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Restorative Justice Concepts and Models in Penitentiary Social Work

Corneliu I. LOGHIN¹

Abstract

The present material presents characteristics of some of the most frequent used conceptual systems applied in conflict management activities performed inside and outside penitentiaries by professionals delivering education and social work addressed to detainees and persons who served their sentences, aiming their social (re)integration. Specific elements pending to Restorative system which offers high level of efficiency are evidenced, their presence in Romanian education and social work norms for this field of activity is identified and a possible solution for obtaining better results is proposed while considering the insufficiency of financial, material and human resources.

Keywords: Restorative justice, penitentiary social work, social (re)integration.

Résumé

Cette ouvrage présente les caractéristiques d'unes des plus utilisée systèmes conceptuelles qui font la base des activités d'administration et de résolution des conflits déroulée dans et dehors les institutions pénitenciaires par les professionnels qui réalise des activités éducatifs et d'assistance sociale adressé aux détenus et aux personnes libérée qui vise leur (re)intégration sociale. On évidence des éléments spécifiques du système conceptuel de la justice restauratrice qui peuvent offrir un niveau élevé d'efficiencie dans cette matière, on identifie leur prestance dans les normes nationales en Roumanie applicable dans le domaine éducatif et d'assistance sociale déroulée dans ce cadre et on propose ici un moyen d'augmentation de la qualité des résultats qui peuvent être obtenu dans des conditions d'insuffisance des moyennes financières, matériels et du personnel.

Mot-clé: Justice Restauratrice, assistance sociale pénitenciaire, (re)intégration sociale.

Rezumat

Prezenta lucrare are în vedere trecerea în revistă a caracteristicilor unora dintre cele mai frecvent utilizate sisteme conceptuale ce stau la baza activităților de management de conflict desfășurate în cadrul penitenciarelor și în afara acestora de profesioniștii ce furnizează servicii educative și de asistență socială adresate

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persoanelor private de libertate și a celor liberate și care vizează (re)integrarea lor socială. Se pun în evidență elementele specifice sistemului conceptual restaurativ de natură să ofere nivel ridicat de eficiență în acest domeniu, se identifică prezența acestora în cadrul normelor specifice din România cu aplicare în domeniul educativ și de asistență socială din acest domeniu de activitate și se propune o cale de eficientizare a rezultatelor ce pot fi obținute în condițiile lipsei de resurse financiare, materiale și umane.

Cuvinte-cheie: Justiție restaurativă, asistență socială penitenciară, (re)integrare socială.

In the majority of world's countries, dissatisfaction and frustration with the formal justice system - which is generally identified as Classic or Retributive - have led not only to sustained efforts in increasing its efficiency, but also to finding new and better ways to respond to criminal acts and to social unbalance caused by antisocial behaviours. A lot if not all such attempts started by finding out the characteristics of this justice - or conflict management - system which gave and still gives increasing levels of direct beneficiaries, general public and professionals' dissatisfaction and continuously higher levels of tangible and non-tangible personal and social costs. What was evidenced is that the Classic or Retributive Justice system is based on rigid and highly generalized rules, is centered on offenders and on their past behaviors of breaking the law which are considered as offences against the State. This system is based on State's and its representatives' interventions and power to determine right from wrong, to identify and prove guilt, to make offenders responsible and impose punishments supposed to cover prejudices, presuming that in all cases punishment's educational value will determine social (re)integration and criminal behaviors prevention.

While the efforts to only increase the efficiency of the existing mainly Retributive Justice system - generally done by ones within the formal justice system, mainly based on the principles of centralization, „more of the same” and giving limited results - had in attention to merely improve the existing legislation, institutions, structures, management, to increase staff competencies and to slightly change its roles, other approaches took more radical ways by seeking for different and new systems or at least for making profound changes to the existing one while using different values, paradigms, reviving traditional culture approaches of conflict management and constructing new perspectives on what a better justice model might look like. Those last ones build on ideas stating that any mainly objective or subjective reality and/or such future projections can be decoded and understood or respectively created and operated using different conceptual systems, that those accordingly can create different results, that Justice - as field of social knowledge and practice - might be seen from many different perspectives - including the one considering it as a social service and a flexible, adapted, inclusive and complex process of conflict management which administrates and solves problems - and not at least that criminal behaviors are

basically conflicts among people that must get immediate, individualized, particularized and appropriate social responses.

Along the time, the quest for a better Justice systems lead to numbers of different models proposing traditional culture inspired and significantly improved or plain new and different perspectives, all bringing new characteristics, goals and results and offering more or less but real advantages than the Classic/Retributive system.

