

Development of Belgian prisons into a restorative perspective

Nadia Biermans, co-ordinator restorative justice
Marie-Nathalie d'Hoop, restorative justice consultant

1. A political decision to remodel prison policy based on the concept of restorative justice

The words 'restorative justice' can be found or heard in several documents and speeches of the Minister and his staff for several years now.

The international development of restorative justice, the work carried out at the Catholic University of Leuven and at the University of Liège, but also some events that happened in Belgium, for example the Dutroux case in August 1996 - which put the Minister and his policy under enormous pressure - have accelerated the development of restorative justice in Belgium.

In his "correctional policy statement" of the 19th of June 1996, the Minister of Justice linked for the first time the primary goal of the correctional service (safe and human corrective measures aiming at the social reintegration of the convicted person) with the concept of restorative justice. Social reintegration is dependent on the recognition of victims and/or the acceptance of responsibility for restorative actions.

In 1997, Professor Dupont from the Catholic University of Leuven wrote a preliminary draft law of principles relating to the prison administration and the judicial status of prisons¹. One of the primary goals of this project is to limit the damage generated by incarceration, hereby creating the conditions to realise other goals like the restoration of material and immaterial damages caused by the offence and the preparation of the reintegration of the inmate in society.

At the same time, the Minister of Justice demanded that the difficult question of the possible application of the concept of restorative justice in the prison setting would be examined.

The Minister of Justice gave the assignment to carry out an experiment in six Belgian prisons. The partners in this experiment were the Universities of Leuven and Liège. Six researchers were sent to these prisons to try to take initiatives in order to lead the deprivation of freedom in the direction of the victim and/or restoration. The objective of the project was quite paradoxical : indeed was the idea to create freedom in the most controlled social institution so that prisoners can take up responsibility for their acts and deal with the conflict situation between victim and offender.

¹ Cf. "Voorontwerp van beginselenwet gevangeniswezen en tenuitvoerlegging van vrijheidsstraffen"; "Avant-projet de loi de principes concernant l'administration pénitentiaire et le statut juridique des détenus".

The project focused on two aspects :

- Firstly : the situation of conflict between the victim and the offender and how both of them can deal with it.
- Secondly : the creation of a change of culture and mentality in the prisons.

In October 1999, the Minister's opinion was that every prison should develop a restorative regime and practice. In order to achieve that, the Council of Ministers decided in June 2000 to recruit 30 'restorative justice consultants' who would be asked to introduce the concept of restorative justice in the prisons.

2. Framework

A ministerial guideline describes the content of the project and the role of the restorative justice consultant, the co-ordinator of the project and the steering committee.

The model of restorative justice, inspired by the ministerial guideline², is based on the need to restore the disturbed relationship between the victim, the offender and the community. It aims to renew a tradition of conflict resolution based on communication and consultation between the parties involved, taking their respective expectations into account.

Redress in a prison context embodies the ideal of restorative justice as described above, but needs to be put into perspective by taking account of the specific characteristics of the context in which it operates.

According to this model, the deprivation of the freedom of the prisoner should give him the opportunity to face up to his actions and take responsibility for himself and towards the victims and the community, if possible - but not necessarily - by making moves towards his victim. Attempts should be made to have the prisoner abandon his passive role.

The restorative justice consultant is a member of the prison staff, working directly under the authority of the prison governor. In October/November 2000, most of the consultants started their job. Each consultant is appointed to one prison. The Flemish part of the country has 16 consultants for 17 prisons. The French part of the country has 14 consultants for 15 prisons. This means that some consultants work in two prisons.

In order to ensure co-ordination between the consultants and offer them support, two co-ordinators have been appointed, one for the Flemish speaking part of Belgium and one for the French part. The co-ordinator contributes to the permanent evaluation of the project and the scientific support of the consultants. She gathers the consultants on a regular basis (once a month) and organises training sessions.

The regional director (two in Belgium, one per linguistic region) is the co-ordinator's immediate superior.

At the federal level, there is a steering committee, which evaluates the project and suggests adjustments to the existing ministerial guideline. This committee meets at least twice a year and consists of the General Director of the Belgian prison

² Cfr. Ministerial guideline n° 1719 of 4 October 2000

administration, the General Advisor responsible for Measures, the regional directors, 2 prison governors, representatives of the three Communities responsible for aid and service to persons, the 2 co-ordinators and representatives of the universities guiding the research.

