



IS RESTORATIVE JUSTICE POSSIBLE IN THE UNITED STATES?

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INTRODUCTION

- The recidivism rate is the rate at which someone who has already gone through the criminal justice system gets reincarcerated
- The United States has the highest recidivism rate in the world, 76.6%
- Norway has the lowest recidivism rate in the world, 20%
- America follows a retributive justice system which focuses on seeking justice for the victim and punishing the offender
- Norway follows a restorative justice system, which focuses on rehabilitating the offender and repairing the damage done by the crime
- This paper will investigate restorative justice systems in comparison to the retributive justice system in America to determine whether or not the restorative justice system could reduce our recidivism rate



WHAT IS RESTORATIVE JUSTICE?

- When implemented true to the definition, restorative justice aims to make an offender aware of how the crime committed caused harm, repair the harm caused by the crime, and ensure that the crime does not happen again
- When justice systems follow a restorative model, they aim to look at the crime from an all encompassing point of view
- To truly be a restorative justice program,
 - The victim and offender must meet
 - The victim and offender determine what should be done to redress the harm caused by the offender



IRELAND STUDY

- Ireland has implemented restorative justice practices, mostly in their juvenile justice system
- A study conducted in Ireland used restorative conferences as a way to implement restorative justice ideologies into their juvenile justice system
- The main goal of the study was to determine the impact of functionalist roles in a restorative conference
- A restorative conference involves the offender, the victim, a facilitator, and a Juvenile Liaison Officer.
- Some victims were accompanied by their parents, and two victims were represented by their parents
- The parents of both the victim and offender execute the role of authority, which is dually sustained by the facilitator and Juvenile Office



IRELAND STUDY

- These conferences bring together all parties involved in the crime to mediate a solution, provides a safe environment for the victim to confront their offender, and gives the offender the opportunity to see how their actions impacted someone else
- The study outlines what must be present for a restorative justice program to stay true to the ideology
- **Remorse expressed by the offender** and **satisfaction from participants**, such as victims or their families are the variables highlighted in this study



IRELAND STUDY RESULTS

- 80% of the participants seemed to understand what was going on
- The victims who were present at their respective conferences were given the opportunity to have their say,
- 75% of the offenders were given the opportunity to have their say
- none of the participants seemed to have been too intimidated to speak up
- all offenders were treated fairly
- the offenders accepted some level of responsibility and expressed shame
- “The benefits for victims and offenders who engage in restorative justice processes far outweigh those offered by more traditional methods” (Kenny and Leonard 74)



IRELAND STUDY RESULTS

- The study showed that the victims are empowered through restorative justice, and hearing from the offender that they were not singled out to be victimized can help alleviate their fear of revictimization
- Not only does restorative justice provide benefits to the victim, but it has shown to be beneficial for the offender as well
- **“The restorative approach empowers them to express genuine remorse, to apologize directly to the victim, and make some form of reparation financial or otherwise. It further empowers offenders to address underlying problems, which they may be having, and provides them with the opportunity to work with their parents and authorities to fully integrate themselves back into society” (Kenny and Leonard 75)**
- An offender being prepared to reintegrate themselves back into society is an imperative part of restorative justice
- Without that key piece, there is nothing keeping the offender from being reincarcerated



NORWAY'S JUSTICE SYSTEM

- If an American saw the inside of a prison in Norway, they could easily mistake it for a hotel, or a college campus
- The facilities are not designed to marginalize or uproot the prisoner, but rather to allow them to remain living as normally as possible
- Instead of a person serving time, they use their time in prison to prepare for life after
- Giving people skills that can help them succeed in a career after prison is a key part of restorative justice
- Bastoy Prison is complete with a recording studio for inmates to use
- Halden Prison, located along the border of Sweden, strives to uphold as much normalcy as possible
 - respect between guards and prisoners
 - a lack of bars on the windows
 - a kitchen complete with sharp objects



NORWAY'S JUSTICE SYSTEM

- “In closed prisons we keep them locked up for some years and then let them back out, not having had any real responsibility for working or cooking. In the law, being sent to prison is nothing to do with putting you in a terrible prison to make you suffer. The punishment is that you lose your freedom. If we treat people like animals when they are in prison they are likely to behave like animals. Here we pay attention to you as human beings.”- Arne Wilson, Prison Governor and clinical psychologist at Bastoy Prison
- Life is not put on hold for a prisoner in Norway, so when they reenter society they are not held back from opportunities
- If a prisoner reenters society with no skills after serving a lengthy sentence, they may have no choice but to turn back to a crime-ridden life
- When an offender serves time in Norway, they have access to vocational programs to grow skills that will benefit them after their sentence is over
 - Woodworking
 - assembly workshops
 - recording studio



