

EDWIN I. MEGARGEE LECTURE

Keynote Speech

THE ROLE OF CORRECTIONS IN DEVELOPMENT: LESSONS FROM HERE, THERE AND ELSEWHERE

By

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I. INTRODUCTION/BACKGROUND

I congratulate ICCA on its 50th Anniversary and for giving me the opportunity to participate in your celebration. I thank all the friends that I have known over the years that have been part of your great association – Dr John Gannon, Dan Lambabo, Diane Williams, Denise Robinson, and Lusanne Green who I met early this year at the ACA Spring Conference and the new friends I am making at this very conference including Phil Nunes who have made a very good impression on me. I was deeply touched by the comments, dedication and passion of James Lawrence (the recipient of the 2014 ICCA President's Award) and Mrs. McDonald (who presented the 2014 ICCA Arthur McDonald Leadership and Service Award)

What does one say to an organization that have come a long way – half of a century? 50 years it's a land mark. It is time to celebrate your existence, survival and impact. It is time to reflect on the past and how to take the best of your past to create a better future. It is time to play a key role in directing the affairs of many based on your experience and age. As ICCA enters its next phase I recommend it to strengthen it voice across the globe, building its visibility, presence and linkages in all continents of the world and providing an enabling force to show that the Community matters and that Community Corrections is key to our public safety and development, speaking with wisdom born out of its knowledge.

In 1995 Paul McCold said this:

'Our country seems gripped in an addiction to a powerful drug, one more destructive than all illegal drugs combined. This drug is vengeance. Vengeance seems the primary driving force behind our current criminal policies. When we feel the pain and fear caused by crime, we demand ever greater punishment of offenders, as if this will bring relief. As a country, we seem to be turning more and more to harsher punishment, as if we know of no other way to stop the violence. In spite of huge increases in prison populations over the recent years, there never seems to be enough punishment to satisfy our craving. The escalating level of the "get-tough"

*rhetoric only seems to fuel the public fear, which generates an ever greater demand for punitiveness.*²

Although the above statement by Paul McCold was made with respect to the United States of America, it paints the picture of events in many countries including those in Africa where imprisonment currently remains the first and major solution to criminal offences. Justice institutions are becoming overwhelmed with the function of punishing and rehabilitating offenders in order to allay our fears by preventing the occurrence of future crimes while communities detach themselves from the process.

Evidence points to an overuse of imprisonment. The utility of this is questionable.

*'Skepticism concerning the prison as a place of treatment has now been reflected in formal criminal policy in many countries.....for example, imprisonment is widely described as a sanction that cannot achieve any improvement in the great majority of prisoners or in their social situation. On the contrary, there is widespread awareness that the prospects for satisfactory, adjustments in society are frequently made worse by imprisonment. Reference can also be made to the high costs of running a prison system- both to the maintenance and the capital costs. Today, the economic resources available for necessary public services are subject to severe constraint. Moreover, to the extent that the prison system is required to take in more prisoners than it can deal with, overcrowding must result, thus further hampering the attempts to alleviate the negative consequences of imprisonment. For these reasons, imprisonment should not be used where a non-custodial sanction will do, except as a measure of last resort'*³.

² Paul McCold (1995) "Restorative Justice: The Role of the Community", *Paper presented to the Academy of Criminal Justice Sciences Annual Conference, Boston, March 1995.*

³ This contribution is based on an oral presentation, "Twenty Years After the Adoption of the Toyko Rules" given by Dr. Ugljesa Zvekic, Chief of the Strategic Planning Unit of the United Nations Office of Drugs and Crime, at the Round Table "Alternatives to Imprisonment", held at the Vienna International Centre, 22 October and extracts from the original publication "Alternatives to Imprisonment in Comparative Perspective" (Chicago: Nelson-Hall Publishers) containing the findings of a Research Workshop on Alternatives organized by the United Nations Interregional Crime and Justice Research Institute (UNICRI).

The Corrections/Prisons Service is one of the key tripod agencies in the Criminal Justice System.⁴ The other two are the Law Enforcement, and Adjudication agencies. These three agencies are interrelated parts of a whole system that aims at controlling aberrant behavior for the collective protection of society.⁵ The Criminal Justice System is organized in such a way that a convicted criminal must be given a form of punishment to serve as deterrence to others, to make him know that crime does not pay, and to make him realize that society does not allow crimes. Unfortunately, over the past few decades, evidence has shown that the existing punitive structures, institutions, relations, and values are aggravating the problems we ask them to solve⁶ by fueling the flames of vengeance against the offender while paying little or no attention to the needs of victims and the rectification of the damage done to them and the society as a whole.