3. Mission and tasks

The consultant's task is to introduce the concept of restorative justice in the prison to which he or she has been appointed. The aim is to create a culture of respect and to encourage the creation of a coherent prison policy geared to the restorative justice model. In this context the consultant acts as an advisor to the prison governor.

1. In order to **introduce a culture of respect within the prison**, the Minister foresees that the consultant has to take the following actions :

1.1 *Developing consultation structures between the various services of the prison*

This means drawing up an inventory and an overview of consultation structures and an organization chart of the various staff categories, services and meetings within the prison. During the first months the consultant will take part in these consultation structures as an observer. On the base of his inventory he will establish the required consultation structures and ensure the continuation of existing groups.

The consultant is also responsible for the follow-up and the evaluation of the projects and actions planned within existing structures.

1.2 *Raising the awareness of the prison staff regarding restorative justice*

The consultant takes into consideration the needs and expectations of the prison staff regarding information and training and organizes information sessions and discussions in co-operation with the local management. He supplies information on restorative justice to those who may be interested.

2. According to the Minister, the second task of the consultant, **making possible a direct and/or indirect communication between the offender and the victims**, requires the following :

2.1. *Setting up consultation structures between the internal and external services*³

Special attention goes in this respect to external services connected with the aid, reception and care of victims and offenders, as well as to the 'House of Justice' (Justitiehuis), to mediation services and to institutions which provide legal information to offenders. The consultant initiates actions for making and maintaining contact with the above-mentioned services to make them receptive to the idea of restorative justice and a possible co-operation. In addition, he ensures that the existence of these community services are

³ It is important to mention that correctional policy is the task of the federal government. Aid and service to persons is the task of the three separate Communities and the Regions in Belgium. This means that external organizations who are not paid by the Ministry of Justice work with inmates in prison.

known inside the prison and that information is exchanged between internal and external services.

2.2. Raising the awareness of the prisoners regarding the problems of the victims and restorative justice

In collaboration with the available community services, the consultant organizes information sessions, working groups, etc. to ensure that prisoners are better informed and to make them aware of their responsibility with regard to restorative justice.

2.3. Raising the awareness of victims and the community related to detention and restorative justice

The consultant uses the facilities available to ensure that the victims, and the community in general, are better informed about life in detention and the model of restorative justice. He refers victims who have questions about prison or their offender and prison staff who feel they have been victimized to the appropriate service.

When describing the task foreseen in the ministerial guideline, it is worth mentioning that the consultant is **a structural worker**. He initiates activities and makes the prison staff and inmates sensible to work on restorative practice. He plays an active role in co-ordinating and elaborating projects in consultation with the partners involved. He keeps contact with all kinds of organizations (such as organizations working in the field of victim assistance, organizations working with offenders, mediation services, houses of justice, etc.) in order to create or improve communication between internal and external services. Moreover, he actively involves the various partners who are essential to achieve our aim. He approaches the prison staff (in the broadest sense of the word), the prisoners, the victims and the community.

4. The work of the consultant in practise

The group of highly motivated consultants started their work, getting to know the prison setting and the environment of relevant organisations. In the first months of the assignment the accent of the job of the restorative justice consultant was to become integrated in the prison setting, to introduce themselves, to get to know the institution by observing and participating in the daily prison life.

At the same time they had to translate their mission into a concrete application. This was not an easy job. The mission is vast and new so that the first steps were quite hesitant. In general the prison services and workers were at least doubtful about the aims of the new project. Doubt because one believes that at this moment the minimum conditions to bring the victim in the picture in most of the prisons are not fulfilled and one fears that this new project will gain new work which needs more staff, better infrastructure, ...

The consultants all have drafted a document about the content of their job, used as an instrument to introduce themselves in the prison. Several consultants have asked the staff of their prison to answer a short list of questions, in order to find out their opinion about restorative justice and bringing the victim inside the prison. The results

indicate that some members of the staff are convinced that restorative practice in prison will not work and that it is impossible to encourage prisoners to take responsibility. However, the results also show that in every prison there is a considerable part of the staff that reacts in a very positive way. And those are the people we can start co-operating with. Some success in our actions will be necessary to show the non-believers that restorative actions are possible.

