, other than the most evangelical penal abolitionists and restorative justice advocates, imagine that we can wholly divert such cases away from conventional criminal justice into restorative justice. Moreover, it is difficult to imagine how restorative justice itself might work in the absence of the possibility of putting offenders through the coercive machinery of conventional criminal justice should they decide to take no part in restorative justice. For a discussion of such issues, see Johnstone (2011).

<sup>xix</sup> See <http://www.euforumrj.org/projects/previous-projects/mediation-and-restorative-justice-in-prison-settings/> (last accessed 03/07/2014).

<sup>xx</sup> In UK Prisons, or the equivalent authority elsewhere.

<sup>xxi</sup> An important objective, then, for research into such schemes is to discover the criteria by which such decisions are made.

<sup>xxii</sup> The course was run by Marian Liebmann (a private training provider, who is internationally recognised as an expert on restorative justice and as a leading and highly experienced trainer) (Szego and Felligi, 2012).

<sup>xxiii</sup> On the reasons why we might expect this, see Braithwaite (2013).

<sup>xxiv</sup> Sykes (1971) is the classic sociological study of how order is maintained within a prison.

<sup>xxv</sup> It is important to emphasise that what is outlined next is the ideal outcome. There is some evidence that, when used in appropriate cases and well-conducted, restorative processes in community settings tend to have these effects. However, whether it can have these effects in prisons is something that needs to be tested.

<sup>xxvi</sup> In schools, they are often introduced to deal with problems such as bullying, truancy and disruptive behaviour; in workplaces, they are introduced to deal with problems such as absenteeism and harassment (see Johnstone, 2011: ch. 9).

<sup>xxvii</sup> On this, see Green, Johnstone and Lambert (2014).

<sup>xxviii</sup> On the concept of working ideologies see Garland (1990: 6).

## References

- Barr, T. (2013) 'Putting Victims in Prison', *Restorative justice: an International Journal*, 1:3, pp. 389-413.
- Barrabas, T. (2012) 'The Possibilities of Reconciliation and Restoration in Prisons', pp. 23-64 in Barrabas, T. and Felligi, B. (eds.) *Responsibility-taking, Relationship-building and Restoration in Prisons*. Budapest: Foresee.
- Barrabas, T. and Felligi, B. (eds.) *Responsibility-taking, Relationship-building and Restoration in Prisons*. Budapest: Foresee.

