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RESTORATIVE JUSTICE IN PRISON: A SPARK OF LIGHT IN THE DARKNESS

Prisons under the actual system of punishment and confinement have little chance to contribute to reconciliation and the restoration of human relationships. This is due to a circle of aggression which induces the prisoner to return to new acts of violence. The author engages in a ministry to help prisoners out of their vicious circle of aggression and to attempt a different circle of reconciliation with their own history and to venture into restored relationships even with the victims.

In recent years, in many places in Brazil, seeds of *Restorative Justice*, in the form of training workshops, have been spread out in religious communities, non-governmental organizations, city and state services, schools and educational centres for children and youth. These seeds of forgiveness and Restorative Justice are also being disseminated in many prisons of this immense country. In this brief article, I intend to present what *Restorative Justice* is to us and how we are working on this topic in different prisons, especially with men deprived of their liberty. I switch from referring to myself to “us” when I refer to the Centre for Human Rights and Popular Education of São Paulo (CDHEP), the NGO from which this work is being spread. In addition to the educators of CDHEP, other agents of the Catholic Prison Ministry and Holy Spirit Missionary Sisters provide training for prisoners, especially in the State of São Paulo.

What is Restorative Justice?

Restorative Justice is about conflict management (the conflict may be a crime) in which a facilitator helps the stakeholders to initiate a

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dialogic procedure able to transform a relationship marked by opposition and violence into a cooperative connection. The process has as its goals the taking of responsibility, repairing damages, restoring interpersonal and community ties, and preventing future violence. In addition to those directly involved (for example, victim and offender), the presence of family members or others who are significant to them is important, since the focus is on re-establishing relationship rather than inflicting punishment.

The starting point of *Restorative Justice* is when the protagonists take their problematic case, conflict, or judicial process in their own hands. It is different from conventional or retributive justice in which the case is handed over to a third party—an institution of the State which prepares the inquiry, makes the complaint, conducts the judicial process and pronounces a judgment. In the conventional process, a lawyer is hired or assigned to articulate pronouncements in favour of and in place of the persons involved, with views, exclusively, in the interests of his client.

By serving everyone with equal assumptions, *conventional justice* can treat cases only abstractly, not taking into account the particularities of those involved and their situations. The expectations of the stakeholders are handled more or less in a uniform way. They respond to the interrogation of the judge only with his authorization. Likewise, they must accept interruption and silencing when the authorities of that court so decide it. This scenario of unequal distribution of power is reinforced through symbolic inequality since in many courts the judge and the public prosecutor sit in a higher position. Justice is done by the “verdict,” which literally means “a true saying.” The verdict is the decision of a third party, external, supposedly in a neutral position to the parties in conflict. This brief description leaves no doubt that the court is a space constructed upon unequal relations, of impositions and submissions created in order to operate the judicial rite of judgment, of which the result is always imposing a burden in form of the sentence. This artifice requires obedient subjects and submission to external commands. The people involved in the conflict are invited to accept what is dictated by others while at the same time they are dispensed of taking responsibility for their actions.

From a critical point of view, this procedure challenges the achievement of modernity: to be a free subject, a protagonist responsible for one’s actions. Even if this subject has offended or committed an aggression against another person, a law, or rule of conduct, such a judicial procedure does not permit the exercise of citizenship, because it forecloses the space for expression, tension, and dialogue. It also makes it difficult to attribute meaning to both what has hap-

pened (and is now the subject of the judicial process) as well as to what goes on throughout the procedure in court. Therefore, *retributive justice* gets in the way of the possibility for the stakeholders, after an undesirable incident, to take ownership of what happened, and to benefit subjectively and actively contribute on the societal level with the strengthening of community relations.