NORWAY'S JUSTICE SYSTEM

- The maximum sentence for most crimes in Norway is twenty-one years, the only exceptions to this are extreme crimes such as genocide and war crimes
- If the system cannot confidently say that the prisoner has been rehabilitated, then more time can be added to the sentence in five year increments until the system sees fit
- "“Every inmate in Norwegian prison are going back to the society. Do you want people who are angry — or people who are rehabilitated?”- Director of Halden Prison
- Prisoners should leave Halden ready to take on a productive life, specifically one that keeps them from reentering the justice system
- Norway did not always exemplify the restorative justice model that it is so proud of today
- They actually followed a similar model to America until 1998, when the goals of the justice system were revamped
- Norway's Ministry of Justice decided to place more effort into the rehabilitation of prisoners, mostly through means of education, therapy, and job training



NORWAY'S JUSTICE SYSTEM

- While the ability of Norway's justice system to reduce recidivism cannot be denied, questions were raised about the evaluation and collection of data in the system
- A study dating back to 2008 demonstrated professional's concern about the number of citizens being accused, detained, and imprisoned in Norway
- Specific data would need to be collected and analyzed to be able to determine how many professionals would be necessary to staff prisons in response to the amount of prisoners in the system
- Researchers believed that collecting this data was imperative to ensure that the growth of restorative justice was done in a cost-effective, moral, and humane way
- There also was a call for "theoretical research linked to philosophy, sociology and anthropology of law and legal issues" in addition to the numerical data
- This would be able to correlate the cost-effectiveness of restorative justice to the topic of humanity in restorative justice
- The determination of this study was that the nationally organized mediation and reconciliation service (NMS) in Norway, Konfliktråde and restorative justice actors were still learning about the systemic processes of restorative justice
- An action learning model was illustrated to demonstrate how to avoid the cycle between action, new planning, and action
- The cycle, which consists of **planning, action, evaluation, and learning**, is designed to build upon each previous cycle



AMERICA'S JUSTICE SYSTEM

- Retributive justice in America became prevalent in the 1970's and 1980's
- The shift to retributive justice was preceded by restorative justice
- America had to adjust to the new ideology of justice
- The punishments for crime can be harsh in a retributive justice system, especially in comparison to other countries with a restorative justice system
- For example, Norway does not have a life sentence as the first option for a convicted criminal, and they have made the death penalty illegal



AMERICA'S JUSTICE SYSTEM

- Prisoner reentry in the American justice system is so prevalent due to the fact that programs are not implemented strongly enough to help keep offenders out of prison
- In 2001, concern was raised by the Council of State Governments because of the high amount of prisoners returning to urban areas
- A National Reentry Policy Council was the result of the resolution from the Council of State Governments
- Their mission was to draw up policy recommendations for policy makers to ensure that adult offenders do not fall back into the path of crime and reenter the system
- Emphasis was placed on the point that these recommendations must be bipartisan, showing that the issue of prison reentry reaches across the aisle
- While prisoner reentry became a more prominent issue while Bill Clinton was in office, President George W. Bush upheld the effort to reduce recidivism
- While programs such as Serious and Violent Offender Reentry Initiative (SVORI) and Prisoner Reentry Initiative (PRI) were created to combat the issue, the United States still has the highest recidivism rate in the world today



AMERICA'S JUSTICE SYSTEM

- Studies have shown that feelings of moral outrage and dehumanization often co-occur in response to criminal behavior, and are associated with severity of recommended punishment
- These findings are in line with understanding retributive justice, because retributive justice seeks to find justice for the victim rather than reform the offender.
- The same study also showed that when people are morally outraged they are less likely to view the offender as rehabilitated
- This shows that offenders are not the first priority in the system they are locked up in



RESTORATIVE JUSTICE IN AMERICA

- There are eleven states in the United States that have implemented restorative justice practices which consist of ; Colorado, Montana, Minnesota, Missouri, Hawaii, Florida, South Carolina, West Virginia, Delaware, Vermont, and Maine
- These restorative practices exist almost exclusively for juvenile offenders
- However, these programs have had great success in reducing the recidivism rates where they were implemented