- Braithwaite, J. (2011) 'Does restorative justice Work?' in Johnstone, G. (ed.) (2013a) *A Restorative Justice Reader (second edition)*. London: Routledge.
- Carroll, E. and Warner, K. (eds.) *Re-imagining Imprisonment in Europe: Effects, Failures and the Future*. Dublin: Liffey Press.
- Cornwell, D., Blad, J. and Wright, M. (eds.) (2013) *Civilising Criminal Justice: An International Restorative Agenda for Penal Reform*. Hook, Hampshire: Waterside Press.
- Dhami, M., Mantle, G., and Fox, D. (2009) 'Restorative Justice in Prisons', *Contemporary Justice Review*, 12:4, pp. 433-48.
- Edgar, K. and Newell, T. (2006) *Restorative Justice in Prisons: A Guide to Making it Happen*. Winchester: Waterside Press.
- Goossens, E. (2012) 'A Case from Belgium, pp. 279-88 in Barrabas, T. and Felligi, B. (eds.) *Responsibility-taking, Relationship-building and Restoration in Prisons*. Budapest: Foresee.
- Green, S., Johnstone, G., and Lambert, C. (2014) 'Reshaping the Field: Building Restorative Capital, *Restorative Justice: an International Journal*, 2:1, pp. 43-63.
- Guidoni, O. (2003) 'The Ambivalences of Restorative Justice: Some Reflections on an Italian Prison Project', *Contemporary Justice Review*, 6:1, 55-68.
- Immarigeon, R. (1994) 'Reconciliation between Victims and Imprisoned Offenders: Program Models and Issues'. Akron, PA: Mennonite Central Committee.
- Immarigeon, R. (2004) 'What is the Place of Punishment and Imprisonment in Restorative Justice', pp. 143-53 in Zehr, H. and Toews, B. (eds.) *Critical issues in Restorative Justice*. Monsey, NY; Criminal Justice Press.
- Irwin, J. (2004) *The Warehouse Prison: Disposal of the New Dangerous Class*. New York: Oxford University Press.
- Jewkes, Y. and Johnston, H. (eds.) (2006) *Prison Readings: A Critical Introduction to Prisons and Imprisonment*. Cullompton: Willan.
- Johnstone, G. (1996) *Medical Concepts and Penal Policy*. London: Cavendish.
- Johnstone, G. (2011) *Restorative Justice: Ideas, Values, Debates (2<sup>nd</sup> edition)*. London: Routledge.
- Johnstone, G. (2012) 'The Standardisation of Restorative Justice', in Gavrielides, T. (ed.) *Rights and Restoration within Youth Justice*. Whitby, ON: de Sitter.
- Johnstone, G. (ed.) (2013a) *A Restorative Justice Reader (second edition)*. London: Routledge.
- Johnstone, G. (2013b) 'The Teachings of Restorative Justice', in Gavrielides, T. and Artinopoulou, V. (eds.) *Reconstructing Restorative Justice Philosophy*. Farnham: Ashgate.
- Johnstone, G. and Van Ness, D. (2007) 'The Meaning of Restorative Justice', pp. 5-23 in Johnstone, G. and Van Ness, D. (eds.) *Handbook of Restorative Justice*. Cullompton: Willan.
- Johnstone, G. and Ward, T. (2010) *Law and Crime*. London: Sage.
- Klare, H. (1960) *Anatomy of prison*. Harmondsworth: Penguin.
- Law, P. (ed.) *Testament: The Bible Odyssey*. London: Continuum.
- Liebmann, M. (no date) 'Restorative Justice in Prisons: An International Perspective' (retrieved from [http://www.foresee.hu/uploads/media/MarianLiebmann\\_text.pdf](http://www.foresee.hu/uploads/media/MarianLiebmann_text.pdf) – last accessed 09/07/2014).
- Liebmann, M. and Braithwaite, V. (no date) 'Restorative justice in Custodial Settings: Report for the Restorative Justice Working group in Northern Ireland'. (on file with author)
- McCold, P. (2008) 'The Recent History of Restorative Justice: Mediation, Circles and Conferencing', pp. 23-51 in Sullivan, D. and Tift, L. (eds.) *Handbook of Restorative Justice: International Perspectives*. London: Routledge.
- Miller, S. (2011) *After the Crime: The Power of Restorative Justice Dialogues between Victims and Violent Offenders*. New York: New York University Press.
- Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation, and Sentencing of Offenders*. London: The Stationery Office.
- Morris, N. and Rothman, D. (eds.) *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford: Oxford University Press.
- Peters, E. (1995) 'Prison before the Prison: The Ancient and Medieval Worlds', pp. 3-43 in Morris, N. and Rothman, D. (eds.) *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford: Oxford University Press.
- Pratt, J., Brown, D., Brown, M. Hallsworth, S. and Morrison, W. (2005) *The New Punitiveness: Trends, Theories, Perspectives*. Cullompton: Willan.
- Radzinowicz, L. and Hood, R. (1986) *The Emergence of Penal Policy in Victorian and Edwardian England*. Oxford: Oxford University Press.
- Shapland, J. (2008) 'Restorative Justice and Prisons' (retrieved from [http://mereps.foresee.hu/uploads/media/Paper\\_by\\_Joanna\\_Shapland.pdf](http://mereps.foresee.hu/uploads/media/Paper_by_Joanna_Shapland.pdf) - last accessed 09/07/2014)
- Sharpe, S. (2007) 'The idea of Reparation', pp. 24-40 in Johnstone, G. and Van Ness, D. (eds.) *Handbook of Restorative Justice*. Cullompton: Willan.
- Sparks, R. and Bottoms, A. (2006) 'Legitimacy and Order in Prisons' pp. 79-83 in Jewkes, Y. and Johnston, H. (eds.) *Prison Readings: A Critical Introduction to Prisons and Imprisonment*. Cullompton: Willan.
- Stern, V. (2005) *Prisons and Their Communities: Testing a New Approach*. London: International Centre for Prison Studies.
- Strang, H. (2002) *Repair or Revenge: Victims and Restorative Justice*. Oxford: Oxford University Press.

- 
- Sykes, G. (1971) *The Society of Captives: A Study of a Maximum Security Prison*. Princeton, NJ: Princeton University Press.
- Szego, D. and Felligi, B. (2012) 'The Face Behind the Fence – Conflict Management Within the Prison and Beyond', pp. 289-94 in Barrabas, T. and Felligi, B. (eds.) *Responsibility-taking, Relationship-building and Restoration in Prisons*. Budapest: Foresee.
- Van Ness, D. (2007) 'Prisons and Restorative Justice', pp. 312-24 in Johnstone, G. and Van Ness, D. (eds.) *Handbook of Restorative Justice*. Cullompton: Willan.
- Van Ness, D. and Strong, K. (2006) *Restoring Justice: An Introduction to Restorative Justice (3<sup>rd</sup> edition)*. Cincinnati, OH; Anderson.
- Walgrave, L. (2007) 'Integrating Criminal Justice and Restorative Justice', pp. 559-79 in Johnstone, G. and Van Ness, D. (eds.) *Handbook of Restorative Justice*. Cullompton: Willan.
- Walker, M. (2006) *Moral Repair: Reconstructing Moral Relations after Wrongdoing*. Cambridge: Cambridge University Press.
- Walmsley, R. (2013) *World Prison Population List (10<sup>th</sup> edition)*. London: International Centre for Prison Studies.
- Zehr, H. (2005) *Changing Lenses: A New Focus for Crime and Justice (3<sup>rd</sup> edition)*. Scottsdale, PA: Herald Press.