As one among the most significant alternatives to Classical/Retributive Justice conceptual system, the Utilitarian Crime Discouragement and Deterrence system of justice considers the State as the sole entity entitled to use force in order to make individuals to obey law, gives priority to social systems' protection against the offenders, considers those to be the highest priority in all activities and considers loss, pain, hurt, suffering brought by the punishment as efficient means of education for the wrongdoers and individuals at risk in order to stop them from (re)offending; even if this system situates itself really close to the Classic/Retributive one and does not bring much improvement on its results, it brings something new and worthy while introducing the idea that through learning and education individuals can prevent or change antisocial behaviors.

Restitution based system is another alternative to Classic/Retributive conceptual system which builds on the idea that delinquency produces prejudices that can be evaluated and expressed in monetary or other tangible form and that prejudice existence and offender's responsibility end once those costs are paid or compensated in an acceptable manner - this approach also has a limited level of efficiency, while it puts accent only on offenders, limits their responsibility and ignores other harmed and interested parties and is not interested in offenders' behavior change and in their social reintegration, but introduces the idea that the harm can be responded in a constructive manner and the offenders can be a main and active part of this process.

The search for better justice accomplished through conflict management processes lead also to the Rehabilitative or Therapeutic system which considers offenders as patients or victims of social malfunctions or diseases who can be healed and socially (re)integrated using therapy type programs. This approach has also a limited level of efficiency while it is only centered on offenders, the wrongdoers are considered not responsible for their behaviors and subsequent prejudices, but it introduces the idea that offending is influenced by social elements and conditions and (re)offending risk can be lowered if not controlled by including individuals at risk in special conceived programs aiming to make changes at individual level.

Another perspective on justice is represented by the Transformative one which considers delinquency as an effect of a sum of different individual and social dysfunctions which is possible to be identified, understand, controlled, transformed and solved in an acceptable manner. The transformation from initial non-functional, bad, wrong, antisocial to future functional, good, correct and pro-social at both personal and social levels can be done by learning, education and

personal development through modifying existing and/or revealing new information, understandings, perspectives, by development and/or change of values, attitudes, abilities, behaviors – for individuals and groups – and by changing paradigms, systems, structures, norms and relations – on social level. Even if this approach is efficient mainly when subjects are interested, open and collaborative, this system brings innovative and constructive elements while it considers that the problems which generated antisocial behaviors and subsequent offences can be identified and transformed for the better in order to prevent future unwanted effects and that the delinquent and other relevant parties can be included in structured activities aiming not only individuals' social (re)integration but also the general prevention of future antisocial activities and results.

Many of those searching for better, more effective and efficient responses to crime and social disturbances showed also interest in preserving, strengthening and enhancing traditional cultures' customary conflict management perspectives and practices which are centered on the needs and interests of the involved, affected and interested parties, offering to all of them active roles and decision power in processes of conflict management aiming the rebalance of inner-personal and social systems disturbed by the unwanted behaviors.

One of the most significant results obtained in searching for a better way to do justice for all involved in conflicts and for building better and more balanced social systems came as a conceptual construction identified as Restorative. It is important to emphasize that this one not only introduces a new approach cross mirroring the Retributive conceptual system – it identifies Retributive characteristics that lead to unwanted results and replace them with their antonyms so to obtain better ones - but also integrate valuable elements of many other existing models; among those it is to mention the Utilitarian Crime Discouragement and Deterrence system (with its idea to use the educational role of specific social response measures in modifying offenders' attitudes and behaviors), Restitution based system (which make offenders responsible and involves them in covering the prejudices they caused), the Rehabilitative or Therapeutic system (with its adapted support offer in problem identification, in recognizing, accepting, administrating and solving them in order to heal and (re)balance intrapersonal, interpersonal and social systems) and the Transformative one (which offers consistent and adapted support and assistance for beneficiaries' constructive social transformation of perspectives, understanding, values, attitudes and behaviors in order to administrate and solve not only private, individual problems but also for the benefit of other individuals, groups and social systems facing same kind of problems while using learning and education in order to solve conflicts, (re)socialize affected parties and diminish the risk of (re)offending).

According to Restorative conceptual system the delinquent behavior is considered to unbalance the intrapersonal, interpersonal and social systems and to negatively affect individuals and relations and to generate a state and/or

situation of conflictual type which must be managed using an collaborative, constructive, integrative and contextual approach, aiming to identify, understand, administrate and solve the relevant problems so to diminish (re)offending risks, to cover prejudices and make the needed changes in a mutually accepted manner and as efficient as possible.