New thinking has therefore arisen across the globe on the concept and purpose of imprisonment and functions of Prisons service. This system of thought on the role of prisons departs from punishment for the sake of punishment, and concentrates on reform, reorientation, rehabilitation, reintegration and empowerment of inmates so that they can reject criminal life, acquire new and relevant knowledge and skills, and also become truly accountable for their actions against other individuals and the community as a whole. It is guided by the premise that a **'society can control effectively only those who perceive themselves to be members of it'**⁷, hence, maintains that the involvement of the community plays an important role in the ability of Prisons/Corrections Institutions to effectively turn criminals into reformed,

⁴ John Fuller, *Criminal Justice: Mainstream and Cross-Currents*, Prentice Hall, New Jersey, 2005; Samuel Walter. "Origins of The Contemporary Criminal Justice Paradigm: The American Bar Foundation Society 1953-1969", *Justice Quarterly*, Vol. 1, No. 1, 1992

⁵ Helen Osinowo, "Correctional Psychology", in Bola Udegbe, Helden O. Osinowo, Shingle Balogun, and Gbenga Sunmola (eds.), *Psychology: Perspectives In human Behaviour*, Ibadan, Dept. of Psychology, University of Ibadan, 2005, p. 266.

⁶ Harris, M. K. (1991). Moving into the new millennium: Toward a Feminist Vision of Justice. In R. Quinney & H. Pepinsky (eds.), *Criminology as Peacemaking* (pp. 83-97). Bloomington: Indiana University Press.

⁷ Young, J. (1971). *The drugtakers: The social meaning of drug use*. London: Paladin, p. 52

law abiding, and productive citizens that would readily reintegrate into free society on discharge.

This paper focuses on a Corrections approach that recognizes the need for community involvement in offender rehabilitation and re-integration processes. While placing emphasis on the importance of Transformative, Restorative and Balanced Justice in all countries regardless of their economic status, it cites examples, best practices and lessons learnt that could provide a road map for the future.

The dictionary definition of the word, “correction” usually refers to either “a change that makes something more accurate than it was before”; or “the act or process of correcting something” (in other words, removing errors or mistakes). However, within the penal system, the old definition of the term implied punishment.⁸ In this old sense, the word “correctional” is concerned with improving the behavior of criminals, usually by punishing them.⁹ Thus, any facility delegated with this task was called a prison. The fundamental duty of such facilities was to keep inmates, reform them, re-orientate them, and rehabilitate them in order to avoid recidivism. However given the recidivism rates recorded in various countries, it seems that they have not been able to achieve this objective.

For example, in Nigeria, it is estimated that the recidivism rate has maintained an upward trend from 35% in 2007 to 44% in 2008 and 52.4% in 2010.¹⁰ In 2007, 14 prisons in England and

⁸ A.S. Hornby, Oxford Advanced Learners Dictionary of Current English, Oxford, Oxford University Press, 2005, p. 328.

⁹ *ibid*

¹⁰ Abrifor, C. Atere, A. and Muoghalu, C. (2010) 'Gender Differences, Trend and Patter Recidivism among Inmates in Selected Nigerian Prisons' European Scientific Journal 8(3) 25 – 44

Wales had reconvictions rates of more than 70%.¹¹ According to the Australian Institute of Criminology, about 60 per cent of those in custody in Australia have been imprisoned before.¹²

One study in the United States tracked 404,638 prisoners in 30 states after their release from prison in 2005.¹³ The researchers found that: within three years of release, about two-thirds (67.8 percent) of released prisoners were rearrested; within five years of release, about three-quarters (76.6 percent) of released prisoners were rearrested; and of those prisoners who were rearrested, more than half (56.7 percent) were arrested by the end of the first year.

The return of several inmates to crime soon after discharge from prison has an impact on the crime rate within the society, the financial burden on the State for their further incarceration and the security of life and property; all of which influence the economic development process of any nation. Although deviants or criminals are seen as citizens who failed the community by making serious mistakes and the roots of such failures or mistakes are expected to be removed by the prison / correctional services, the blame for the recidivism rate within the society cannot be laid solely at the feet of such facilities. Studies on recidivism have linked its prevalence to some observable factors such as:

1. Lack of funds immediately following release from prison¹⁴,
2. Poor employability and low wage earning capacity^{15 16},
3. Poor education and unstable work history^{17 18},

¹¹ Erwin James, (2013) The Norwegian prison where inmates are treated like people. The Guardian. Published 25 February 2013. Available Online at: <<http://www.theguardian.com/society/2013/feb/25/norwegian-prison-inmates-treated-like-people>> Accessed on 1/9/2014

¹² Australian Institute of Criminology, Recidivism. Available online at: <http://www.aic.gov.au/crime_community/communitycrime/recidivism.html> . Accessed on 1/9/2014

¹³ Durose, Matthew R., Alexia D. Cooper, and Howard N. Snyder, [*Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010*](#), Bureau of Justice Statistics Special Report, April 2014, NCJ 244205.

