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Keeping them out of prison

A restorative justice education intervention with prison inmates in Lesotho

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This research project involved planning and implementing a restorative justice education programme with prison inmates in Lesotho aimed at restoring their self-worth and dignity, and to evaluate its outcomes. The project began with focus group discussions with first-time offenders, repeat offenders and ex-inmates to identify the main challenges faced by ex-inmates. It was found that these were stigma, rejection by their families and communities and the harsh socio-economic environment. The study then utilised restorative justice education materials from a South African NGO, Phoenix Zululand, which were translated into Sesotho and modified to suit local conditions. The programme involved discussion groups led by a facilitator and culminated in a conference involving inmates and their families held shortly before release. An evaluation conducted 12–18 months after release found very positive outcomes for the ex-inmates and their families concerned but there are reasons to be conservative in what is claimed in terms of programme success.

The effectiveness of two of the conventional justifications for imprisonment – deterrence and reformation – can be tested using rates of repeat offending as a performance indicator.

The evidence on recidivism, typically defined as the proportion of prisoners who are re-arrested, reconvicted or reimprisoned within two years of release, is unequivocal, although many countries

do not collect such data; imprisonment does not deter or reform the majority of prisoners.

Two major recent studies provide sufficient evidence for our purposes. A United States Department of Justice report followed a sample of some 400 000 prisoners released from state prisons in 2008 for ten years. About 66 percent were arrested within three years and 82 percent were arrested within ten years. Overall, around 61 percent returned to prison within ten years.² A systematic review for the period 2008 to mid-year 2019 found that, of the 50 countries with the highest prisoner populations, ten collect data on recidivism. These data show that reconviction rates of released prisoners within two years of release ranged from 20 to 63 percent. No African countries are included in the ten countries.³ There are no official data for South Africa, but the estimates of between 55 and 95 percent reported by Schoeman almost 20 years ago are generally accepted.⁴ The failure of imprisonment to meet two of its major objectives provides one motive for efforts to find alternatives to retributive justice; another is the high costs of incarceration.

With a homicide rate of 43,6 per 100 000 people in 2015, Lesotho is Africa's most violent country (the continental average is 12,9) and ranks sixth in the world. South Africa ranks ninth.⁵ In terms of the number of rapes reported to police (82,7 per 100 000 people), the country ranks second in the world.⁶ Its prison population in 2018 was 3651, giving the country a modest incarceration rate of 162 (although much increased from 92 in 2014), compared with 248 for South Africa.⁷ Sixty percent of inmates had committed offences against persons, while 30,5 percent had committed offences against property; 95,2 percent were males.⁸ There are no data on recidivism for the country.

Lesotho's justice system is essentially retributive, based on the understanding

that those who commit crime must be apprehended, brought before the courts and punished. Over the years, there have been various small restorative justice initiatives but these have not taken root. In 2005, the long-serving Director of Probation reported that the main constraint '... was the reluctance of the criminal justice sector [particularly magistrates and prosecutors] to accept restorative justice principles'.⁹ Little seems to have changed in this regard since that report. This experience mirrors that of South Africa, where restorative justice was a major theme of the innovative *White Paper on Corrections in South Africa*.¹⁰ A recent review by Batley and Skelton, however, suggests that there has been little progress towards this goal.¹¹

Given this background, the objectives of this research project were to carry out a restorative justice education intervention with a sample of inmates from Maseru Central prison and to assess its outcomes.

Restorative justice

Long before the arrival of colonial powers, African communities resolved internal conflicts and misbehaviour with the aim of maintaining social harmony. Murithi lists the typical stages of traditional African conflict resolution as follows:

- In public gatherings open to the entire community, there is presentation of evidence by those affected.
- Offenders are encouraged to accept responsibility for the offences committed, to repent and show remorse.
- Offenders are expected to ask for forgiveness from the victims, who are expected to forgive.
- Depending on the nature of the case, it is expected that offenders will pay compensation to the victim.
- A symbolic act of reconciliation between the representatives of the offender and the victim

takes place to signify the efforts made to restore societal harmony and trust.¹²

Although there is only scanty documentation of such practices in Lesotho, Qhubu has asserted that ‘... only the name [restorative justice] is new to Basotho ... the practice has always been there’.¹³

