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## **Restorative justice and probation in France: training and professionalization issues**

### **Sprawiedliwość naprawcza i probacja we Francji: zagadnienia związane ze szkoleniem i profesjonalizacją**

Restorative justice has been gaining a foothold in France since the experiment of the first prisoner-victim meetings at Poissy prison in 2010<sup>1</sup>, especially when it comes to carrying out the sentences<sup>2</sup>. The law dated 15 August 2014 on “individualising sentences and reinforcing the efficacy of penal sanctions” and the law dated 17 March 2017 for “implementing restorative justice” have given a sufficient legal base to this new justice paradigm and to the associated measures and instruments. Nevertheless, as with all new professional fields, restorative justice requires a definition of its scope and an identification of the required skills. For its promoters in France, this process requires the creation of restorative justice instruments and measures, procedures, protocols, specifications as well as ethical rules for the implementation of penal restorative justice measures. Job specifications also need to be drafted for each restorative justice measure in order to promote the professionalization of facilitators and mediators<sup>3</sup>.

**Key words:** restorative justice, probation service, correctional system, prison academy, prison staff and probation officer training.

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<sup>1</sup> Mbanzoulou P., 2013, *Les rencontres détenus-victimes : une expérience française de justice restaurative*, “Cahiers de la sécurité”, n°23, March, pp. 83-90.

<sup>2</sup> Gallut S., 2019, *Quels processus, quelles mesures pour la justice restaurative?*, “In RPDP”, n°2, April/June, pp. 393-402.

<sup>3</sup> IFJR, Job description n°A1 (training document).

Sprawiedliwość naprawcza zdobywa przyczółek we Francji od czasu eksperymentu pierwszych spotkań więźniów z ofiarami w więzieniu Poissy w 2010 roku, szczególnie jeśli chodzi o wykonywanie wyroków. Ustawa z dnia 15 sierpnia 2014 r. o indywidualizacji wyroków i wzmocnieniu skuteczności sankcji karnych oraz ustawa z dnia 17 marca 2017 r. o wdrażaniu sprawiedliwości naprawczej dały wystarczającą podstawę prawną dla tego nowego paradygmatu sprawiedliwości oraz związanych z nim środków i instrumentów. Niemniej, podobnie jak w przypadku wszystkich nowych dziedzin zawodowych, sprawiedliwość naprawcza wymaga zdefiniowania jej zakresu i określenia wymaganych umiejętności. Dla jej promotorów we Francji proces ten wymaga stworzenia instrumentów i środków sprawiedliwości naprawczej, procedur, protokołów, specyfikacji, a także zasad etycznych dotyczących wdrażania środków sprawiedliwości naprawczej. Należy również opracować specyfikacje stanowisk dla każdego środka sprawiedliwości naprawczej, aby promować profesjonalizację facylitatorów i mediatorów.

**Słowa kluczowe:** sprawiedliwość naprawcza, służba kuratorska, system więziennictwa, akademia więzienna, szkolenie personelu więziennego i kuratora.

Although elsewhere<sup>4</sup> restorative justice is more organised around volunteer groups, France decided to involve the public and volunteer groups in the organisation of the instruments. Thus, for the public penitentiary service, it is mainly the reintegration and probation personnel who seem to be those who best adapt to this paradigm<sup>5</sup>. With open prisoner-victim meetings (PVM), especially between convicted individuals on probation and victims (a uniquely French creation), restorative justice is implemented in the probation field even though it is not one of the legal obligations of the convicted individual on probation. As explained notably in the memorandum dated 17 March 2017, the restorative justice measures are not procedural actions because these only deal with the repercussions of the crime; only judges have the authority to deal with the consequences (sanction and indemnity).

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<sup>4</sup> Drevet B., 2019, *La mise en œuvre de la justice restaurative en droit pénal comparé*, op. cit., pp. 359-366.

<sup>5</sup> IFJR, 2018, *Évaluation nationale des programmes de justice restaurative*, p. 9 and following.