In Restorative Justice and in its respective conflict management models, any breach of norms and the resulting prejudices imply individual and community, mutually accepted, assumed responsibilities and obligations and aims to identify and cover as efficiently as possible the needs and interests of all injured parties (individuals, groups, communities and administrative entities), determine (self) responsibility and includes all involved, affected and interested parties in processes of conflict management; this system facilitates development, transformation, confirmation and the reinforcing of pro-social values, attitudes and behaviors, and have a high level of individualization, particularization towards individuals, relations and background characteristics.

This conceptual system have a distinctive collaborative character (the processes are all based on collaboration among participants), is an integrative one (offers participation and decision opportunities to all relevant involved, affected and interested parties in regard to all problems raised by those), is constructive (in all activities it aims to reach only acquisitive objectives for all parties and uses only such approaches and instruments), it is voluntary (it does not use coercion), has a wide confidential character (generally, the private and sensitive information is kept among the process participants), a low level of formalization and a high level of flexibility (generally, the processes are not rigid and can be adapted).

Specifics of the Restorative system can be also evidenced while identifying its most used strategies (understood as ways in which activities can be performed), among which those of collaboration, of constructive problem solving and transformation, of mutual and balanced win, integration, of assistance, participative and consensual decision making, of needs and interests identification, efficient and effective response, of positive motivation.

In a nutshell, the Restorative type processes - understood as any conflict management inventory of activities structured under a specific process logic in which prejudiced entities, ones who produced such effects and interested ones (i.e. individuals, groups, communities and administration representatives), all more or less affected by conflictual situations participate together actively in the administration and solving of matters arising from antisocial behaviors, while frequently being assisted by a third party providing conflict management competent services.

According to up to date data Restorative conflict management activities offers high satisfaction and efficient results, excepting the cases in which parties do not want or can't collaborate.

The continuous efforts aiming to increase the efficiency level of the social responses given to antisocial behaviors performed by practitioners, academics and politicians from numbers of states and the good results obtained so put in

evidence the high importance of the Restorative conceptual system and its practice in the quest not just for a better, affordable and efficient justice for all interested parties but also for a better way to solve any kind of conflictual situations raised in the social system.

On that basis the European Council and The Minister Committee also made express recommendations for the member states to use Restorative conceptual system and its practices in organizing and running their institutions and in designing and performing their specific activities. As a direct result and on the basis of clear and specific recommendations like “Whenever possible, the penitentiary authorities are expected to use Restorative and Mediation mechanisms in solving disputes with detainees and among those”(Consiliul European, Comitetul de miniștri, Recomandarea Comitetului de miniștri ai statelor member, referitoare la regulile penitenciare europene, REC(2006)2, art. 56, al.2), all European penitentiary normative packages introduced terms, ideas, institutions, approaches, procedures and activities of Restorative type.

A number of states, among which “Norway, understood that punishing a person by depriving him/her of liberty and treating him/her as a society residue, offering him/her the worst only makes him/her bitter and worse. So those states not only started to invest in raising new and modern detention facilities, but mainly choose to change the paradigm used to approach persons deprived of liberty. People, no matter the offence, are treated with respect and, the most important, are helped to reintegrate into society. Not only Norway, but the majority of the northern states changed approach. And effects are seen while firstly the number of offenders lowered and secondly the reoffending rate lowered under 40% and in some cases even 20%, while this rate in the rest of Europe and in Romania is over 65-70% (Andreescu, Executive Director of APADOR – CH, Mediafax, 2017).

While considering the social interactions, it is to be seen that some individuals ignore or even break norms that organize social interactions; such behaviors receive social responses according to the importance allocated to each of those and are generally included in widely covering categories such as deviant (positive or negative end breach of social norms with no or low allocated importance or risk for other entities or for the social system) or delinquent one (negative result breach of mandatory social norms having high significance and allocated importance). As a result of the high allocated importance, the delinquent behaviors or criminal deeds were intensively studied so to find and emphasize the different causes of their apparition; the most frequently ones are those linked to the familial background (family type, existence of brothers and sisters, narrow and extended family relations type and quality), birth place and of subsequent development (rural/urban), relevant parties’ occupations, housing/dwelling type, type and amount of resources, offenders’ age and health quality, offenders’, family and their entourages’ significant deviant and delinquent record, type and level of sanctions previously imposed to the offender, his/her and their entourages’ educational status and performance, their type and