Beginning in the 1980s, developed countries ‘discovered’ restorative justice, in many cases drawing on the traditions of their indigenous populations, and began to use it as an alternative to imprisonment, initially with juvenile offenders. Restorative justice allows parties with a stake in a specific offence to collectively work out how to deal with the consequences of an offence and its implications for the future. The essence of restorative justice is contained in the following ‘guiding questions’ from one of its gurus, Howard Zehr: Who has been hurt? What are their needs? Whose obligation is this? Who has a stake in this situation? And what is the appropriate process to involve stakeholders in an effort to put things right?¹⁴

In contrast with retributive justice, restorative approaches focus on building a sense of self-worth and personal responsibility among offenders and often involves efforts to build or rebuild the relationship between offenders and their victims. This may occur through mediation sessions where victims have the opportunity to explain how the crime has affected them and offenders are asked to take responsibility for their behaviour, e.g. by apologising and possibly making reparations.

Much restorative activity takes place either before imprisonment – as in the case of diversion/alternative sentencing programmes – or after release. However, there has been increasing use of restorative programmes within prisons, which have been developed at the request of prisoners and victims, by prison policymakers and officials and by outside individuals and organisations. These

are typically used as a means of encouraging offenders to take responsibility for their actions, to repair the harm to victims and communities and to generate pro-social behaviours during incarceration and upon release.

Three main types of prison-based programmes have been identified, although these can overlap.¹⁵ First, there are victim awareness programmes designed to help prisoners better understand the impact of their crime on victims. Some victim awareness programmes operate without contact with victims. The *Focus on Victims* programme in Hamburg, Germany, for example, helps prisoners to think about people they know who have been victims, to reflect on their own experiences of being a victim and then to consider the effects their own crime may have caused.¹⁶ In other programmes, after careful preparation, victims and offenders come together in a form of dialogue led by a trained mediator. The purpose of the meeting is for both to tell their stories about the crime and its effects in the hope of achieving better understanding, a degree of healing and, perhaps, forgiveness.

Second, there are various conflict resolution training programmes. A prominent example of this is the *Alternatives to Violence Project* (AVP) developed by Quakers with prisoners in New York in the 1970s, but now offered worldwide in different settings. AVP helps prisoners to commit to dealing with their conflicts using nonviolent methods and trains them in the inter-personal skills of conflict resolution.¹⁷ While not directly connected to restorative justice, such conflict resolution training has significant congruence with restorative values.

In a third type of in-prison programme, the focus is on transformative education. As prisoners share their experiences, attitudes, fears and aspirations with each other in a structured and safe context, personal transformation can take place. Examples include *Partners in Healing* in Canadian prisons and *Mending Bridges* in the

United States.¹⁸ Such an approach is followed by the South African NGO, Phoenix Zululand, the programmes of which are utilised in this research project.

Phoenix Zululand

Phoenix Zululand (PZ) is a non-governmental organisation which has operated in 10 prisons in northern KwaZulu-Natal province since 2003.¹⁹ The second author of this paper is chair of its Board of Management. The objectives of all PZ programmes are the restoration of self-worth and dignity among prisoners and the restoration of relationships between prisoners and their families. The means used to meet these objectives are discussion groups with small groups of prisoners, which are led by a facilitator, some of whom are ex-prisoners. The first programme, *Phoenix Rising*, involves group discussions by prisoners on 16 topics. Closer to the end of their sentences, prisoners who have completed *Phoenix Rising* may participate in *Conversations in Families*, which comprises six topics relating to family life and responsibility. A list of the topics covered in the two programmes (in English) is included as box 1, alongside.

Finally, close to release, a half-day programme of *Family Conferences*, involving around eight prisoners and two or three of their family members, is held in an effort to deal with the anger and estrangement that often dominate these relationships. In the four years prior to the Covid-related disruption, between 800 and 1 000 prisoners participated in one or more of the three programmes each year.