Restorative Justice also differs from retributive justice because it does not claim to be universal. In its view, the construction of what is just serves only the microcosm of those involved in a specific situation. It can only be undertaken by the stakeholders themselves through dialogue with the help of a facilitator. Restoring what is just and repairing material or emotional harm is not about punishing an aggressor who thereby feels humiliated and will be inclined to react angrily and eventually violently. Punishment is almost always unwanted by the punished one. It asks for submission to another's will and the renunciation of freedom. Restoring, in the proper sense of the word, means repairing what is wrong and this is only possible through the relation between those involved with the facts, by mutual recognition of worthiness of respect and rights, and attention to the needs of all.

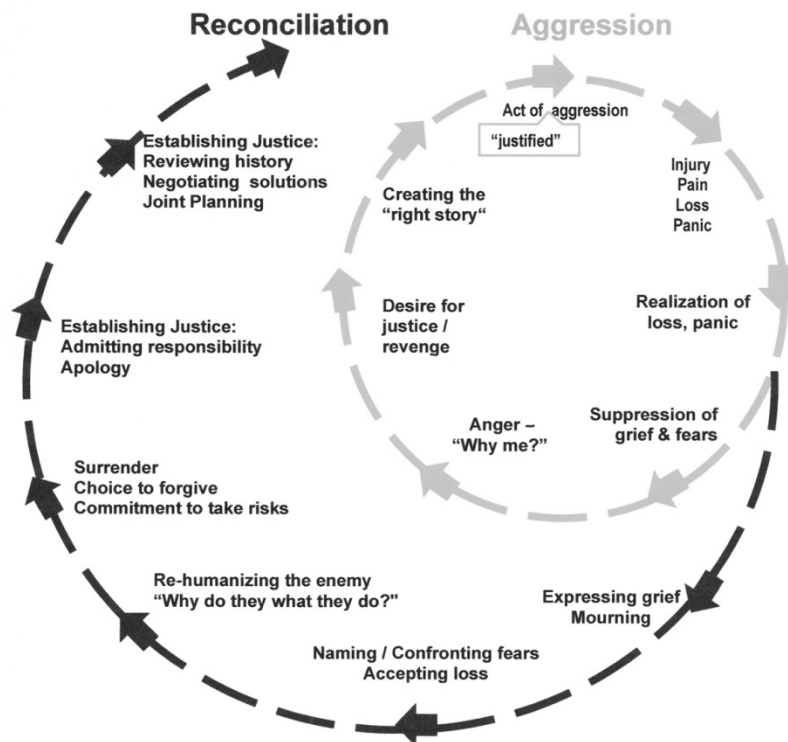
The Prison Situation

Over the years, we have offered courses in the Fundamentals of Restorative Justice in such a way that it is possible to identify some effects that these workshops provide to the participants. It's never too much to remember that Brazil holds the fourth position in the world ranking of prisoners, surpassed only by the United States, China, and Russia. The total of 700,000 prisoners means 303 per 100,000 inhabitants, with a sharp rise during the last two decades. At the same time, Brazil registers recidivism that reaches 70%. The conditions inside prisons are catastrophic, overcrowded cells with lack of legal and social assistance. It is common that prisoners are confined in their cells for 22 hours a day. Since there are almost no occupational possibilities, they leave the cell only for two hours to go to the prison yard. All the daily activities take place in the confinement of a unit of a few square meters, shared with so many other inmates.

Restorative Hope in Extreme Marginalization

Since 2005, the team of CDHEP educators, in dialogue with institutions in Colombia, the United States and Europe, has been develop-

ing and improving the methodology and content of courses related to Restorative Justice. The starting point was the Workshop of For-



giveness and Reconciliation (ESPERE) developed by the Foundation for Reconciliation¹ in Bogotá. CDHEP adjusted the training process that addresses conflict transformation, prevention and overcoming violence, emotional skills, forgiveness, increasing of self-knowledge and tools for non-violent communication. The formative path is illustrated in the diagram² we call the *Circle of Violence and Reconciliation*. Pedagogically, we designed the closed circle that reproduces the violence in red and the open one in green as a sign of hope (in the diagram grey and black). It is very thought-provoking to see how inmates recognize themselves in the circle that starts with an act of

¹ www.fundacionparalareconciliacion.org

² Olga Botcharova, Implementation of Track Two Diplomacy. Developing a Model of Forgiveness, in: Raymond Helmick/Rodney Petersen, *Forgiveness and Reconciliation. Religion, Public Policy & Conflict Transformation*, Philadelphia: Templeton Foundation Press 2001, 279-304.

aggression and closes with another act of *justified* aggression. Someone is suffering because someone else caused violence to him implicitly or explicitly, consciously or unconsciously. This is universally understandable, since this is how the process of violence begins. And “justified” violence is also the State’s response to acts considered intolerable from the citizens’ perspective.