level of access and integration in social and cultural activities, their social, economic and politic conditions, offenders' generic conceptual system, values, perspectives, understandings, competencies, attitudes and the ones towards own and others' delinquent behaviors, offenders' hobbies etc. Taking into consideration all delinquency causes, it is obvious that not all of those were under offenders' decision and control so the negative, dysfunctional behaviors and effects can't be all considered offenders' own conscientious and voluntary faults so to be rightfully punished by the social system as in the Retributive conceptual and conflict management system. Instead of that, the Restorative system proposes another approach based on specific prevention and assistance offered both to those who by their behaviors produced prejudices and to others' who were directly or indirectly harmed by those so to modify initial harmful conditions, to support those at need, to create and develop pro-social behaviors and to compensate losses mainly by involving the ones who are responsible.

Among those involved in offering active, specialized and professional social responses on cases of imperative norms breach, a significant role is allocated to social workers - working in coordination or not with, part or not of the penitentiary system - who are expected to offer support and assistance to those at need, category which includes both persons who were directly and indirectly harmed by anti-social behaviors and also those who have offended. According to Romanian Social work law of 2011, social workers with activity in or linked to the penitentiary and with persons deprived of liberty have highly significant roles in needs evaluation and offering service and benefits of social assistance. "Social services represent the activity or packages of activities done in order to respond to general social needs and special, individual, family or group ones aiming to overcome difficult situations, to prevent and respond to social exclusion, to promote social inclusion and to increase life quality" (no. 292, article 7). "Social services have a proactive character and assume an integrated approach based on personal needs and in relation with his/her socio-economic, health, education level status and social background. Starting from personal needs level, social services can assume to address higher ones, up to group or community level" (no. 292, article 28). "According to their goal, social services can be classified in assistance and support for responding to persons' basic needs, services of personal care, of recovering/rehabilitation, of social inclusion etc. According to beneficiary criteria, social services can be classified in social services offered to children and/or family, persons with disabilities, elders, victims of family violence, homeless persons, individuals having different addictions related to consumption of alcohol, drugs, other toxic substances, internet, gambling etc., to victims of person trafficking, to persons deprived of liberty, to those convicted to educative measures, to those not deprived of liberty but being under the supervision of probation services, to persons having psychiatric affections, to persons part of isolated communities, to long-term unemployed and also to support pending beneficiary individuals" (article 30).

“Social benefits represent a form to supplement or to substitute the individual/family income obtained through work, in order to ensure a minimal level of existence and a form of support aiming to promote social inclusion and to enhance the life quality for certain categories of individuals whom social rights are specifically stated by the law.”

Practically all over the world, for behaviors with results of high level of negative effects or social risk, the social response given by the administrative system is based on international agreements and recommendations and national laws.

Due to the significant impact of anti-social behavior, it is of paramount importance that offenders receive proper social response - according to the New Romanian Penal Code (Noul cod penal, 2014, art. 53) those responses can also have punitive character, as in “life detention or prison”. The punishment enforcing detention or prison is applied in penitentiaries which are “facilities which ensures the fulfillment of punishments depriving of liberty and pre-emptive arrest, in conditions which guarantee human dignity, facilitating responsibility and social reintegration on persons deprived of liberty and contributing to a better community safety, maintaining public order and national security...”.

According to the Organizing and functioning penitentiary statute (2018, art. 2, al. 2) every penitentiary provide (among other services):

“- educative, psychological and social assistance needs evaluation for persons deprived of liberty, management of specific programs and activities unfolding aiming an efficient social reintegration once those persons are liberated;

- work of persons deprived of liberty on the voluntary basis...;
- evidence of the work done by persons deprived of liberty and allocation of the adequate legal rights;
- technical, material, financial, medical and sanitary conditions that are needed by the person deprived of liberty.”

Penitentiaries are organized in activity sectors and in other structures as services, bureaus or compartments among which psycho-social assistance and education service/bureau are included.

The social reintegration sector organizes, coordinates, unfolds and evaluates the educational, psychological and social assistance approaches done at the penitentiary’s level. Those are organized and unfolded according to “educative, psychological and social characteristics and needs of the persons deprived of liberty.”

“The penitentiary social reintegration sector includes the education service and the psychosocial service.”