¹⁴ Rossi, P., Berk, R., and Lenihan, K., (1980). Money, Work and Crime –Experimental Evidence. New York: Academic Press.

¹⁵ Hinds, L., (1982). Impact of Incarceration on Low-Income Families. Journal of Offender Counselling Services and Rehabilitation, 5, 3, and 4, 2-12.

¹⁶ Meyers, S., (1984). Do Better Wages Reduce Crime? American Journal of Economics and Sociology, 43, 191-196.

¹⁷ Buikuisen, W., and Meijs, B., (1983). Psychosocial Approach to Recidivism. In Van Dusen, K. and Mednick, S., (Eds.), Prospective Studies of Crime and Delinquency. Boston: KluwerNijhoff.

¹⁸ Eisenberg, M., (1985). Factors Associated with Recidivism. Austin: Texas Board of Pardons and Paroles.

4. Quality of post-release neighborhood environment¹⁹ ,
5. Availability of post-release job training programmes²⁰
6. Community treatment center placement ²¹
7. Availability of pre and post-release educational programmes²².

In the late 1970s, peacemaking criminology was introduced as a probable solution by peace churches in the United States (Mennonites, Quakers, and Brethren) with major emphasis placed on the theory of Restorative Justice (RJ).²³ This theory was developed from aboriginal and Native American practices in North America and New Zealand, which use community circles to bring victims and offenders together to heal, forgive, and take accountability.²⁴ A close look at the above stated causes of recidivism, especially points 4 to 7, show the importance of collaborations and partnerships between the Correction facilities and Communities. Recognizing these causes, the key goal of contemporary Correction is to pull offenders out of criminal behavior through four stages:

- The identification of their criminal actions and the causes of the crime
- The reformation and reorientation of the offender which usually begins with taking accountability for their actions;
- The rehabilitation of such persons (through skill acquisition, education and other activities aimed at making him or her more productive);
- The effective re-integration of ex-offenders within their communities.

¹⁹ Gottfredson, M. and Hirschi, T., (1990) *A General Theory of Crime*. Stanford: Stanford University Press.

²⁰ Jengeleski, G., (1981). *Comparative Study of the Effect of a College Employment and Training Programme on Post-Release Arrest, Conviction, and Sentence Outcomes for Ex-Offenders*. Rockville, Maryland: National Institute of Justice.

²¹ Beck, J., (1981). *Employment, Community Treatment Centre Placement, and Recidivism. Study of Released Federal Offenders*. *Federal Probation*, 45, 4, 3-8.

²² Blackburn, F., (1981). *Relationship between Recidivism and Participation in a Community College Associate of Arts Degree Programme for Incarcerated Offenders*. In *Proceedings of the Thirty-Sixth Annual Correctional Education Association Conference*. Rockville, Maryland: National Institute of Justice.

²³ Zehr, H. (1995). *Changing lenses*. Scottsdale, PA: Herald Press.

²⁴ Ibid

Proponents of Restorative Justice maintain that this goal of contemporary Correction organizations can only be achieved through a criminal justice system that is governed by the following principles:²⁵

- The belief that punishment hurts relationships, the victim(s), the offender(s) and the society on the long-run.
- Although crime is wrong, after it occurs, there exist dangers and opportunities. Hence it should be addressed as soon as possible to make things right again.
- Effective Justice includes the victim and their friends, family, etc. it should not be solely focused on the offender.
- After everyone is safe, the event should be made a teachable moment and to have the offender learn new ways of acting in the community.
- The need for volunteer involvement in the justice process and not coercive measures.
- The need for a collaborative and cooperative process within the Criminal Justice system.
- The recognition that not all offenders are willing to cooperate; therefore, there is a need for outside authority to decide for the offender in a coercive manner.
- Recognition of the fact that, while prison should not be used as a result of the process, prison might need to be used in situations where the offender is a risk to him/herself and/or others until the time comes where s/he is willing to voluntarily meet with the victim(s).
- Emphasis on the availability of follow-up services for those involved in the crime in order to know if all parties are holding to their agreements.
- The role of religious institutions in aiding in justice among people and to promote moral and ethical values within communities.²⁶

²⁵ Ron Classen, (1995) Restorative Justice - Fundamental Principles. Presented May 1995 at NCPJR; revised May 1996 at UN Alliance of NGOs Working Party on Restorative Justice. Available online at: < <http://peace.fresno.edu/docs/rjprinc.html>>. Accessed on 1/9/2011

²⁶ Claassen, R. (1996). Restorative justice - fundamental principles. Fresno, CA: Center for Peacemaking and Conflict Studies. Retrieved on July 23, 2011 from <http://peace.fresno.edu/rjprinc.html>.