Different Cycles

Breaking open the circle of violence begins by expressing pain and trying to accept it. Expressing pain is easier when addressed to an empathetic listener. Therefore, the emotional skill of learning to put yourself in a mood to welcome the story of the other with an attentive ear, with the body as quiet as possible, is part of the training. One option to express feelings is by drawing our experiences. The inmates are invited to remember a pleasant memory and draw it using crayons. The majority return to their childhood, where these happy memories, almost erased, are hidden. Some are reluctant to access memories because they fear coming across more pain than happiness on the way. The smell of food, land, sitting on a father’s lap, coming back from school and being welcomed by a mother—these are flashes of cheerful moments. The sharing of these stories also has the function of creating bonds in the group and in this way humanizing these men who can hardly access innocent memories in this confined space of total control. By means of this dynamic, relationships are created and strengthened and thus a safe space of trust develops.

At the next meeting, inmates are led to access an experience in which they have been victims of violence. Each one has a piece of clay in which they can express the memories of this aggression according to their creativity. The clay is softened in their hands, until it becomes pliable to their imagination and the episode can be sculpted. Usually the details are worked out carefully, while a silence hangs in the room. At the end of the meeting, we often hear that they never imagined remembering that particular fact or a detail of that episode that arose during the memory exercise. Some of them demonstrate a somewhat depressed mood, an uncomfortableness or nonconformity in remembering that specific situation in which they were victimized. Quite a few represent their current situation, the consequence of some incident and the ensuing denunciation that brought them into prison.

Hereafter we pursue the emotions of that incident represented in the clay. Naming emotions is a difficult task because it belongs to an alphabet that only a few master. Learning to identify the emotions

that underlie anger really is a great challenge, and even more so in the masculinized and violent universe of a prison. Any admittance of these emotions outside of the safe atmosphere of the workshop would be unthinkable in this hostile milieu. Many of these men have gone through periods of deep pain. During childhood, some were deprived of all kinds of comfort and attention. Some became addicted to alcohol or drugs. They are accustomed to feel the fear of violence and abandonment that they had to overcome with courage, strength and virility. In addition to being stamped on their souls, many of their bodies bear the marks of violence and shortfalls. The reaction to anger, impotence and humiliation has made a few of them react violently and thus it is easy to identify how the “red” [grey] circle of violence closed in on their own life stories.

The focus of the process is on changing attitudes. Instead of repressing, containing, or deprecating pain we offer them the possibilities of opening to it and in some way welcoming it. A few are able to timidly express the pain in words. Others are silent, a few are annoyed, but all are in touch with what usually is denied. Everyone is in the same boat, sailing in an unknown sea that leaves them somewhat deprived of their conventional protections. It is also possible that even the strongest, bravest and most fearless of the group is on a path to access the humanity hidden in him. In order to broaden the understanding of the harm that that violation caused to them, we introduce the themes of sociability, the meaning of life, and self-security and ask: In which of these dimensions have you been affected and how? For some, not for all, it is gradually possible to recognize, admit, and name the perniciousness of that incident.

Once the reality of the mechanism of the reproduction of violence in one's own life and history can be accepted, the possibility of understanding and interrupting this same cycle opens up. At this moment, the workshop arrives at a point of displacement: from me as the victim, I come to perceive myself as the offender.