The education service is a specialized part pending to the penitentiary social reintegration sector and

- ...“it offers qualified support in order to enhance the educational level of persons deprived of liberty and to assist them in improving or solving problems they confront during detention ...”;

- ...“it elaborates educational programs...and specific activity projects which are implemented at penitentiary’s level”;

- ...“it collaborates with public entities representatives, associations and foundations aiming the development of educative programs and activities unfolded inside the penitentiary or in the community;”

- ... “it participates to the elaboration of normative documents, methodologies, programs, work instruments specific to education field...;

- it accomplishes the yearly evaluation on the educational needs of persons deprived of liberty as base for initialization of the specific approaches addressed to them;”

- ...“it solves petitions, requests and complains linked to education approaches, done by persons deprived of liberty, third parties ...” (Legea de organizare și funcționare a penitenciarelor, art. 33).

The psychosocial assistance service, as another specialized part of the social reintegration sector of each penitentiary and according to the Organizing and functioning statute of the penitentiaries (art. 35), is expected to:

“- organize, unfold and evaluate activities and programs of psychological and social assistance addressed to persons deprived of liberty, inside the penitentiary;

- ensure the access of the persons deprived of liberty to psychological and social assistance activities and programs according to recommendations given by the individualized plan of educative and therapeutic evaluation and intervention and according to human resources available in the respective penitentiary;

- offer qualified support to persons deprived of liberty aiming improvement or solving psychological and social problems appeared during detention period, according to the allocated competencies and involving accordingly the family and community representatives in the process of recuperation and preparation for social reintegration;

- unfold specific evaluative, counseling and crisis intervention activities;

- unfold programs included in psychological and social assistance programs manuals and in projects of activities elaborated by the National administration of penitentiaries...;

- elaborate programs of psychological and social assistance sanctioned by the specialized direction of the National administration of penitentiaries...;

- collaborate with public entities and NGO’s representatives in order to unfold programs or activities of psychological and social assistance inside the penitentiary or in communities;

- participate in the elaboration of projects of normative documents, methodologies, programs, work instruments specific to psychological and social assistance field of activity...;

- be part of commissions, multidisciplinary teams or working groups formed at the penitentiary level or at the system level...;

- perform yearly needs of psychological and social assistance evaluation of persons deprived of liberty, aiming to fundament the specific approaches meant for those beneficiaries;

- collaborate with the other penitentiary structures, with their homologues from the penitentiary system and with the specialized direction personal from the National administration of Penitentiaries;

- solves petitions, requests and complains referring to psychological and social assistance approaches done by persons deprived of liberty, third parties or by the specialized direction of the National administration of penitentiaries;

- offers training and practice support for students, bachelors, trainees who are performing studies and research regarding the penitentiary background.

According to the same Organizing and functioning statute of the penitentiaries (art.10, al. 1), the Social reintegration deputy director of any penitentiary have to:

- organize, coordinate and be responsible for “social reintegration sector, providing planning, organizing, coordination, control and evaluation of educative, psychological and social assistance done in the penitentiary;

- monitor the implementation of recommendations done by the individualized plan of educative and therapeutic evaluation and intervention for persons deprived of liberty;

- monitor the implementation of education, psychological and social assistance programs and activities and the respective participation of the persons deprived of liberty;

- plan and monitor the unfolding of school, formation, information courses, of professional counseling and work intermediation addressed to imprisoned population;

- performs yearly evaluation on the needs of persons deprived of liberty concerning education, psychological and social assistance aiming to fundament the initialization of specific approaches done the penitentiary;

- constantly inform him/her self, by a set hearings program, on problems persons deprived of liberty might have, in order to know and solve those;

- coordinate the activity of solving ...the requests done by persons deprived of liberty referring to education, psychological and social assistance approaches unfolded in the penitentiary and advise those, according to the given competencies;

- decide the themes of initial and continuous professional formation for the subordinated personnel;

- advise on the necessary of materials and consumables aiming an efficient unfolding of education, psychological and social approaches;

- initiate and advise collaboration protocols on reintegration with public institutions, associations and foundations;

- identify possible future partnerships with penitentiary institutions from abroad;
- plans practice and documentation activities done in the penitentiary by students and graduates of specific faculties.

It is important to emphasize that the Organizing and functioning statute of the penitentiaries (art. 1, al. 2, 4) states that “the professional activity of the penitentiary is performed in community interest”.