Instead of focusing on retribution, a community gains when the purpose of justice is the restoration of the victim, community, offender, families, friends, and any other individuals or relationships that might have been damaged by the crime.²⁷

In the late 1990s, Ruth Morris, a Quaker in Canada, challenged restorative justice because it did not address issues of oppression, injustices, and social inequities within conflicts.²⁸ Hence, the need for another system of thought which strives to use the conflict as an opportunity to address larger socio-political injustices- Transformative Justice. Transformative Justice is guided by the premise that, 'If the world is to transform, we need everyone to transform and everyone to be voluntarily involved in critical dialogue together'. Theories of transformative justice have their roots in *transforming power*, coined by the internationally-respected Alternative to Violence Project (AVP), a Quaker based organization, established in Green Haven Prison, New York, and is now in more than twenty different countries on four continents.²⁹ Transforming power is about changing a negative or violent situation into a positive and peaceful one.³⁰ It is about looking for the good within a conflict and searching for peace within oneself and others.³¹ It deals fully with the deep need of offenders both to assume responsibility for their crime, find healing for its causes, while accepting social controls to prevent a recurrence.³²

Hence, while Restorative Justice places emphasis on the need to make amends for harm done to the victim and other parties affected by a criminal act, Transformative Justice focuses on need for positive interactions within the community achieved through the transformation of the individual. Although the proponents of both theories would prefer to argue the supremacy of one over the other, this paper maintains that the principles of both theories can be jointly utilized in Criminal Justice Systems to address existing gaps in inmate rehabilitation and re-integration.

²⁷ Claassen, R. (1996). Restorative justice - fundamental principles. Fresno, CA: Center for Peacemaking and Conflict Studies. Retrieved on July 23, 2011 from <http://peace.fresno.edu/rjprinc.html>.

²⁸ Donna Coker in Braithwaite .J. & Strang .H. (Eds.) (2002), Restorative Justice and Family Violence. UK: Cambridge University Press

²⁹ AVP/USA (2005) AVP Alternatives to violence project: Manual for Second level course. St. Paul, MN: AVP/USA. Inc.

³⁰ Ibid. page c-5

³¹ Ibid. page c-6

³² Moore, D.B. (1994). Pride, shame and empathy in peer relations: A case study with implications for theory and practice in education and juvenile justice. Unpublished manuscript.pp.5

This is so because Restorative Justice draws our attention to the need for positive and constructive measures aimed at ensuring that offenders make amends and become accountable for their actions and its impact on the victim and the community. Restorative justice programs are based on the belief that parties to a conflict ought to be actively involved in resolving it and mitigating its negative consequences. It encourages the involvement of the community in the rehabilitation of the offender. When the community is actively involved in the criminal justice system, it demystifies imprisonment and encourages the re-integration of offenders by making communities more forgiving and welcoming of ex-offenders. On the other hand, transformative justice also contributes to effective inmate rehabilitation by impacting the offender's world view and how he or she chooses to react to events around him or her. It reduces recidivism rates within countries by discouraging the desire for an offender to choose crime or violence as the first option in interpersonal relations.

II. CORRECTIONS AND DEVELOPMENT

Unlike in time past, development is no longer viewed only in terms of the level of Gross National Product (GNP), availability of infrastructure, Per Capita Income (PCI), among several other indices. This is influenced by events in the international arena which have underscored the fact that any development worth having must take into consideration the wellbeing of individuals and communities by effectively addressing human rights related issues like hunger, health, poverty, and even security.

Development is believed to uphold two fundamental ideas: Wealth Creation; and the ability to transform institutions and the general attitudes of citizens towards the pursuit and achievement of established development²⁵ goals and objectives. Based on this, it can be said that Corrections/Prison Services can be instruments of development through the establishment and running of Prison farms and industries²⁶ (wealth creation); the reformation of inmates into law abiding citizens as well as developing the country's human capital through education and skill

acquisition programs for inmates³³ (transformation of institutions and the general attitudes of citizens towards the pursuit and achievement of development goals and objectives).