This subject brings up important questions. With respect to the law dated 15 August 2014, can penitentiary reintegration and probation personnel be independent third parties who are trained and responsible for implementing a restorative justice measure? Can they organise and monitor restorative justice instruments? To what extent are these personnel capable of changing their professional stance, to move aside, in order to let the meeting be a veritable, unconstrained space for the convicted individuals? Can all penitentiary reintegration and probation personnel become facilitators after their training? In other words, does the organisation of restorative meetings simply have to do with technical skills? In a country such as France that is used to functioning with clearly identified professionals, are we on the way to forming a professional body of facilitators?

Since article 10-1 of the Code of Criminal Procedure (CCP) provides that the training of independent third party facilitators is one of the required conditions for implementing restorative justice measures, reintegration and probation personnel have rapidly signed up for the different pertinent training sessions given at *France Victimes* and at the National Correctional Administration Academy (ENAP, under its French acronym) in order to be able to organise prisoner-victim meetings (PVM), convict-victim meetings (CVM) or restorative mediations (RM), or coordinate responsibility support circles (RSC). Their involvement both in the organisation of the instruments and in the organisation of measures is indeed important. They see in the humanistic approach which underpins restorative justice the opportunity to focus on the heart of their profession: humans.

What new skills do the reintegration and probation personnel acquire? To what degree are these skills applicable in their traditional follow-up work with convicts? What professional possibilities do they have? What are the training issues in this field? These are the questions that this article attempts to answer based on the experiences of facilitators of the first prisoner-victim meetings at Poissy prison to date (February to July 2010)<sup>6</sup>, on the experiences of technical supervisors of the responsible facilitators and trainers, and on the development of restorative justice

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<sup>6</sup> Cario R., Mbanzoulou P., 2011, *Les rencontres détenus-victimes à la maison centrale de Poissy. Un retour d'expérience*, Les Chroniques du Cirap, ENAP, July, 2011; Cario R. dir., 2012, *Rencontres détenus-victimes. L'humanité retrouvée*, L'Harmattan, coll. Controverses, p. 164

training sessions at ENAP. This article deals with the professionalism<sup>7</sup> of reintegration and probation personnel in the field of restorative justice exclusively from the skills-based point of view and with new and composite knowledge that is essential for the preparation and organisation of prisoner-victim meetings. Thus, the article does not deal with questions about the recognition and development of a regulated profession nor the socialisation and related problems. The interest of this article is precisely the initial training and the organisation of activities that constitute restorative justice measures and the skills required.

## I. Identification and development of transversal skills in the preparation of victims and perpetrators

The involvement of ENAP in prisoner-victim meetings at Poissy prison in 2010 was underpinned by the idea that restorative justice could provide penitentiary personnel with new professional skills development opportunities – even new means of getting involved. The progressive structuring of this new scope updates an immense field of professional skills used by different participants.

### 1. The variety of activities in the implementation of restorative justice.

What are the activities that underpin the restorative justice instruments, especially the convict-victim meetings? The answer to this simple question could be very complicated if we give in to the temptation to describe all the activities in the implementation protocol of restorative justice measures. Indeed, these are organised around different phases of the restorative justice process established in this protocol: the preliminary phase; the preparatory phase; the operational phase and the finalisation phase.

The preliminary phase deals with institutions and partnerships (executing the project and designing a partnership convention and specifications). This phase aims to offer future participants a secure framework established around a human structure and solid partnership. The aim is to design a space for discourse and listening where victims and convicts

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<sup>7</sup> Comp. Bourdoncle R., 1991, *La professionnalisation des enseignants : analyses sociologiques anglaises et américaines*, “Revue française de pédagogie”, n° 94, pp. 73-92.

can meet and freely express themselves. Also, during this phase, the professionals construct a partnership-based orientation mechanism and identify individuals who could use a restorative justice measure.