It is possible that this displacement provokes resistance in some of the participants. Now it is time for them to measure the loyalty of the facilitator. The moment demands a deep acceptance, compassion and freedom from judgment from the one who is coordinating the workshop. The men are invited to rely on the guidance given by a person outside their situation and they have the right to challenge, ask questions, intimidate a little or perhaps ridicule the proposal for being too soft and feminine. The hesitation is a movement to weigh up how much openness is possible and safe. This type of reaction, provocation or proof is an invitation for the facilitator not to move away from his or her own centre, to know exactly the reason for each step and to

continue with safety and humility since he/she lends his/her experience so that the inmate can follow his own process. When the facilitator passes this kind of *test*, the reward is shown in the upcoming meetings through a strengthening of the bonds of trust and greater openness.

Cycle of Hope

After the deconstructions and painful approximations to their own fragility, the ground becomes more secure beneath their feet. It is possible to approach the reality of themselves as aggressors and to dialogue with the actions that caused pain, damage and suffering to other people. It seems to be a natural movement that facing this reality demands taking responsibility. Once again the possibility of tension and evaluation emerges. *Is it plausible to assume that, with my action, I hurt someone? Is it permissible to recognize myself as an aggressor for selling drugs to young dependents even though I did not force them to buy my product? Is it acceptable to name what I have done, merely in thoughts or by an inaudible voice?*

My experience is that the ability of the offender to take honest responsibility for his actions needs to be confronted with the real extent of the pain and harm he has caused. Looking at the circle of reconciliation, the inmate is now facing surrender to their own history, intertwined with the re-humanization of the one he offended, attacked or violated, and who thereby became an enemy. From the perspective of the imprisoned person, re-humanization can also refer to the person who made the complaint against him, starting the referral to the penal system. In many cases, the detainees perceive the victims of their acts as being aggressors until this moment. Through the exercise of putting themselves in another's place and deepening the sense of justice and responsibility, something happens that they recognize that someone has been hurt by their action. The path taken so far gradually allows them to accept, or at least not to deny categorically, their personal responsibility for this deed, and giving up the position of blaming others, blaming their history, or the context.

If the workshop is given in a religious setting, it is a propitious opportunity to remember God's infinite love for each person. Regardless of what happened—as victim of the acts of others or as aggressor—everyone is absolutely secure in this love. Self-forgiveness regains its importance, not as abstract knowledge, but as a condition of self-acceptance, after confronting one's own facets and behaviours, little recognized or categorically denied until then. For safety reasons, outside of the safe frame of a workshop, it would not possible to

think about yourself as an aggressor, much less name these situations. It is common to hear from the inmates that the workshops make them think about things that up till now have been impossible to consider or admit. Some confide that they have never been able to put themselves in the victim's place and to think until the end about the consequences of their acts. Others at this stage of the formative process can already intuit and in some way accept the reasons of the one who made the complaint against them.

Exploring the experience of being a victim, expressing pain, realizing the need for self-forgiveness, putting oneself in the place of one's victim, and accepting the fact of being offender, are all stages which prepare the introduction of the theme of *restorative justice*. As pointed out at the beginning, it is a process that has as its goal the reparation of harm and restoration of interpersonal and community ties. Since these men not only listened to a theoretical introduction but experienced every stage of the course, the possibility of a justice that restores ties and repairs harm is welcomed by the majority as a hopeful discovery. Such is the admiration in the face of this Good News that a recurrent question is—*but does this really exist?* Some, disbelievers and disillusioned with the justice system and unable to conceive of another way but that of deserved punishment, consider it a fairy tale of a non-existent world. “But have you already given this course to judges? Do they agree with this?” “How do the victims welcome this possibility?” “In Brazil this possibility already exists?” As the inmates are shown the development of Restorative Justice throughout the last thirty years in different parts of the world, little by little, the idea begins to make sense. At the same time some presume that—*this is not for everyone!*

Restoring Relationships Is for Everyone?