Evaluating those norms set at national level regarding the way to organize and to run penitentiaries and the related social work it is obvious that a lot of them, together with the spirit of those mandatory rules present obvious Restorative characteristics, approaches, institutions, values, good practices and models, and in order to evidence that here, we just took the liberty of underlining the Restorative elements found in some of the most important norms with regard to the social work and the penitentiary national system. Logically and based on international good, continuously and long time proven results, all that evident presence of Restorative elements should offer a high level of efficiency for social responses administrated to the antisocial behavior and involving the penitentiary system and the related social work, but the reality says otherwise. According to the Romanian Government – in its 2015-2019 National Strategy regarding social reintegration of persons deprived of liberty (pp. 10, 22) – studies shown “an ascending dynamic in the offending rate..., an continuously increasing in numbers of persons deprived of liberty” which lead to a more than 100% occupancy rate of penitentiary facilities, and an estimation of “... 60% to 80% in the number of persons deprived of liberty which are expected to return in penitentiaries”. The same source (pp. 21-24) identifies the causes of this grim situation which include - among others - the insufficiency of human, material and financial resources, the insufficient adaptation of the normative frame to social reintegration process needs, the insufficient development of the educative, psychological and social programs in detention stage, the insufficient standardization of social reintegration field, the absence of coherent socio-professional reintegration policies, the existence of bias/preconceived ideas and stereotypes, the low levels of systemic facilitation of post-detention assistance, the absence of social enterprises, the absence of norms to stimulate local public authorities, economic operators, private, legal and public persons in supporting the socio-professional reintegration of persons deprived of liberty, the lack of norms regarding the establishment, functioning and administration of private and public social inclusion centers offering post-detention temporary lodgment, information, counseling and social reintegration services, the insufficient development of social support post-detention services facilitating access to professional development, social, medical and other programs...and the list goes on...

An brief analysis of this causes shows that most of those are directly related to the insufficient financial, human and material resources that are/can be allocated to this important sector of social activity; considering that a question

arises: is there something to be done in those conditions so to increase the efficiency of the educative and social work which are crucial for the social reintegration of convicted offenders?

A positive response can be found while norms' content and spirit and the way in which those are put in practice are equally considered. As a starting base it is to consider the concept of restorative impact of any social response given to behaviors and their results and to extend its use on any approaches and activities done inside and outside penitentiaries in relation with persons deprived of liberty and with those liberated from detention. The Restorative impact concept² – introduced by Mark, S. Umbreit in 1999 in *Avoiding the Marginalization and McDonaldization of Victim-Offender Mediation: A Case Study in Moving Towards the Mainstream, Restorative Juvenile Justice, Repairing the Harm of Youth Crime*, Criminal Justice Press, Monsey, NY, USA, p. 213 – puts in relation the level of presence of Restorative values, approaches, processes, practices, instruments and the degree of Restorative results obtained once those are implemented. The same author also proposes a number of Restorative degrees or levels for those results' evaluation which include the non-Restorative (there are no such elements), pseudo-Restorative (there are specific elements but there are no such results), potential-Restorative (there are specific elements with no such results, but those might be produced in the future), partially- Restorative (some existing Restorative elements produce some effects of this type), mainly Restorative (the majority of existing Restorative elements produce a majority of this type of results) and completely Restorative (the whole system is constructed and works on Restorative concepts, approaches, values etc. and all results are of the same type).

Even a superficial evaluation done while using the concept of Restorative impact on national juridical, judiciary and social work normative and practice system (also including penitentiary domain) leads to the conclusion that all those have at their best an Restorative impact situated somewhere between the potential level and the partial one, considering that the some existing Restorative elements are producing sometimes some Restorative results of rather low Restorative impact.