In this paragraph we discuss the preparatory phase. This phase is indispensable for the restorative justice process, no matter the measure planned. In the case of open convict-victim meetings, the facilitators prepare both the victims and the convicts who are counselled before participating in the proposed restorative justice measure. Complete preliminary information about restorative justice and the planned implementation process is delivered to them in accordance with article 10-1 of Penal Code. The following framework is explained: objectives, organisation, implementation, and rules of conduct during the meeting.

The facilitators help the individual to contemplate during the meeting, to gain personal skills to continue with the process, and to get ready for the restorative meeting. With the individual, they identify their motivations and achievements as well as the restorative justice measure best adapted to his or her situation. They make sure that the participants are ready to participate in the meeting and gain the consent of the participants. The facilitators also have the mission to make sure that the conditions for the meeting are complied with. If applicable, they can refer the victim or the individual on probation to partners that can offer them complementary support.

Although this preparatory phase has lots of activities that the facilitators carry out, these activities are based on knowledge, know-how, and interpersonal skills that only adequate training can provide. The skills-based approach adopted by the National Correctional Administration Academy is now applied to the training of facilitators based on the job description drafted by the *Institut français pour la justice restaurative* (IFJR, under is French acronym, meaning the French institute for restorative justice). This approach allows for the identification of the skills necessary for carrying out each phase of the measure and to precisely train the facilitators on this basis.

## 2. The skills required of participants in the preparatory phase.

Restorative justice training is a recent creation at the ENAP. In July 2015, the French institute for restorative justice (IFJR) and ENAP reached an agreement that aims to create a qualifying training program in the restorative justice instrument organisation and training fields.

Currently, it is composed of four modules of 30 hours each which lead to a certificate of prisoner-victim (PVM) / convict-victim (CVM) meeting facilitators and to a support circle and responsibility (SCR) / support and resources (SRC) certificate after the first two sessions. The last two modules (practice analysis and pedagogical engineering) lead to the trainer certificate.

The *Institut national d'aide aux victimes et de médiation* (INAVEM, under its French acronym, meaning National institute of support for victims and mediation /France Victimes) quickly joined the first two signatories in order to construct a training program offer which also involves participants from volunteer groups and which is a part of the support networks for victims and partner networks. Thus, the first training sessions in restorative justice at the ENAP took place in December 2015 in a partnership-based framework. These training sessions are mainly, but not exclusively, offered to penitentiary reintegration and probation (PRPC) counsellors, to wardens, to penitentiary directors of reintegration and probation (PDRP), to prison psychologists and/or SPIP psychologists for module 1 (restorative justice in movement). Starting in module 2 (restorative meetings in action) the training sessions are offered to participants from volunteer groups, penitentiary personnel and to participants from the victim support networks. At this stage, it is necessary to specify that for these personnel, module 1 takes place at *France-Victimes* which is also a training centre.

The training provided to facilitators provides knowledge of the conditions and characteristics of individual communication as well as the mastery of the key stages of meeting preparation. Indeed, the restorative justice instruments are based on connection. The professionals who implement them are thus relationship professionals. They are connected to the participants and all other partners. Additionally, the progress of all participants greatly depends on the quality of the relationship established between them and the facilitators. The first contact with the participants (information and/or preparatory phase) is key in constructing the framework of this relationship. The issue is huge. This contact aims to allow the individual (victim or convict) to understand if he or she should accept or reject the institutional offer of a space for encounters and dialog. It is thus necessary that the facilitators of the restorative justice instruments master the construction of the relationship as well

as the specific management of the group dynamic<sup>8</sup>. If applicable, such a skill allows them to analyse the obstacles to the relationship and repair them. Their knowledge of different factors that generate conflict as well as their mastery of the different components of communication are also at the heart of the skills developed by this training session.