Step by step, the consultants tried to ensure a proximity link with the different services of the prison by asking them about their work, the difficulties they meet, the link they see with some restorative justice concepts and/or programs. It helped the consultants to be considered as an opportunity to respond to demands that had been left unanswered. It gave them a first idea of the expectations of the prison staff. On one side the consultants decided to begin some very concrete actions (some of them directly in connection with restorative justice some others indirectly), keeping in mind the structural point of view which implies a certain distance regarding the increase of demands.

Structural problems (such as overcrowded and understaffed prisons, lack of infrastructure) didn't prevent the consultant from trying to take (small) innovative initiatives in order to come to restorative and victim-oriented corrections and the development of a restorative regime within the structural limits of the prison. On the other hand, it takes time for an outsider to get to know the complex setting of a prison, the opinions and attitudes of the staff, etc. Hence, it is not always easy to work there. One expects results after a short time. If we want to make this philosophy a concern for all the prison staff, what we consider as necessary in order to create a climate for restorative actions, we need time to communicate, to work together and to discuss. The climate in many prisons is not often a climate of communication, but more a climate of execution of decisions.

The consultants have already started with projects, such as preparing information folders for the prisoners and the prison staff, or organizing for prison staff volunteers working groups on restorative justice and implementing the concept in their prison, information sessions on themes like restorative justice and the role of the consultant, or on the victims and their needs. Rather than introducing a whole new theory, they try to respond to the needs they detect.

In order to raise awareness of inmates regarding the problems of victims the creation of a first line juridical information service inside the prison could be a first step. Inmates often don't really understand their juridical situation (what does a penal sentence mean? Who is the prosecutor? What is the difference between a civil and a penal prosecution? Who will decide an anticipated liberation and how is it decided?, ...). There are many questions of great importance for the offender before thinking about a move towards victims...

During their stay in prison, most offenders feel that they are victims themselves. The lack of responsibility that a stay in prison implies for security, financial and organisational reasons gives rise to a feeling of de-humanisation. On the other hand, and as a direct result, prisoners often minimise the facts they have been sentenced for and the harm they have done to their victims. It's necessary to give attention to these feelings in order to give them the opportunity to recognise their victim. The

organisation of workshops (on a regular basis) on such subjects with offenders can ensure a better basis for working on the victim theme.

Another aspect of the work is ensuring that the contact victim/prison or victim/prisoner happens in the best way.

Some victims can ask to be heard by the 'commission for conditional release' during a session that takes place in prison. A very concrete action towards victims is to ensure that their coming in prison will be made as easy as possible by preparing them to what they will see, whom they will meet, how the meeting will be organised, for what purpose..., and by welcoming them in the most decent and respectful possible way.

Some victims contact directly the prison to have some information about their offender, to be reassured or to express their feelings, ... In most cases the prison services are unable to respond to their wish. Nevertheless it's important to inform the victims about the reasons why the prison can't answer some particular questions and to direct them to other more relevant services.

Another aspect is to consider victims as partners in the creation of restorative justice projects by inviting them, in partnership with the organism or association that can represent them, in negotiation tables...

In order to perform the evolution of the project and supporting the consultants, workshops were organised, focussing on specific subjects as:

- Penal mediation process framework
- Ethics and practice
- Restorative justice and preventive detention
- Methodology in the analysis of communicational tools
- Training of workers
- The conviction to the civil party and questions of victims
- Information of victims when they come to jail
- Organisation of activities linked with restorative justice for the inmates
- ...

In regard of the project content the consultants try to do there work responding to some principles that reflect the final goals: openness, quality of communication, deep process and respect for all the partners involved.

They have to work in the same time at different levels: inside the prison, at the borderline and outside the prison. Referring to the above points one can seize the diversity of the work which is involved in many fields and in many different ways: a conceptual work in relation with a proximity approach on the field, concrete actions and structural view, being present inside the prison as well as present outside, working with actors and working with institutions, ... In every action the consultants have to deal with following elements: general/particular, inside/outside, top/bottom, direct/non-direct ...

5. Pending some questions...

After an exploring phase of almost one year of work, many questions are still pending.

Raising the sense of responsibility of inmates...