Family conferences deserve more explanation. These involve a mixture of public disclosure to all participants and private conversations with their own family members. Starting in family groups, inmates tell the story of the crime for which they were convicted, something they have been prepared for by their involvement in *Phoenix Rising* and *Conversations in Families*, where self-disclosure is encouraged. Then

Box 1: Topics covered in the two Phoenix Zululand programmes

***Phoenix Rising* – 16 sessions**

- Introduction
- Our stories
- Being in prison
- Dealing with loss
- Self-esteem
- Understanding human behaviour
- Dealing with conflict
- Citizenship
- Being a parent
- Dealing with relationships
- Addictions
- Listening
- Restorative justice
- Tips for parole
- Looking ahead
- Coming full circle

***Conversations in Families* – five sessions**

- What do we mean by family?
- Remembering our parents
- Remembering our childhood
- Personal relationships
- Preparing for the family conference

family members tell the prisoner how the incident and its consequences have affected their lives. Moving into a plenary mode, the conference facilitator emphasises that it is the behaviour of the prisoner that is shameful and not the prisoner himself or herself. The prisoner is then given an opportunity to do something to repair the damage that their behaviour has caused by publicly apologising to their family, asking for their forgiveness and committing themselves to changes in their way of life. They thus distance themselves from the behaviour that has led to their imprisonment, while still accepting responsibility for it. Their family then has the opportunity to forgive them. It is clear from this summary that PZ programmes

connect with most of the objectives of prison-based restorative justice programmes discussed above. As the PZ website describes, the outcome is typically very positive:

Consistently, we have observed that families begin their [family conference] showing signs of reserve and alienation. As meetings proceed, it is evident that warmth, laughter and love returns to the family group ... [and families take the] opportunity to publicly reaffirm their love and support for the inmate...²⁰

Transformative learning theory provides a theoretical foundation for PZ's approach. This theory, devised by Jack Mezirow, argues that a key goal of learning is to 'transform problematic frames of reference (mindsets, habits of mind, meaning perspectives) – sets of assumption and expectation – to make them more inclusive, discriminating, open, reflective and emotionally able to change'.²¹ In other words, the main focus of transformative learning is to allow students to critically engage with their own entrenched beliefs and assumptions, exploring how they came to hold these ideas and discussing the impact of these ideas at both an individual and societal level. Reflection is central to Mezirow's learning theory: through reflection, a person can construct new understanding of beliefs and assumptions, which in turn can lead to a change in behaviour. In discussion groups, inmates are given the opportunity to hear different experiences and perspectives from their own.

An evaluation of the effectiveness of the Phoenix Zululand programme found high praise from the inmates (in this case parolees) who had gone through the three components and their family members who had attended a family conference. In addition, there was consistent feedback from Phoenix facilitators that it was very unusual to find programme participants returning to prison. However, it needs to be

borne in mind that involvement in Phoenix programmes is entirely voluntary, so participants might have already been strongly disposed not to reoffend.²² It is worth noting that insofar as reduced recidivism is a result of the Phoenix Programme, this would be a secondary benefit; the main purpose of PZ work is to restore self-worth and dignity. This distinction is discussed by Ross and Muro, among others.²³

Research methods

This study followed an action research approach. Well-known texts on action research are broadly in agreement that the approach involves a number of stages, which can be simply stated as:

- Exploration of the nature, extent, causes and consequences of a problem.
- Planning an intervention.
- Implementing the intervention.
- Evaluating the outcomes.
- Reflecting on the process, modifying and intervening again.²⁴

Exploration

The research project is fully documented in Molefi²⁵ and is only summarised here. The action research process took place in Maseru Central prison, the largest of the country's 11 prisons, with 895 inmates in 2018.²⁶ The exploration stage began with three focus group discussions in July–August 2018, one consisting of first-time inmates, another of inmates who had been convicted more than once and a third with ex-inmates.

The ex-inmates were particularly articulate concerning the main challenges facing ex-inmates on release, which were their economic livelihood and acceptance by their families and communities. Inmates struggled with self-esteem and anger. The following are typical comments:

I blame and criticise myself because I was working and providing for my family, but today they are suffering. It is very painful when my wife comes to me and tells me that there is no school fee for my kids.

I feel lonely and unappreciated because no one has visited me since my incarceration, even when I have made a special request for them to visit me.

I start each day with a negative attitude because of my brother, who fails to help me while I am here by taking care of my family, property and animals.