During this preparatory phase, the facilitators use organisation and management skills for the preparatory restorative justice interview. Although prosaically the required skills are written in terms of “know how to organise a welcoming space for interviews”, “know how to establish relationships” or “know how to implement listening and interview techniques”, these are acquired during the training session via theory and practice. These skills are implemented thanks to the capacity of the facilitator to clearly and precisely explain the PVM-CVM processes, to identify the expectations of the individual (consequences and repercussions dealing with restorative justice), to evaluate personal aptitudes when meeting with potential participants<sup>9</sup> and to form a group of victims and convicts adapted to the issues and expectations of the participants<sup>10</sup>.

Concretely, the trained facilitators master the components and the dynamics of the three preparation interviews structured around welcoming and knowing the individual (past, experiences, and expectations), information (about the instrument and the organisation), security (rights and duties), and meeting with the Other (involvement in interacting with the other participants of the meeting).

During this preparatory phase of the meeting, the participants imagine with the facilitators different possibilities by anticipating, via the mirror effect, the expectations and the responses of the Other as well as their own reactions. In this way, the individuals on probation and the victims take ownership of the meeting in order to become its main participants<sup>11</sup>. The professional skills used in this preparatory phase of the meetings are complemented by those which are required for organising the meetings in order to form the new professional by exam.

<sup>8</sup> Mbanzoulou P., Cario R., Boucharde J.P., 2019, *La dimension psychologique de la justice restaurative, Interview*, “Annales médico-psychologiques”, vol. 177, n°6, June, p. 597-604.

<sup>9</sup> Gaillard B. and Durif-Varembont J. (dir.), 2007, *La médiation. Théorie et pratiques*, Paris, L'Harmattan, coll. Sciences criminelles, p. 53.

<sup>10</sup> IFJR, Job description n°A1 (training document), op. cit.

<sup>11</sup> See, to that effect, Rossy C., Cario R., 2016, *Les bienfaits de la justice restaurative*, Thyma, <https://www.thyma.fr> (accessed on 2 January 2020).



## II. Acquisition of specific skills for organising restorative meetings

It is necessary to immediately highlight the fact that the penitentiary reintegration and probation counsellor who organises a restorative meeting is a trained facilitator. This role requires a professional posture characterised by the unconditional acceptance of the participants (positive and unbiased attitude) and a humanistic approach. The facilitator thus satisfies the requirements of independent third parties and the impartiality established by the law dated 15 August 2014 and taught during the training. Through practice scenarios and consecutive debriefing, trained facilitators can apprehend the complexity of the organisation of meetings and the dynamic of crime.

### 1. The organisation of meetings: a judicious mix of technical and interpersonal skills.

The organisation of these meetings is a delicate procedure<sup>12</sup>. It requires tact on the part of the facilitators in order to fully accompany the group in this process plagued by obstacles. Indeed, the dynamic that allows each participant to communicate with others and with him or herself greatly depends on the structures that the facilitators create. This is composed of such diverse elements as the relational style of the facilitators, their knowledge of the group dynamic, the particular problems of the victims and the convicts, and especially the level of preparation of the meetings. Such a structure (the professionalism of the facilitators) must produce a general atmosphere of mutual confidence which facilitates expression and change. Its quality is analysed based on the empathetic understanding that the facilitators demonstrate, namely their ability to “understand the exact meaning of what the individual communicates”<sup>13</sup> and to relate it to personal change and development.

The instrument of the convict-victim meetings must be organised in light of difficult human experiences (that can be sources of different tensions) and very often past histories plagued with suffering and

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<sup>12</sup> See, to that effect, Mbanzoulou P., *L'animation des rencontres détenus-victimes. Entre médiation et groupe de parole*, In Cario R. (dir.), 2012, *Les rencontres détenus-victimes. L'humanité retrouvée*, op. cit., p. 111-125; Rogers C.R., *Les groupes de rencontre. Animation et conduite de groupes*, Paris, InterEditions, p. 51.