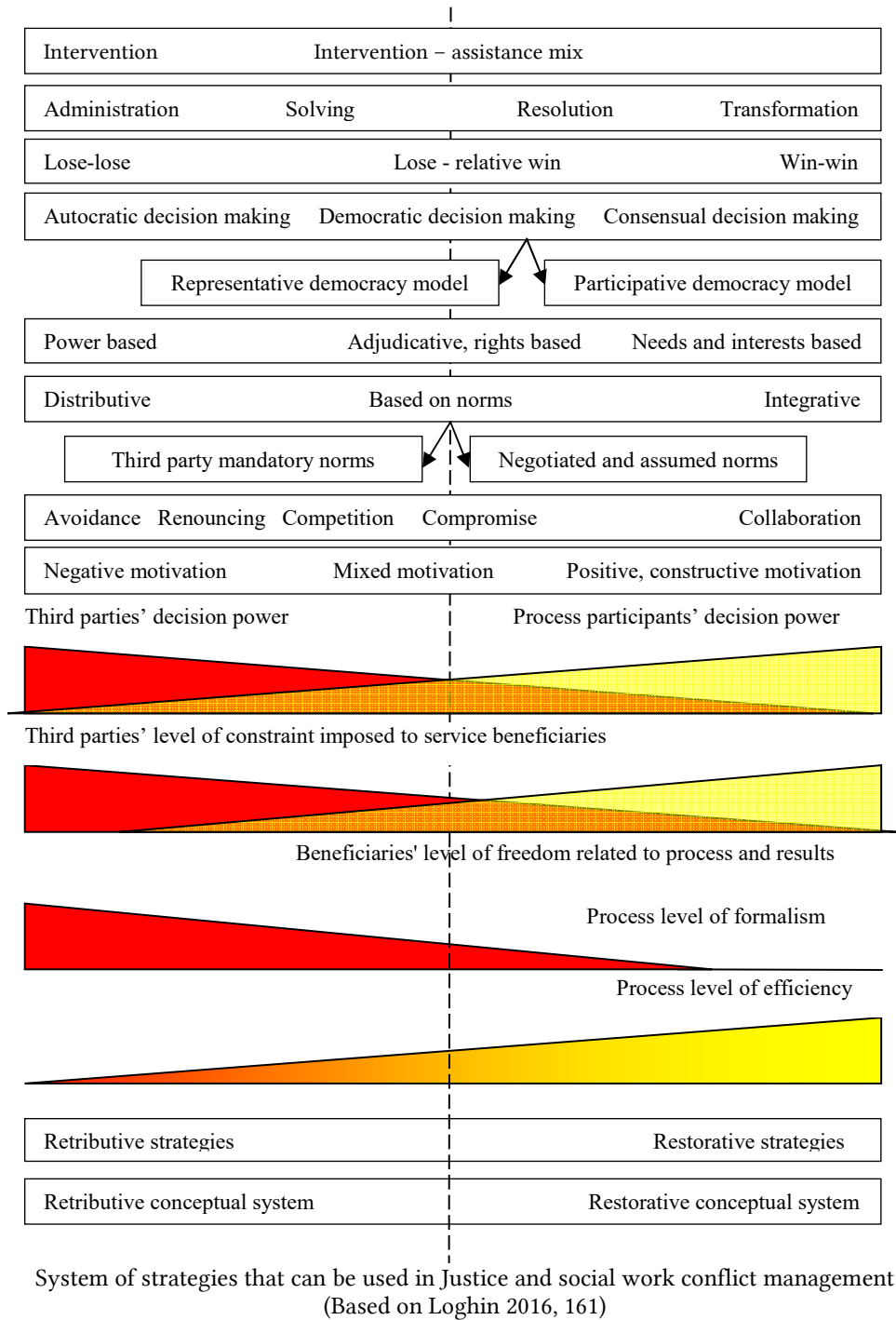
Foreseeing – on objective bases – that it is more than probable that conditions for allocation of sufficient levels of financial, human and material resources are not to be expected in the near or medium future for education, social work and Justice in the penitentiary domain, future rather low levels of success are to be expected in the work aiming the social (re)integration of persons deprived of liberty and of those liberated from detention, unless a serious modification on the way the whole specific work is done. Among others, one main, affordable, feasible, effective and efficient way to do that might be

² Umbreit, Mark, S., 1999, *Avoiding the Marginalization and McDonaldization of Victim-Offender Mediation: A Case Study in Moving Toward the Mainstream, Restorative Juvenile Justice, Repairing the Harm of Youth Crime*, Criminal Justice Press, Monsey, NY, USA, p. 213

represented by the changing of present old and mainly Retributive perspectives, paradigms, approaches and strategies with new Restorative ones. As far as considering only the strategies used in those fields of activity that change would impose to give up on the presently used strategies of intervention (case in which the entity having the highest level of power is taking and enforces decisions on others to implement), of just administrating or unilateral solving of the conflicts, of mutually loss or (partial) win-lose, of distributive approaches and mandatory formal norms use, of autocratic decision, use of power and negative motivation use (as in punishment based on power and mandatory norms), of avoiding, renouncing in the apparent benefit of others, of (structural, systemic and individual) violence or fierce competition and of non-constructive compromise – all specific to Retributive conceptual system and approaches - and to use an inventory of Restorative strategies including those favoring assistance (all involved and interested parties actively participate in decision making processes), of mutually win, assumed participation and transformation (all negative elements are possible subjects for constructive change), of integration (all interested parties are invited to participate in the process and all their problems are subject to consideration and constructive negotiation), of democratic and consensual decision, collaboration, positive motivation and the use of mutually assumed and/or negotiated norms.