These two fundamental ideas show the direct impact of Corrections/Prisons Services on economic development. However, they failed to highlight their indirect impact as security sector institutions. Several attempts to quantify the economic effects of crime have consistently shown that losses from the direct and indirect costs of crime and violence are a significant fraction of many developing countries' GNP. This is not surprising because unless one can be assured of his physical security or safety, participation in every other economic activity will be hindered.³⁴

According to Robert McNamara (a former United States Defence Secretary) "...Security is development..."³⁵. An analysis of security as development reveals five different dimensions³⁶: Military Security, Political Security, Economic security, Societal Security, and Environmental Security. For the purposes of this paper, Corrections/Prisons Services will be looked at in terms of Societal Security since they are charged with the task of housing convicted criminals who constitute serious threats to individual lives, property and even the State. Their ability to effectively carry out this task influences the security of the community and the confidence with which citizens may embark on economic activities. In addition to this, they also provide information of 'security value' collected by prison officials from remorseful inmates on criminal gangs still operating within communities.³⁷ Reduction in offending and re-offending behavior promotes public safety, social and economic investment and community / national development.

³³ Senator Victor Ndoma-Egba, quoted in Sufuyan Ojeifo, "Nigeria: Senate Considers Bill On Rehabilitation of Prisoners, Prisons Funding", *Thisday* (Lagos), April 23, 2010.

³⁴ Zabadi I., "Fundamentals of Strategy", Lecture delivered to Participants of the National Defence College, Abuja, September 2001, p. 1.

³⁵ Robert McNamara, *The Essence of Security: Reflections In Office*, New York, Harper and Row, 1968, p. 49.

³⁶ Barry Buzan, "The Case for a Comprehensive Definition of Security and the Institutional Consequences of Accepting It", Working papers, Centre For Peace and Conflict Resolution, Copenhagen, 1990, p. 7.

³⁷ *Ibid*, p. 71.

III. CORRECTIONS – IMPORTANT ELEMENTS

In many countries, especially in Africa, there is a growing dissatisfaction with the formal justice system and increasing interest in the preservation and strengthening of customary law and traditional justice practices as viable alternatives institutions for the maintenance social disorder. Lessons from the African Traditional Justice System [and perhaps from several aboriginal societies] are that Justice stands on a tripod – the offender, victim and the community. That the success of the justice dispensation depends on the treatment, participation and satisfaction of all three elements, as the pendulum swings there is the need to ensure that it ‘covers the field’. There is the need to maintain a balance by ensuring adequate focus on the Community and Victims. Where the interest of the Victim and Community is submerged in an abstract notion of the State, there is still a yearning vacuum. There is an African proverb that says that ‘You do not shave ones hair in his/her absence’. For over two decades, there have been persistent calls for criminal justice systems to be more victim-oriented. In 1985, the General Assembly adopted a *Declaration of Basic Principles on Justice for Victims of Crime and Abuse of Power* which stated that “informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims”.³⁸

According to the United Nations Handbook on Restorative Justice Programmes³⁹, in several African countries, customary law is increasingly viewed as a possible instrument for rebuilding the capacity of the justice system. Such development is as result of the fact that traditional African dispute mechanisms share the same guiding principle with Restorative Justice by being victim-centered, providing the parties involved, and often also the surrounding community, an opportunity to participate in resolving conflict and addressing its consequences.

³⁸ General Assembly resolution 40/34 of 29 November 1985, para. 7.

³⁹ UNODC (2006) Handbook on Restorative Justice Programmes. Criminal Justice Handbook Series. Vienna: United Nations Office on Drugs and Crime

According to some members of the academia, prior to colonialism, four major principles in the maintenance of peace, and management of disputes were observed among African communities and they are:⁴⁰ Settlement of disputes by peaceful deliberation, not force; Correction of wrong-doing through compensation and restitution, not retribution; Adjudication and assessment by a body of impartial elders; and Fairness (equity and justice). The social solidarity and humane emphasis of the system is reflected in the treatment of offenders who are encouraged to understand and accept responsibility for their actions. Even though accountability may result in some discomfort to the offender, it is not so harsh as to degenerate into further antagonism and animosity, thereby further alienating the offender. Furthermore, strenuous efforts follow chastisement to reintegrate the offender back into the community through institutions of social control which provide offenders support through teaching and healing. This method is believed to encourage peaceful expression of conflict, promote tolerance and inclusiveness, build respect for diversity and promote responsible community practices.⁴¹

Recognizing the role Restorative Justice could play in the process of effective penal reforms through the reduction of the burden on the criminal justice system and provision of a range of constructive sanctions, the United Nations and its different agencies have developed substantive work on restorative justice. During the Tenth United Nations Congress on the Prevention of Crime and Treatment of Offenders, the *Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century* advocated the “development of restorative justice policies, procedures and programmes that are respectful of the rights, needs and interests of victims, offenders, communities and all of the parties”.⁴² In August 2002, the UN Economic and Social Council adopted a resolution calling upon Member States implementing restorative justice programmes to draw on a set of Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters. In 2005, the declaration of the Eleventh UN Congress

⁴⁰ Ayittey George, *Indigenous African Institutions*, New York, Transnational. Also see OBC Nwoli, “Traditional Approaches To Conflict Resolution Among the Igbo People of Nigeria: Reinforcing The Need For Africa to Rediscover Its Roots”, in *Amani Journal of African Peace*, Vol. 1, No. 1, Feb. 2004, pp. 59-80.

