

About the Centre for Justice and Reconciliation

The Centre is the justice reform arm of Prison Fellowship International, an association of NGOs active in over 100 countries. The Centre assists governments, its affiliates, and other NGOs in addressing problems in the criminal justice system.

The Centre promotes restorative justice policies and practices as a promising approach with benefits for victims, communities and offenders.

While operating in the Christian tradition, the Centre seeks common ground, dialogue and collaboration with people from all backgrounds and traditions.

About the 10 Keys

Criminal justice practitioners around the world seek practical measures to address the serious crises that exist in many justice systems. The purpose of the 10 Keys Project is to offer ideas to assist them in doing that.

CENTRE FOR JUSTICE AND RECONCILIATION

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10 KEYS TO MAKING SENTENCES MORE RESTORATIVE

MAKING SENTENCES MORE RESTORATIVE

Restorative justice is increasingly influential around the world. The UN recommends that countries use it more and has endorsed basic principles to ensure that it is effectively blended with criminal justice.

Some mistakenly believe, however, that restorative justice is a specific programme. It is in fact a theory of justice that calls all parties—victims, offenders, communities and the government—to recognise the importance of repairing the harm caused by crime.

This means that judges can often incorporate restorative principles when considering sentences, even if restorative processes such as victim-offender mediation are not available.

Of course they must follow the law, but often judges have opportunities to exercise some discretion even in civil law countries. Existing sanctions, such as probation, may offer enough latitude that sentences can become more restorative.

Long-term change is likely to involve legislative change and the development of new programmes within the criminal justice system. The Centre can assist those who want to implement such changes. It also stands ready to help judges consider what can be done under the existing laws and institutions.

10 KEYS TO MAKING SENTENCES MORE RESTORATIVE

Inclusion

Allow the people affected by the crime—victims, defendants, their families and communities—to help shape and then participate in restorative processes.

Key 1: Conduct Surveys

Invite a university professor to interview them to learn how they feel about what happens in court and what changes they suggest to make the processes more satisfactory to them.

Key 2: Consider Changes

No case is exactly like all the others. A process designed for hardened criminals who deny guilt will not work as well for first-time offenders who admit what they did. Identify changes in procedures that would increase the involvement of different kinds of victims and defendants.

Key 3: Always Ask

Don't assume that the parties will or will not want to meet the others or participate in some other way. Allow them to decide by offering them that opportunity, while attending to their need for safety and respect.

Encounter

Give the parties an opportunity to meet the others in a safe environment to discuss the offence, the harms that resulted and what needs to be done to repair the harms.

Key 4: Understand Alternatives

Learn about effective programmes such as victim-offender mediation, family group conferences and sentencing circles. These can be used after guilt is determined but before sentencing or as part of the sentence.

Key 5: Develop Programmes

Identify qualified staff or volunteers for training in how to facilitate restorative encounters. Get their agreement to explain and facilitate these encounters when victims and defendants are willing.

Key 6: Use Agreements

Develop criteria for referring the parties to a restorative process, and take the resulting agreement into serious consideration when imposing a sentence.

Amends

Give defendants the opportunity to repair the harms they have caused to the extent possible.

Key 7: Allow Apologies

Coerced apologies will not be meaningful to either the victim or offender. But a sincere apology can be healing for victims. The best way for victims to test an apology is during a restorative encounter.

Key 8: Enforce Restitution

In some jurisdictions restitution is ordered but not paid. This is not fair to victims. It may be that the offender was unable to pay, in which case it should not have been ordered. Or the offender may not have taken the order seriously, in which case it should be enforced.

Reintegration

Help the parties find the means and opportunity to rejoin their communities as whole, contributing members.

Key 9: Think Safety

The safety of the parties is always important. Many people sentenced to prison do not actually pose a danger to the victim or society. Imprisonment decreases the chance for the offender to make amends or to become a contributing member of society.

Key 10: Assist Victims

Victims of crime may need assistance from the moment the crime occurs. But they may also need help during the court processes to understand when they actually need to be present and what they can expect to happen. They need to be treated with respect and dignity.

About Restorative Justice

Restorative justice is a response to crime that emphasizes healing the wounds of victims, offenders, and communities caused or revealed by the criminal behaviour. It is a more comprehensive way of thinking about crime, one that values: inclusion of all parties, encounters between those parties, accountability demonstrated by making amends, and reintegration of all parties as contributing members of their communities.

Systemic Change

Structural reforms could cause restorative principles to become more fully incorporated into sentencing practices. Some of these include:

- Legislative enactment of new principles of sentencing based on restorative justice theory.
- Funding of well-run programmes to facilitate restorative encounters and amends. These can be either NGO-based or governmental, or both.
- Legislative enactment of presumptions or mandates concerning use of restorative processes for classes of offenders and victims who agree, rather than traditional criminal justice processes and sanctions.
- Legislation that grants discretion to judges to use restorative processes and principles in sentencing.
- In common law countries, at least, a restorative jurisprudence can develop as individual judges apply restorative principles and programmes when sentencing.