Conclusion

The international theory and practice regarding the social response given to antisocial behaviors evidenced that the whole approach of relevant lowering of the (re)offending rate and of reaching higher social reintegration rates for offenders are and can be successfully done while wisely integrating profound changes in conceptual systems, values, perspectives, paradigms used in this field of activity - respectively changing the Retributive with Restorative ones – with a financial, human and material resources' proper allocation. Even in the cases in which needed resources are not sufficient for the needed profound change, a change in the manner in which the politicians, administration, professionals, social assistance beneficiaries (persons deprived of liberty and liberated from penitentiaries included), communities and individuals in general understands realities, thinks and acts is of paramount importance for a positive change in the way individuals – in their private and professional role - and the whole social system works.



References

- Balahur, D., Littlechild, Smith., R., (2007). *Dezvoltarea justiției restaurative în România și Marea Britanie*, Editura Universității „Alexandru Ioan Cuza”, Iași.
- Batley, M., and Maepa, J. (2005). Introduction. In: *Beyond Retribution: Prospects for Restorative Justice in South Africa. ISS Monograph Series*, No. 111, Institute for Security Studies and Restorative Justice Centre, Pretoria..
- Gxubane, T. (2008). Agents of Restorative Justice? Probation Officers in the Child Justice System in SA. *Crime and Quarterly* No. 25, September, Institute for Security Studies, Pretoria.
- Gxubane, T. (2010). A developmental approach to dealing with young offenders: An imperative for Probation practice and policy framework. *Social Work/Maatskaplike Werk*, **46** (1), 35-43.
- Johnstone, G. (2002). *Restorative Justice: Ideas, Values, Debates*. Willan Publishing, Cullompton.
- Liebmann, M. (2007). *Restorative Justice: How it Works*. Jessica Kingsley Publishers, London and Philadelphia.
- Loghin, I. C. (coautor și coordonator), (2007). *Model restaurativ de asistare complexă a cazurilor ce au ca obiect infracțiuni comise de minori*, Editura Impakt, Iași.
- Loghin, I.C. (2016), *Conflicte-metode alternative de administrare și soluționare*, Editura Universității „Alexandru Ioan Cuza”, Iași.
- Mayer, B., (2000). *The Dynamics of Conflict Resolution, A Practitioner's Guide*, Jossey-Bass, A Wiley Company, John Wiley & Sons Inc. San Francisco, CA.
- Mitchell, R. C., (2010). *Introduction to Conflict Management*, California State Univesity, Northridge.
- Pranis. K. (2007). Restorative values. In Johnstone, G. and Van Ness, D.W. *Handbook of Restorative Justice*. Willan Publishing, UK.
- Șoitu, D., (2014). *Contexte și forme ale medierii sociale*, Editura Didactică și Pedagogică, București.
- Tickell, S., Akester, K, (2004). *Restorative Justice*, A Justice Publication.
- Umbreit, M. S., (1995). *Mediation of Interpersonal Conflicts: A Pathway to Peace*, Center for Restorative Justice and Mediation, School of Social Work, University of Minnesota, CPI Publishing, St. Paul.
- Umbreit, M. S., (2001). *The Handbook of Victim Offender Mediation, An Essential Guide to Practice and Research*, Jossey-Bass, A Wiley Company, San Francisco.
- Zehr, H., (1995). *Changing Lenses*, Herald Press, Scottsdale, Pennsylvania.
- Van Ness, D., Heetderks - Strong, K., (1997). *Restoring Justice*, Anderson Publishing, Cincinnati, Ohio.
- *** (2014). *Noul Cod Penal*, Editura Hamangiu, București.
- *** (2018). *Regulamentul de organizare și funcționare a penitenciarelor*, available at http://www.euroavocatura.ro/legislatie/1312/REGULAMENTUL_din_2018_de_organizare_si_funcionare_a_penitenciarelor (20.04.2019).
- *** (2011). *Legea asistenței sociale, nr. 292*, available at <https://www.universuljuridic.ro/legea-asistentei-sociale-nr-292-2011-modificari-legea-nr-194-2018/>
- *** (2006). *Recomandarea Comitetului de miniștri ai statelor membra referitoare la regulile penitenciare europene, REC (2006)2, Compendiu de documente ale Consiliului Europei privind prevenirea suprapopulării penitenciarelor*, available at <https://rm.coe.int/romanian-compendium-2015/16806ab9b7>