Intervention

Data from the focus group discussions were used to modify the *Phoenix Rising* and *Conversations in Families* materials, which were subsequently translated into SeSotho, with the permission of Phoenix Zululand. The materials were then used to run two discussion groups of 12 inmates each and ended with one group of nine who completed *Conversations in Families*. Participants were recruited by approaching inmates who were due for release within 12 months; it was emphasised that their involvement was completely voluntary and that they could withdraw at any time. In keeping with the emphasis on transformative learning, the convenor was involved largely as a facilitator and listener. The objectives, as with PZ programmes, was the restoration of self-worth and dignity among prisoners and the restoration of relationships between prisoners and their families.

As they progressed, the continuing participants increasingly found the transformative learning approach both innovative and powerful. They responded to the encouragement to tell their stories and reflect on their feelings, practices which are very little practiced in hierarchical top-down environments of the country's schools and churches. They found the prison regime

tough and were aware that their self-esteem was under strain. As they progressed through the two programme booklets, they became increasingly aware of damaged relationships and the importance of rebuilding these – with their parents, their wives, their children and, where relevant, the victims of their crime. Typical comments from inmates during the final session of *Phoenix Rising* pointed to the benefits of the programme. In the words of one inmate, 'This booklet used to hurt me by reminding me of old things. But now I feel so good and I have learned to build confidence and manage anger'.

A high dropout rate needs to be recognised. While 24 inmates began with *Phoenix Rising*, only nine completed *Conversations in Families* and only five of these (one spouse refused to participate) participated in the family conference. The convenor's experience was that some participants were uncomfortable with the self-disclosure involved in the group discussions and pulled out early in the process, and that the logistical challenges of organising regular meetings in prison were formidable.

Subsequently, a family conference was organised in March 2019, in the last few months before the inmates' release. This involved five inmates (one spouse chose not to attend at the last moment) and 15 family members. It lasted around four hours and was facilitated by the convenor and several assistants.

Family members spoke of the shock that their son had committed a crime and been imprisoned; initially, they could not believe that it had happened. Then they began to feel shame and humiliation; they felt that they had lost the respect of other community members. They blamed their family member for creating the impression that the family was responsible for raising a criminal. In short, they were the indirect victims of the crime. In the words of the brother of an inmate, 'Our family today is called a family of criminals by our neighbours because of his

unstoppable criminal behaviour'. A wife spoke of her struggle:

I remember well when he got arrested – we were about to divorce, but this was miraculous. I just felt that he was my husband and I had to support him and be there for him in his trying time. After all, we were about to divorce, but I felt it was better to let it go and live with his imprisonment. I tried to remain positive-minded as much as I could, and trusted in God ...

It was so painful that within two months of his imprisonment, when I went to the bank to make a transaction, there was no money in his account, and the ATM said we regret ... I was not working, and I felt so anxious about how I was going to pay for the school bus because I ought to have been paying for it. However, God saw me and my children through because they never went out of school.

There was anger in the opposite direction as well. Some inmates were angry with family members who never visited them, with members who had made decisions without their consent and with others who they felt had a part in their arrest. They felt that they had paid the price for the crime and were angry at the lack of support from their families. In the words of one inmate,

I was so resentful [towards my brother] that I had decided in my heart that I would not go home on my release, but to go maybe South Africa where we would never see each other again, because I felt unfairly judged, sentenced and treated by my own brother – yet justice had already taken its course.

More important than anger, however, was fear and trepidation. The inmates felt fear of what awaited them when they returned to their communities. They feared being stigmatised

and not accepted and the implications of having a criminal record.