In fact, the Restorative Justice procedure is not for everyone. Establishing what is fair, focusing the attention on those who have been harmed, listening to their needs, restoring damage and rebuilding ties so that everyone affected in that troubled situation can feel more secure and connected is a broad task. It is central to this process to assume responsibility which is, these days, a counter-current attitude. One of the great issues of our time is how we can become responsible subjects. Responsibility becomes more natural the greater and deeper our connections with others are. The Restorative Justice process is an opportunity to establish links even in adverse situations. Restorative Justice features an opposition of the ethics of care and the ethics of justice. The ethics of care considers also attention to

the context and to human and community relations. The ethics of justice is usually based on separation, abstraction and affirmation of individual rights. If the action is guided by the ethics of care, it will certainly achieve a favourable goal.

The Road Ahead

After finishing the various workshops with prisoners, we did a survey. We aimed to know how many of the inmates who completed the workshop would be willing to enter into a restorative process with their victims, expressing what really happened and searching for restoration. We explained that this possibility does not yet exist in Brazilian criminal law. Of the 53 questionnaires returned, 73% expressed that they want to participate in this kind of process with their victims. The high number surprised us and encouraged us to continue seeking for paths so that justice and peace can take form from the place of exclusion par excellence—prison. But for this to happen, the community around the prisoners and their victims must engage in the process.

Who is my neighbour? This question of the gospel may resonate when we think about offenders and victims. From the perspective of Restorative Justice, those who have an affective relationship with the victim and the offender are the ones who can help them broaden their perceptions of needs beyond what is exclusively their own. Those who are close to the victim and offender are a little less affected than the main actors, and so are in a better position to help them break open the circle of violence and connect with the entirety of the facts. All involved are prepared in pre-circles so that they can actively contribute to restore the situation. This process requires voluntary adherence, consent, confidentiality, and respect.

The proposal of Restorative Justice is a favourable occasion to also integrate the shadow side of our humanity and of our coexistence in the same space. It is an opportunity to strengthen ties, broaden and deepen the circle of relationships beyond the private sphere. It is a call to take responsibility for others, even if they are initially strangers. It is a way to overcome individualism and a beginning of the renegotiation of the values of the Republic, of what is communally shared. Through this, it has a deep relationship to the values of the Gospel.

Restorative Justice in an environment as hostile as prison highlights the possibility of awakening the transcendental in every hu-

man being. It is a spark of light in the darkness and anonymity which is able to ignite the unexpected.

ABSTRACTS

Gefängnisse sind im aktuellen System von Bestrafung und Haft kaum geeignet für Versöhnung und die Wiederherstellung von menschlichen Beziehungen. Der Grund dafür liegt in einem Aggressionskreislauf, in dem der Häftling bestärkt wird, zu neuen Gewaltakten zurückzukehren. Die Autorin engagiert sich in einem Dienst, in dem Gefangenen geholfen wird, aus diesem Teufelskreis von Aggression auszusteigen und einen alternativen Kreislauf von Versöhnung mit ihrer eigenen Geschichte zu versuchen, in dem sie sogar gute Beziehungen zu ihren Opfern wiederherstellen können.

Dentro del actual sistema como castigo y confinamiento, las prisiones tienen pocas posibilidades para contribuir a una reconciliación y el restablecimiento a relaciones humanas. Esto se debe a un círculo de agresión que lleva al prisionero a retomar su actitud violenta. La autora está comprometida en un ministerio para ayudar a prisioneros a salir de su círculo vicioso de agresión y de intentar un círculo diferente de reconciliación tanto con su propia historia personal como con el intento de restablecer nuevas relaciones con sus víctimas.

Sous le système actuel de punition et confinement, les prisons ont peu de chance de contribuer à la réconciliation et à la restauration des relations humaines. Cela est dû à un cercle vicieux d'agression qui pousse le prisonnier à renouveler des actes de violence. L'auteur est engagé dans un ministère dont le but est d'aider les prisonniers à sortir de leur cercle vicieux d'agression et de tenter de mettre en route un cercle différent de réconciliation avec leur propre histoire pour s'aventurer dans des relations restaurées y compris avec leurs victimes.