<sup>13</sup> Rogers C.R., *Les groupes de rencontre. Animation et conduite de groupes*, op. cit., p. 51.



recrimination. The framework must be immediately explained before the meetings, even if this was already done during the preparatory phase with each participant. The time (number of sessions) and the time management (the schedule) are important elements in the framework which allow each participant to go over the progress made and to plan. By implementing the framework of the exchanges, the facilitator particularly aims to instil in the participants overarching principles order to implement a common framework of reference. In order to accomplish this, he or she reminds the participants of the commitments they agreed to at the beginning of the process and which constitute the objective of the CVM (create a space for discourse and listening where victims and incarcerated convicts who do not know each other can meet and freely express themselves) and their principles.

Although seemingly easy, the role of the facilitator is very difficult and important. The absence of direct conflict between the participants focuses the attention on the individual and the interpersonal relationship. In these conditions, the technical elements utilised are combined with the very being of the facilitator. Although possible (and necessary) to technologize, the congruence with the situation (unconditional positive attitude, empathy, understanding) comes rather from the humanity of the facilitator and his or her interpersonal skills. Indeed, he or she needs to create a psychological climate of security that is favourable to exchange and development. This requires from him or her the ability to explain the framework in such a way that it is not only inclusive, but also prosperous. Likewise, by letting everyone speak, he or she needs to stimulate the adaptability skills of the group and the individuals without taking responsibility away from the group.

Although it is indispensable that the penitentiary reintegration and probation counsellors “take off the mask” during the training program, that is to say, that they adopt a congruent professional posture, their professional framework nevertheless is similar to the missions and skills of the facilitator<sup>14</sup> in the sense that they are already used to working with the perpetrators on the problems that cause one to commit a crime and the position of the perpetrator with respect to the victim, even if the victim loses his or her sense of identity.

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<sup>14</sup> Herzog-Evans M., 2013, *Moderniser la probation française. Un défi à relever!* Paris, L'Harmattan, coll. Controverses, p. 28.

## 2. Work on crime: a field apparently known to reintegration and probation personnel.

The convict-victim meetings are distinguished from other follow-up measures due to the fact that they allow legitimate participants (with personal experience with crime either carried out or suffered) to speak directly. Today, neither the convicts nor the victims go to professionals, at least not in the same way, but rather their intermediaries. They are no longer constrained by coherence and can thus see themselves differently. Indeed, as with mediation<sup>15</sup>, the convict-victim meeting is a space of dialog which allows for the mediation of the participants (their personal psychological evolution) by the mutual exchange and understanding of their points of view and by the analysis of the criminal dynamic<sup>16</sup>.

Committing a crime is very often the platform of the convict-victim dialog<sup>17</sup>. The victims expect the convicts to clarify the questions remaining from their victimisation: committing the crime, the motive up to the material execution of the crime, the difficulties in stopping during the crime, the last words of the victim, the risks of repeat offense and the measures taken by the convicts to avoid this. A recurring question from the victims begins this exchange: where did this idea come from? Such a question allows for the exploration of the development of the thought process of the perpetrator with all the mechanisms that rationalise the act and possible cognitive distortions. This thus allows for the study of the process of “criminal maturing” from ineffective consent to committing the crime. By thus dissecting the different phases of the development of the criminal idea, committing the crime becomes a true platform of exchange between the victims and the perpetrators all the while giving the penitentiary professionals new skills in dealing with this question.

Indeed, during each meeting, each participant must be able to expose what the crime provoked in him or her, what remains unresolved and what these meetings could contribute or what they are about to contribute (or not) during their execution, all the while respecting what the other

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<sup>15</sup> Mbanzoulou P., 2012, *La médiation pénale. Nouvelle édition*, Paris, L'Harmattan, coll. Sciences criminelles, p. 9; Mbanzoulou P., Tercq N., 2004, *La médiation familiale pénale*, Paris, L'Harmattan, coll. Controverses, p. 106; Jaccoud M., (dir.), 2003, *Justice réparatrice et médiation pénale: convergences ou divergences?*, Paris, L'Harmattan, coll. Sciences criminelles, p. 272.