The anger and fear, however, seemed to be abate during the family conference. Inmates were open in acknowledging their misbehaviour, asking for forgiveness and committing to lead better lives. The inmate who had such resentment against his brother, for example, spoke of a reconciliation which the family conference enabled. And families were generous in their forgiveness and commitment to support their family member when they were released. In his evaluation of Phoenix Zululand, Harris noted that many inmates and families really wanted an opportunity to speak their minds, clear the air and forgive; the family conferences provided this opportunity.²⁷

Evaluation

A key question concerns what happened after release. Inmates and family members were very positive immediately following the family conference but would this last in the midst of the challenges of reintegration? Such short-term evaluations typically report positive enthusiasm for peace education interventions, but this may well erode over time. Gavriel Salomon has noted:

The first lesson [concerning peace education] is that short-term interventions usually yield only short-term-effects; desired changes of hearts and minds need continuous reinforcement and scaffolding. A second lesson is methodological. A researcher should never be satisfied with measured changes taken only 'the morning after'. Measurement needs to be taken a while after the completion of a peace education program in order to evaluate the extent to which lasting changes have taken place.²⁸

With this in mind, a number of telephonic contacts were made with each of the five

ex-inmates who had participated in the family conference in March 2019, and separately with their families. These contacts extended over a seven-month period between February and September 2020 and provide insights into medium-term outcomes.

The post-release experiences of all five inmates, their families and their communities were very positive. One ex-inmate had spent almost 10 years in prison for a sexual offence. (It was he who had held such anger towards his brother, who had sold the inmate's animals without his consent, but this had changed following the family conference). He is involved in crop and animal farming and he and his brother are cooperating well in the various tasks. He received a warm welcome from the community and headman on his release and is living in harmony with community members. An incident happened which, he says, would previously have resulted in him taking the law into his own hands. His heap of harvested maize forage was burnt and they were able to identify the culprit. Rather than treat him violently, they took him to the headman and subsequently the police. Another ex-inmate had been convicted of murder and was released after 10 years. His church community accompanied him from prison back to his home community where he was warmly welcomed. His wife describes him now as 'a responsible and committed father who lives harmoniously with his child ... he is a rehabilitated character'. As a result of his changed life, a cousin offered him a job soon after his release. These two experiences are typical of those of the five ex-inmates after release.

Discussion

Ex-inmates in Lesotho and in Zululand face similar reintegration challenges – making a living and acceptance by their families and their communities. It seems that family acceptance may be more significant for

ex-inmates in Zululand while community acceptance is more important in Lesotho. One reason is that inmates in Lesotho are much more likely to be imprisoned in the areas where they live than in South Africa, which means that regular family visits to inmates are much more common in Lesotho.²⁹

There are reasons not to claim more than apparent success for the programme. It will be recalled that its objectives were the restoration of self-worth and dignity among prisoners and of relationships between prisoners and their families. As a consequence, reduced recidivism – even if it was measured – is not the most relevant performance indicator. To assess whether self-worth and dignity were improved would require at least a well-designed before-versus-after instrument. And if we went along the more desirable route of randomised control testing involving experimental and control groups, we would run into major ethical issues of selecting some inmates and excluding others.³⁰

It is also important not to claim too much from the experience of the five ex-inmates who went through a family conference. While 24 inmates began with *Phoenix Rising*, only five of these eventually participated in the family conference. It is possible that these were already determined to change their lives and that the intervention had a limited impact on them. That said, recall the anger and fears that they brought with them to the family conference. Perhaps they had families and communities which were more than normally willing to accept and support their ex-inmate. It is also important to recognise other rehabilitation efforts that operate in Lesotho's prisons, including skills training, counselling and spiritual support, liaison with an inmate's community before their release and victim/offender mediation. Each no doubt plays some part in successful reintegration.

Notwithstanding these caveats, the various quotes from participants show that many

inmates and family members found great value in opening up to each other, in admitting fault, in asking for forgiveness and committing to better behaviour. These outcomes have given us confidence to establish an ongoing Phoenix programme in Lesotho. In doing so, we will be paying particular attention to reducing the dropout rate.



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Notes

- 1 Ntholeng Molefi was a chaplain for 15 years with the Lesotho Correctional Services before undertaking postgraduate studies in peacebuilding at the International Centre of Nonviolence at Durban University of Technology. In 2022, he became Director of Chaplaincy Services with the Seventh Day Adventist Church of Lesotho. Geoff Harris is Research Professor in the International Centre of Nonviolence at Durban University of Technology. His recent publications include *Infrastructures for peace in sub-Saharan Africa* (Springer International, 2019), jointly edited with Medial Hove. His current research interests include demilitarisation and restorative justice and processes, particularly with respect to prisoners.
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