

EUROPRIS INTERVIEW

EuroPris talks with **Edit Törzs**

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What is Restorative Justice?

There are different approaches to what restorative justice is and one can find many definitions of it. At the European Forum for Restorative Justice we see restorative justice as an approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved. While restorative methods and practices (such as mediation, circles, conferencing models) are used and are very valuable also outside of the criminal justice sphere (such as in schools, neighbourhood conflicts etc.), we focus mainly on developing restorative justice as an answer to criminal wrongdoing.

Compared to the traditional way of dealing with crime, the restorative approach focuses on the conflict between people and the lived experiences of those involved rather than the pure breach of law. Within a restorative framework there is a high value placed on the active involvement of those affected by the conflict, on the dialogue between them and on their inclusion in the process of restoration. The dialogue is focusing on questions such as what harm has been done, who has been hurt, what are the needs of those affected, what does it take to repair the harm and who has a responsibility or obligation to making it right. Restorative justice can be realised in many forms and practices, but they all have to adhere to certain basic principles.

We often hear that it is a soft solution, but, in my view, it is really hard to take responsibility face-to-face with the person who one has harmed. Restorative justice gives voice to and empowers the victim, makes the offender see the real consequences of their acts and enables them to take real responsibility in a non-stigmatising way and gives opportunity to the affected family or community members to take part in the process. On a systemic level restorative justice saves public money and time, reduces the damage caused by crime and makes criminal justice more humane.

How come the knowledge about Restorative Justice is limited in some countries?

While restorative justice has been present in some European jurisdictions since the '80s and is a widely researched area with scientifically proved benefits for victims, offenders and societies, with some exceptions this is still not a mainstream approach. General awareness on these practices is low, not only among citizens, but also among professionals. One factor might be that it is still at best a very marginal part of the general curriculum of law studies and practicing magistrates and other criminal justice professionals lack training on restorative justice. This would be crucial as most of the countries require the police, prosecutors or judges to refer cases to restorative justice services.

As the restorative dialogue process is confidential – an important aspect of making the conversation safe, trustful and open -, it is difficult to show the dynamics and impact of these conversations on the participants and build trust towards the process. Restorative justice has not been promoted effectively enough even though there is a growing volume of testimonies from victims and offenders describing the restorative process as a life-changing event.

The lack of structural funding for restorative justice services is also an issue that concerns the lack of awareness and the actual use of restorative justice processes in a more systemic way. Still, to implement restorative justice, there is need for important decisions on how to link it to the criminal justice system, there is need for legislation, well-trained restorative justice practitioners and mechanisms to cases to reach them. It takes time for a radically new concept to become embedded in the mainstream of the criminal justice system.

Nevertheless, we observe a growing awareness and interest towards restorative justice in Europe, thanks also to the EU Victims' Directive (2012) and the new Council of Europe Recommendation on restorative justice (2018). The UN basic principles on the topic from 2000 are also just being reviewed. These international documents help to raise awareness, especially among policy makers. We also just launched last year the European Restorative Justice Policy Network inviting all EU Member States and other European countries to work together on developing restorative justice. Our vision is that restorative justice is available and accessible for every person in any time and in any case.

What does Restorative Justice mean in a prison setting?

I believe that restorative practices may contribute to both the safety and reintegration purposes of prison, but in different ways.

As mentioned above restorative justice should be available at every stage of the criminal justice process. There are more and more victims of serious crimes who wish to meet prisoners who caused their suffering. They struggle to find a way to do this as most prison system have no procedures to facilitate such meetings. When they occur, they enable the victim to ask questions, explain how they have suffered and be reassured of their safety once the prisoner has been released.

Of course, offenses continue to be committed inside prisons. Prison staff can facilitate restorative processes between the victims and perpetrators so as to ensure that tensions are not held risking further harm and disorder. Many prisons contain prisoners who are 'enemies' due to gang rivalries

or previous conflicts or feuds. These prisoners need to be kept apart, thus, making the organisation of visits, education, and free association problematic. Mediation between such prisoners has been very successful in ending these enmities.