<sup>16</sup> See, to that effect, Fattah E.A., 2004, *Positions savantes et idéologiques sur le rôle de la victime et sa contribution à la genèse du crime*, Cario R., Mbanzoulou P., (dir.), *La victime est-elle coupable? Autour de l'œuvre d'Ezzat Abdel Fattah*, Paris, L'Harmattan, coll. Controverses, p. 23-41.

<sup>17</sup> Mbanzoulou P., 2013, *Les rencontres détenus-victimes : une expérience française de justice restaurative*, op. cit., p. 87.

says. By focusing on the individual and on the interpersonal relationship, the convict-victim meetings provide an important space for the story of each participant. By telling their stories, one understands the other.

The story, whose ability to unite is well known<sup>18</sup>, greatly allows for a view of oneself by revisiting one's own story, past and different blockage points. This makes the past and present live. Little by little, the intertwining of these two experiences allows for the understanding that the individual transmits, the meaning of what he or she lives and his or her unique story. Sharing and the resulting empathy enable the mutual relief of the participants.

Although the reintegration and probation personnel who act as facilitators do not get directly involved with the commission of the crime, this experience without a doubt enriches their professional practice thanks to what they learn. During training, they acquire the skills necessary to implement the conditions favourable to holding a restorative meeting (place, framework, and postures), to know how to welcome groups of victims and perpetrators, to know how to provide a meeting place that is adapted to them (rooms, organisation, neighbouring spaces, the arrival, and departure of the participants), to know how to set the framework of the meeting, to let everyone speak, to use a talking stick if necessary, and to favour a dynamic of working towards relief.

## Conclusion

The penitentiary personnel who implement these measures all highlight the enrichment of their professional practice with transversal and transferable skills including in their classic profession. Indeed, the function of the facilitator requires a change of posture in his or her relationship with the participants, victims, and convicts.

These professionals discover in this a certain interest in appropriating another mode of involvement as a supplementary tool for dealing with individuals who are in the justice system. All the more that, in addition to convicts, who are their target public, the presence of the victims in the instrument confers these professionals a real legitimacy in handling the victim-perpetrator dynamic. In other words, the victim is reincarnated in

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<sup>18</sup> See, to that effect, Collin F., 1999, *L'homme est-il devenu superflu?* Hannah Arendt, Odile Jacob, p. 336.

the daily work of accompanying and following-up with the perpetrators carried out by these penitentiary personnel. Its different problems (consequences and repercussions of victimisation) are now better understood by these professionals who deal with perpetrators.

The identification of the skills necessary for the organisation of restorative justice instruments as well as the sloughing observed towards another function, favoured by training, show that it is quite possible to imagine new professions in line with the organisation (organising agent) or organisational and partnership-based skills (restorative justice). Indeed, by associating with the two main legitimate and competent partners in the field of restorative justice (*France-Victimes* and the IFJR), the ENAP progressively gains a new skill in the field of innovative professional practice. Also, by combining in the same training session penitentiary personnel and help to victims, the training session imparted at the ENAP revitalises the partnership so desired by these different participants in order to work with perpetrators and victims, especially since the organisation and the success of the restorative justice measures require bringing together these two professional sectors and sharing a common and complementary culture. In this perspective, obtaining the same certificates, issued by a national school, can favour future collaboration. We can already suggest the hypothesis that the partnership with volunteer groups who help victims is a source of hybridisation of professional practices and cultures. With respect to the accompanying of perpetrators and victims by the involved services, the results are still to be discovered.

Implementing restorative justice not only concerns justice staff from the public sector but also associations volunteers involved in victim support and in programmes focused on offenders. Restorative justice is used in the field of probation thanks to probation officers and directors who acquire, through training and practice, a new innovative professional skill.

The training issues of this field should therefore be questioned. What skills are necessary to organize and moderate restorative justice programmes and how does the training curriculum of the French national correctional administration academy (Énap) meet the objectives? Are we heading towards new professions related to the leading activities (organising agent) or organisational and partnership-based skills (restorative justice referent).

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