RESTORATIVE JUSTICE IN AMERICA

- Colorado's restorative declaration is, "to protect, restore, and improve the public safety...provide the opportunity to bring together affected victims, the community, and juvenile offenders for restorative purposes"
- The importance of public safety is not overlooked, as an important piece of restorative justice is the goal to maintain public safety.
- In addition to the preservation of public safety, the juvenile justice system acts in the best interest of the juvenile offenders and the victims.
- The safety of the community, the victim, the offender, and the restorative nature are the focal point of their plan to reduce crime
- The legislature also mentions the need to assist the juvenile in becoming a productive member of society, which is often where the American justice system often seems to fall flat
- By means of legislative intent and its Victim Rights Act Colorado is implementing more restorative justice practices into its Children's Code, and these same practices are gradually working their way into youths, schools, adults, and most importantly, prisons
- Restorative practices in Colorado include victim-offender conferences similar to the ones from the study in Ireland, with the offender, victim, a victim advocate, and community members in support of the victim or offender



RESTORATIVE JUSTICE IN AMERICA

- At these conferences, the primary goal is for the offender to first accept responsibility for the crime and the damage it caused, and for the offender to engage in deciding what consequences will be set in place to repair the damage caused by this crime
- Some consequences that have been carried out by the offender as reparation are apologies, community service, and counseling
- When the consequences have been agreed upon by all parties involved, the parties sign off on them and then decide the time limit that the offender has to complete them
- To ensure the success of the restorative justice programs, the General Assembly has enacted a Restorative Justice Coordinating Council: The council will serve with the purpose of guiding local communities through education and any technical assistance that they may need in terms of carrying out restorative practices
- As for the funding of the restorative justice programs, the offenders themselves fund them, juveniles and adults are charged a ten dollar court fee when either adjudicated or convicted of a criminal offense
- The funds generated through the ten dollar court fee are appropriated to cover administrative costs and even the restorative programs themselves
- Seeing as the ten dollar fee is a feasible amount of money, this could be a way to fund restorative programs without



RESTORATIVE JUSTICE IN AMERICA

- A pilot program in Longmont, Colorado received federal funding after the triumphant success of their pilot program to reduce recidivism
- In January of 2014 when the national recidivism rate was 70%, Longmont's was 8% due to their restorative justice program
- This is an example of a restorative justice program that when started on a small scale, proved to be very successful



COMPARING CRIME IN AMERICA AND NORWAY

- In terms of crime in Norway and crime in the United States, the deficits are very noticable
- In 2014, the United States was ranked 30th in the world while Norway was ranked 69th, and the United States has 87% more crime than Norway
- Norway was ranked 67th for perceived problems with violent crime including assault and armed robbery. The United States was ranked 10th, which is ten times more than Norway
- America is ranked first in violent crime, which is three times more than Norway which ranked 11th
- In a worldwide systematic review of criminal recidivism rates, it was determined that data could not accurately be compared due to factors such as differing definitions of recidivism, and differing methods of gathering and recording data
- In countries like the United States where regions differ drastically, it would be worthwhile to consider recidivism of individual states rather than the country as a whole



CONCLUSION

- In countries like the United States where regions differ drastically, it would be worthwhile to consider recidivism of individual states rather than the country as a whole
- Studies that tested the long-term effectiveness of restorative justice interventions compared to treatment as usual, and found that those who had treatment as usual recidivated at a higher rate of 68.48% in the United States, those who had restorative justice interventions recidivated at a lower rate of 33.16%
- To invest in transforming our retributive justice program to a restorative justice program would be to invest in a safer future for the United States
- The impact would not be immediate because of the mass incarceration that plagues our nation, there will likely be a transitional period where our justice system is slower and more ineffective than before
- Following the action-learning cycle mentioned earlier, the United States could gradually transition from a retributive justice system to a restorative justice system. With the guidance of the action-learning cycle, the United States could build on our current system rather than start from the beginning
- The long term impact would outweigh any rough patches that would present themselves



CONCLUSION

- Norway is an extreme example of a restorative justice system, and comparing the United States which has the worst recidivism rate to a country with the lowest recidivism rate can set high expectations
- With time, effort, dedication, and an open mind, the United States has the potential to reduce recidivism exponentially
- When the recidivism rate is reduced, one can assume that communities would develop stronger, because if there was a crime everyone in the community would have the opportunity to have a say in how it should be redressed
- Eleven states have already begun implementing restorative justice legislature, and it has proven to be successful in reducing recidivism
- A pilot program in Colorado was even successful without raising taxes
- Offenders were charged ten dollars when adjudicated or convicted, and the funds raised through this charge funded the restorative programs that lowered the town's recidivism to 8% when the average in the nation's was 70%
- Starting pilot programs like this can help work out any issues before restorative programs work its way up to more states and even to a federal level



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