It is possible to conceive of a prison as a community in which prisoners and staff live and work together on the basis of respect and mutual obligations. Restorative prison wings or even whole prisons can create a culture and regime based upon restorative values and principles and processes, which enable prisoners and staff to communicate respectfully in a non-hierarchical way. This reduces aggressive incidents and enables staff to develop relationships which support rehabilitation. Pilots on this matter proved to be beneficial also for staff wellbeing and may reduce staff fluctuation.

Prisoners are to return to their families and communities on release. They may need to repair relationships so that they can receive the support they need to avoid further offending. Mediation and family group conferences have proven very effective in achieving this.

Restorative justice supports prisons to be places where those that commit crime learn that what they do causes suffering to others and that they need to develop personal responsibility for their behaviour. A recent project coordinated by the EFRJ demonstrated that restorative practices encourage offenders to desist from crime. Restorative practices also help to raise awareness on the victim, not only for the offender, but also for the system. This, and the potential involvement of members of the community in these processes may contribute also to the aims of integrating prison - as a system - better in society.

In October 2018 the Council of Europe adopted a recommendation for Restorative Justice in criminal matters? What does that mean for European prison agencies?

We were involved in the preparatory work on this Recommendation and we see the outcome as the most advanced international piece of regulation in restorative justice, going much further than the – already very innovative – 1999 CoE Recommendation. It is calling for a broader shift in criminal justice across Europe towards a more restorative culture and urges member states to implement restorative approaches at all stages of the criminal procedure, including prison and probation.

It includes prisons as potential referral bodies to restorative justice, advises prison agencies to raise awareness among their staff and managers in relation to the principles of conflict resolution and restorative justice, so that they understand these principles and are able to apply them in the course of their day to day work. It promotes the use of restorative principles and approaches within the criminal justice system, but also outside of the criminal procedure, with the explicit example of conflicts between prisoners or between prisoners and prison officers.

Moreover, restorative practices are recommended to be applied in conflicts between staff within prison agencies. The Recommendation even goes beyond and calls for a proactive use of restorative practices to build relationships within and outside prisons regarding staff, prisoners, their families and the wider community. It advises to implement restorative approaches in making managerial decisions and consulting staff and in other areas of staff management and organisational decision making to help to build a restorative culture within prisons.

The Recommendation also calls for cooperation between restorative justice agencies and other criminal justice agencies, including prisons and urges them to promote restorative justice in their area. Finally, it suggests to appoint a member of staff with formal responsibilities for promoting and coordinating the use of restorative justice by and within the organisation.

Can you describe the work of your organisation and how it links to prison practice in Europe and the new CoE recommendation?

The European Forum for Restorative Justice, which was founded in 2000 aims to develop restorative justice practices in Europe. It is a membership organisation with more than 300 members coming from research, policy and practice. Besides assisting our members, we develop knowledge through (action) research projects, we publish reports, practice manuals and guidelines, we organise events, conferences and trainings, and promote restorative justice on the European level. We would like to be a real forum, closing the gap between research, policy and practice and enable these fields to interact with each other.

We also maintain and develop relations with other European organisations and institutions. With EuroPris we have a special cooperation through the Criminal Justice Platform Europe, which brings together the European organisations for prison, probation (CEP) and restorative justice. We were partners in the project MEREPS few years ago, which focused on the application of restorative justice in prisons.

Our upcoming Symposium in Bilbao (5-6 June 2019) will focus on the shift from penal mediation to restorative justice, offering – among other topics - plenary sessions, an interactive session and a workshop on restorative justice in prisons. With collaboration with some of our members and with the participation of eight countries at the moment, we started a new project called “Restorative Justice: Strategies for change”, which aims to support national core groups and initiatives to implement the new CoE Recommendation.

We would also urge prison agencies in Europe to use the new Recommendation to further implement restorative justice. The first step might be to organise trainings for staff and management and to include the topic in the general training of prison staff, but the Recommendation is really inspirational in how restorative justice can contribute to innovation and to a more profound cultural change.

The European Forum for Restorative Justice is happy to assist prison agencies in this process. We can provide international experts in the field to advise on policy, restorative practice models, training and research. We would welcome inquiries from Prison Services throughout Europe and to work together on advancing restorative justice in prison settings.