⁴¹ Ibid

⁴² The *Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century*, 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10-17 April 2000, A/CONF. 184/4/Rev.3, para.29.

on the Prevention of Crime and the Treatment of Offenders (2005) urged Member States, for very practical reasons, to recognize the importance of further developing restorative justice policies, procedures and programmes that include alternatives to prosecution. .⁴³⁴⁴

There are several understandings of how Restorative Justice can be implemented in Corrections.⁴⁵ One of such perceptions is called the **Encounter** conception which focuses on the meeting together of parties to discuss the crime, its consequences and what should be done to rectify the situation. Persons who work within this conception could suggest that restorative processes be used even when there has not been a crime, such as when neighbors have a conflict or a family needs to solve a problem.

The second is the **Reparative** conception which focuses on the need to repair the harm resulting from crime. People who work within this conception agree that this is best done in a restorative process (encounter) but are willing to find other ways to repair the harm even if there is no encounter process, for instance if the offender is never caught or the victim is unwilling to participate.

The third has been called the **Transformative** conception which is the broadest of them all since it not only embraces encounter and reparation, but also focuses on structural and individual injustice. For instance, it draws attention to structural injustice by identifying and attempting to resolve underlying causes of crime such as poverty or idleness. However, it also challenges individuals to apply restorative justice principles in their interaction with those around

⁴³ The *Bangkok Declaration—Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice*, 11th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Bangkok, 18-25 April 2005, para. 32.

⁴⁴ Note also that, in 2001, the European Union issued a framework decision stating that member states should promote mediation in criminal cases and bring into force their legal instruments by 2006. See. European Union Council Framework Decision of 15 of March 2001 on the Standing of Victims in Criminal Proceedings, Article 10.

⁴⁵ Johnson, G. and Van Ness, D. (Eds.) *The Meaning of Restorative Justice, The Handbook on Restorative Justice*. Cullompton: Willan Publishing, 2006

them and to their environment. This can generate internal spiritual transformation even as it calls for external societal transformation.

Regardless of what understanding chosen for Restorative Justice in Corrections, the United Nations recommends that such programmes should have the following features:⁴⁶

- A flexible and variable approach which can be adapted to the circumstances, legal tradition, principles and underlying philosophies of established national criminal justice systems;
- A response to crime which is particularly suitable for situations where juvenile offenders are involved and in which an important objective of the intervention is to teach the offenders some new values and skills;
- A response that recognizes the role of the community as a prime site of preventing and responding to crime and social disorder.

I will return to this last point shortly.

Unlike the current retributive system seen within several jurisdictions, Restorative Justice views criminal conflict as an injury to personal relationships and the property of those involved.⁴⁷ It

⁴⁶ *Handbook on Restorative Justice Programmes*: Criminal Justice Handbook Series, UN, New York, 2006

⁴⁷ Christie, N. (1977). Conflict as property. *The British Journal of Criminology* 17(1):1-14.

replaces "punishment" of the offender as the basis for justice, with attempts to heal injuries of all parties involved in criminal conflict: victim, offender, and community.⁴⁸

Among crime victims' needs are for the offender to understand the injury caused them, as well as their family and friends. If the offender could be made to appreciate the injury caused and develop a sincere sense of contrition, the victim could have the chance to heal emotionally from the harm and go on with their lives. The act of holding offenders accountable for their actions not only goes a long way toward healing the victim, but is the beginning of bringing some real healing to the offender as well.

Victim-Offender programs have been implemented in a number of communities in the United States and Canada. Many other countries are developing growing programs, including Japan, England, Germany, Finland, the Netherlands, and Sweden.⁴⁹ These programs are usually run by non-profit community groups and use negotiation and mediation to make the process of reparation therapeutic for both parties.⁵⁰ They are based upon the premise that crimes are harms done by one person to another person, and that the resolution of justice must directly involve the parties to the crime.⁵¹ Like restitution, it is assumed that offenders owe something to their victims, and need to assume responsibility to the victim directly.⁵² The details of what is owed is worked out in an agreement by a trained mediator between the victim and offender. In New Zealand and Australia, these principles are incorporated into their basic approach to

⁴⁸ Zehr, H. (1990). *Changing Lenses: A New Focus for Crime and Justice*. Scottsdale, PA: Herald Press. Pp.184

⁴⁹ Umbreit, M. S. (1994). *Victim Meets Offender: The Impact of Restorative Justice and Mediation*. Monsey, New York: Willow Tree Press, Inc.