It is important to recognise that all prisons are security-oriented, trying to control every movement and action. In this context prisoners have nearly no responsibilities, even concerning their own privacy (meal, hygiene, ...). Restorative Justice in its pure form requires openness and implies belief in the capacities of offenders to work in a constructive way towards their victims and the community. Some people are convinced that both aspects do not go together. How can we find a way to reconcile both tasks ?

Does respecting the sensitivity of both parties means that restorative justice initiatives can't be an obligation?

A basic principle of restorative justice is that parties can take part in initiatives on a voluntary basis. On the other hand, we see that the attitude of the offender towards his victim is taken into account at different levels (by the prison director or prison authorities at a higher level), for example in decisions concerning the release of the prisoner. How do the consultants and the prisons have to deal with this? Can we and do we have to avoid that prisoners take part in initiatives towards the victim just because they are 'pushed' to do so in order to benefit from it?

How can we prevent that victims are being used as tools again? This practice could inevitably lead to an increasing ('polarisation') of the conflict instead of solving it.

Introducing the victim in prison

In order to create a space for communication between victims/offenders/society during the execution of a prison sentence the consultants have to work in a structural way. Hereby the institution, structure and culture have to be taken in consideration. To make restorative justice initiatives like group sessions for offenders or a mediation process possible, it's necessary to prepare the institution to be capable to receive it. Respect for elementary rules concerning confidentiality, respect for victim and offender by the environment are required. What's the place of security and the presence of the staff (guardians, ...)? What's the procedure when a victim is invited in prison? How can we welcome the victim in an appropriate way? Those elementary questions demand a conceptual work in which the many actors from inside and outside the prison have to take part.

At the same time it demands that the different people working inside the prison become sensitive for this kind of processes.

Every prison, whatever its size, has one restorative justice consultant...

Some prisons have over 700 prisoners, others only about 35. They all have just one consultant. The reason is that it is the consultant's task to work on a structural level rather than in individual dossiers. Needless to say however that the position of the restorative justice consultant within the prison and the obviousness of his work, as well as the numerous partners and contacts he has, greatly depend on the size of the prison. The necessity to increase the number of consultants, especially in large prisons, shall have to be examined later.

Changing a prison policy into an restorative one is certainly not only about making mediation possible

We can point out that communication between the victim and the offender is probably an ideal situation but we do believe that it is only possible and desirable for just a small part of the prisoners. Rather than focussing on direct or indirect communication, there is a field of opportunities in which we can work with the prison staff and inmates towards redress: small or big organisational changes, making it possible for prisoners and staff to talk about the offence and its consequences and most important changing the mentality and create openness for the ideas of restorative justice and the concerns of victims and offenders.

6. Conclusion

In conclusion, the above overview shows that, in practice, the restorative justice consultant represents a necessary but not a sufficient condition for a restoration-oriented detention. This is a long process in which the consultant facilitates the taking of positive initiatives. Finally, the basis of this mission lies both inside and outside the prison and co-operation with internal and external partners is essential.

The work is difficult and results not always in immediate concrete actions visible for the workers in prison. With a mentality change and involvement of partners from all levels we hope to create a good basis for restorative justice in prison and make it a concern to the structure it-self.

Working on a restorative regime in a prison is one thing, working on restorative justice another. We believe that if we want to have a chance to succeed there is still a lot of work to do in the other stages of the judicial process, and this from the very first moment an offence takes place. Preventing more harm being done and restoring the harm starts there. Only when the offender feels that he is respectfully considered by the police, the Court, etc. , can we work on his respect towards the victim.

If the victim has never felt any support from the judicial system in dealing with the offence and its consequences, if he or she had no recognition as a victim, then it is probably difficult for a victim to deal with the request of the prisoner to restore the harm he caused, a request that comes at the end of the road.

Nadia BIERMANS
Co-ordinator restorative justice
Ministry of Justice
Administration of Belgian prisons - Headquarters
Eversstraat 2-8 (room 716)
1000 Brussel
Belgium

Tel.02/542.78.97 - Fax 02/542.64.15
E-mail: nadia.biermans@just.fgov.be

Marie-Natalie d'HOOP
Restorative Justice Consultant
Ministry of Justice
Administration of Belgian prisons
Prison of Saint-Hubert
Thiers den Born
6870 Saint-Hubert

Tel. 061/61.17.91
E-mail: Dhoop.Marie-Nathalie@just.fgov.be