⁵⁰ Karmen, A. (1990) *Crime Victims: An Introduction to Victimology*. 2nd Ed. Belmont, California: Wadsworth Publishing Company. P.285

⁵¹ Morris, A., & Maxwell, G.M. (1993) Juvenile justice in New Zealand: a new paradigm. *Australia & New Zealand Journal of Criminology*. 26, March, 72-90.

⁵² McElrea, F.W.M. (1994) The intent of the Children, Young Persons, and Their Families Act 1989 — restorative justice? A paper presented to the Youth Justice Conference of the New Zealand Youth Court Association (Auckland), Inc., February 25.

juvenile justice.⁵³ Early results from evaluation of such programs, reveal a considerable level of success of this approach for victims, offenders, and society.⁵⁴

It is said that an eye for an eye leaves the whole community blind. Gone are the days when offenders needed to be punished as a corrective measure. This method has not only failed but has emphasized on the need for effective justice for victims by holding them (offenders) accountable for their actions. Real accountability comes from taking responsibility for the consequences of one's behavior. Offenders must be encouraged to help decide how to make things right and what they can do to undo the harm they caused (utilizing different evidence based approaches - Cognitive Behaviour therapy, motivational interviewing, etc.). Only by empowering offenders in this process can they learn from their past actions and how to take responsibility of their present and future actions. It is only when this happens that true correction can be said to have taken place.

IV. THE ROLE OF COMMUNITY CORRECTIONS:

I promised to return to the point of having - 'A response that recognizes the role of the community as a prime site of preventing and responding to crime and social disorder.

What does this mean in practice? In what ways are we making the community the prime site for preventing and responding to crime and social disorder?

Lets reflect for a moment – What does incarceration do primarily – removes a person from the community (jobs, social networks, family relationship), takes away the ability of the person to determine his/her day-to-day activities. For example, he is told when to sleep, wake, bath, eat and where to move to and when he/she is authorized to do so. His/her food, shelter and clothing

⁵³ Galaway, B. (1992). The New Zealand experience implementing the reparation sentence. In H. Messmer & H.-U. Otto (eds.), *Restorative Justice on Trial* (pp. 55-80). Netherlands: Kluwer Academic Publishers.

⁵⁴ Umbreit, M. S. (1994). *Victim Meets Offender: The Impact of Restorative Justice and Mediation*. Monsey, New York: Willow Tree Press, Inc

are guaranteed and he/she does not need to do anything to earn this. Thus, incarceration is a license to breed dependence. On release, we expect a complete reversal. The lesson from the theory of inertia in physics teaches us that every object remains in a state of rest or in uniform motion in the same straight line unless additional or extra force is applied. With this we should not be surprised with the high level of recidivism recorded in many jurisdictions and the difficulty in achieving successful re-entry, re-integration, and re-settlement of offenders/prisoners into the community. The more we use imprisonment/prisons both in terms of the number of persons incarcerated and the duration spent in custody, the more we make it difficult for successful re-entry to take place.

Every prisoner [unless if he or she dies in prison or stays for life without release] will someday be released from prison. **The community is therefore a more permanent abode for every offender/prisoner and thus it makes more sense to focus more on resourcing and utilizing community corrections programs that have been found to work more than 'warehousing' people into prisons in many countries of the world.** I think there are lessons to learn from the United States on this. From prison expansion projects [building new prisons for more inmates including in remote areas] to a situation of reevaluating the utility of this and working towards their reduction. Virtually all the states in the US have developed huge budget problems that resulted in reevaluations of their corrections expenditures. For example, recently Michigan reduced their corrections population from 52,000 to 43,000. California is obligated by court order to delete 22,000 inmates from the system, and other states are looking for similar reductions in numbers, particularly of those thought of as non-violent drug offenders. **There is a role for Community Corrections here.** Explaining this point further with a global perspective, a good friend of mine, an astute intellectual mind Dr John Gannon [the Executive Director of the International Association of Correctional and Forensic Psychology] recently wrote in a communication to a limited audience as follows:

'Awareness of issues of disproportionate minority representation among inmates, a steadily lurking problem for many years among correctional professionals and academics, has reached into the mainstream media and popular culture. It is not unusual now to hear national news people, speaking to worldwide audience, contrast the world's population percentage of the U.S. (5%) with the percentage of inmates (25%) in our prisons, and for mainstream commentators to speak

authoritatively regarding sex offenders, violent vs. non-violent inmates, yearly costs per inmate, and other matters formerly known only to the few Americans interested in such matters. Debates regarding sex offender housing and re-incarceration in mental hospitals after serving prison terms has become widespread in mainstream media. Times and the zeitgeist are changing rapidly internationally as well. Singapore shows better understanding of criminality in their culture, as well as a series of integrated responses to crime and criminality that include inmates, their families, and the society in general that is light-years ahead of us. The Europeans, while drifting in the USA direction when it comes to incarceration rates, often still maintain lower incarceration rates, more humane attitudes and better researched and applied interventions. Mexico has built state-of-the-art facilities just recently opened and brought huge improvement to their staff-training efforts. The Romanians have emerged over the last few years as the go-to leaders in e-learning and training for societies in both Eastern and Western Europe. Africa and the Caribbean motivated to improve their criminal justices systems, and the Iranians, Afgans, Peruvians, and South Africans regularly attend international conferences in hopes of learning more about ways to improve their correctional systems as part of their efforts to improve their societies. This is all new over the last few years’.

The Lesson from Singapore from their Yellow Ribbon Project emphasizes the need to ‘Unlock the Second Prison’ through strong family and community engagement as well as multi-agency collaboration. This promotes reduction in reoffending behavior, family and community ‘healing’ and reconciliation as well as reduction in government cost. It increases the sense of worth and responsibility for the offender.

I am shocked by the increasing number of youths incarcerated in prisons in many jurisdictions. Whilst rate of employment remain low and violence rises, I ponder on the future of our tomorrow in the face of what we are doing to the so called future of our tomorrow – the youths. Warehousing these in prisons surely presents a non-effective and non-sustainable solution. **No doubt, increasing utilization of community correction will provide a viable alternative.**

What investment are we making towards value orientation? The foundation is critical to ensure prevention of offending and re-offending behavior. The Bible puts it thus: *‘When the foundation*

is destroyed, what the righteous can do?’ Building on a foundation that advocates for us to love our neighbors as our self, that encourages departing from evil.

Community Corrections role should be a holistic one ...it has a place in preventing offending behavior, diverting persons from custody, facilitating reintegration and preventing re-offending behavior. A role to play pre, during and post criminal justice processes. It has a role to play in also encouraging more community involvement and responsibility in this regard. The state ought to provide enabling environment to help humane, accessible and balanced justice take place. Justice that must give a face to the community, victim, and offender and which sees both the victim and offender as members of the community that have both been affected and whose actions and treatment has consequences on the community as a whole. Not forgetting also that the community is affected by the crime and requires ‘healing’ and ‘restoration’ to regain its harmony and cohesion.

V. CONCLUSION

The use of force and punishment by State institutions to correct offenders has done nothing but encourage the culture of violence to which the States and their citizens have remained victims. It is important to note that offenders are both products and members of the community. Hence, it is time for the community’s role to be well recognized and entrenched. There is a need to promote more involvement of community corrections approaches in the processing of persons within the criminal justice system.

This paper argues that there is a place for community corrections in addressing the problems of offending and re-offending behavior holistically. There is a need for a tripartite approach that effectively engages the offender, the victim and the community. The Community is crucial and serves an over-arching role. We are the community and the community is us. Behind the walls of our prisons we need to be aware of the reality that the inmates success depends on the ability to regain normalcy in the community by breaking the shackles of dependence learnt inside. If we opt to utilize non-custodial measures, the success depends on the ability to get the offender function in harmony and with sense of responsibility within the community. Again, emphasizing the role of the community.

Perhaps we should remind everyone affected by crime [both offenders and victims] of these words:

'Fear not for I am with you, do not look around you in terror and be dismayed, for I am your God. I will strengthen and harden you to difficulties, yes, I will help you, yes, I will hold you up and retain you with my (victorious) right hand of rightness and justice'. [Isaiah 41: 10, Amplified Version]

Perhaps we should:

Hold their hands and guide them to do the right things and live right
even as we dispense justice.

Hold their hands and guide them through their pains to help them heal and bounce back in
peace and health from the harm done to them as we dispense justice.

Help all to live in harmony

This is justice.

Justice that works.

My thesis: We must not lock the Second Prison. To do so, will be our peril. The key to this Second Prison is in the hands of all of us and indeed so also is the key to determining those to enter the first prison. The community is key and justice can only have meaning when is given a humane face and it is made accessible and balanced, focusing on promoting healing, restoration, and harmony for ALL that have been affected by the crime and offending behavior – the victim, the offender, and the community.

This message needs to be shared amongst criminal justice practitioners, policy makers, media, the general public, etc. across the globe.

Thank you.