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AREA A TOPIC:

Incarceration and Lasting, Collective Punishment.

For the common prisoner, confinement is a terrifying experience. When you go to jail, you want it above all to feel safe. That's why prisoners get weapons, that's why they join gangs to feel safe. Prisons serve a vital public safety function. They prevent predatory and dangerous criminals from committing crimes again when they are behind bars. Moreover, prisons, in an important symbolic way, serve an important function of strengthening our social norms by punishing those who break the law. We need prisons and the reality is that they will always be imperfect places. Even by reducing our dependence on them, we must continue in our efforts to improve them. For prisons to be more humanitarian, they must be safer. When confinement is an experience in brutality, a prisoner is less likely to succeed when he achieves his freedom. The chances of radicalization or return to a life of crime increase.

Despite the fact that the socio-political situation has changed, the number of prisoners in our country approaches the level of the “heyday”, when residents of crowded places of deprivation of liberty were forced to work for free or for a penny “for the benefit of a socialist society” (in Russia this practice has reached unprecedented scales). In the first years after the fall of the communist regime, too much was planted - most likely because of the growing unemployment it was necessary to put surplus labor somewhere. Instead of giving people the opportunity to learn, to help them learn another profession, they were left to their own devices - and this is a direct path to jail. Today the situation is different.

But maybe the growth of the prison population reflects the increase in crime? Not at all - crime not only did not overwhelm USA, but in recent years it has even declined. And this despite the fact that we have tightened legislation and is now considered a criminal offense (and rightly so), For example, drunk driving. In the year of such offenses, 120,000 are recorded.

The number of killings has significantly decreased. They could have been even smaller if we had not been so tolerant of domestic violence. The trouble here is in the absence of not a legal basis, but the determination of the authorities to consistently apply existing laws. And, of course, in the perception of their ideas that women and children "for the sake of preserving the family" should tolerate domestic tyrants. In total, the number of murders in USA over the past year was a little over 800. For comparison, about the same number of people drowned, four times more suicides were recorded and almost five times more people died in car accidents. The number of thefts has also decreased. Of course, this is a pitiful consolation for those who stole a car, broke into an apartment, pulled out a bag on the street or stole a wallet. But how can tightening laws help here?

Nothing. The law is not the network that attackers catch. No matter how much you guard him, they won’t be caught anymore. The criminal must be wanted and able to catch, but with this we are far from brilliant. Ho, even when they are catching, how many of the victims will be returned a wallet, bag, TV, car? How many will hear the words of apology from the criminal? How many of us will at least be informed that by law we have the right to mediation , that is, we have the right to personally ask the criminal: why did he choose me as his victim, why it happened to me, explain to him what evil he caused, how his act affected my life, attitude, belief in people.

Why is the only compensation that we are offered is a promise, in the case of (quite ghostly), if our offender is caught, put him in jail for many years. What good is this for us? Not only did the one who stole the wallet from us never returned the money, but now we, as good taxpayers, will have to pay for keeping him in prison. The government, instead of spending our money on the construction of roads and housing, medicine, creating new jobs, invests in prisons.

Collective punishment is understood as the one that **applies to a group of people** as a result of the behavior of one or more individuals in the group. This type of punishment is usually used when the adult who is in charge of the students does not **know the authorship** of a punitive event. Consciously and in order not to leave the culprit without punishment, he decides to **include the rest of the innocent people in the punishment.**

The government explains this by saying that the situation with prisons is monstrous. They are so crowded that there is even a waiting list. However, this was not caused by the growth of crime, which even the authorities admit, but by the delay in the terms of temporary detention and the too frequent application of such a measure. In fact, is it necessary to keep under arrest for three months the one who stole 2,000 zlotys and immediately admitted this? There is no need to increase the number of places in prisons. There is a need to improve judicial procedures, which, by the way, is in no way connected with the tightening of legal norms. Prisons have the peculiarity that no matter how many they are, they are filled to capacity.

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**AREA B TOPIC:**

**2) Harm, Needs, and Roles in Restorative Justice**

Restorative justice recognizes that the crime committed entails not only the violation of the law by the criminal: there is also harm to the victims. As the name suggests, restorative justice suggests that a fair answer is one that corrects harm in addition to resolving the issue of the offense. As a rule, VP is associated with the following principles:

i) correction of harm caused by crime;

ii) the participation of stakeholders, such as the perpetrator, the victim, their families and the community; and

iii) the creation of positive change in the participation of people and communities.

Restorative justice focuses on re-socialization, acceptance of responsibility, rehabilitation and protection of the victim from re-victimization. This is the difference from punitive justice aimed at punishing offenders. It also pays special attention to out-of-court conflict resolution. Offenses are not considered as problems requiring judicial intervention, but as a conflict that can be resolved by the parties and their social environment. However, formal criminal justice systems may include the principles of restorative principles. All measures are aimed at restoring peace between the victim and the offender and in society as a whole.

Restorative justice, like the exclusion of criminal justice, can go at many stages of the trial. At the first contact, law enforcement agencies can allow extrajudicial mediation. The principles of EaP can continue to be manifested in the justice system up to detention, where former offenders are assisted with rehabilitation and development during and after imprisonment.

Mediation between the victim and the offender: qualified mediators organize negotiations between the victim and the offender to discuss the crime, its consequences and how to eliminate them. The following activity is often characterized as “restorative”, but it does not correspond strictly to the profile of restorative justice, since it can be carried out, and was carried out, in more punitive or destructive ways. Community service: violators perform unpaid community service to eliminate indirect harm caused by crime. Compensation funds for victims: the government or third parties provide victims with benefits in proportion to the harm they have suffered. Restorative justice is seen as a broad approach to solving problems that involves the victim, the perpetrator, their social networks, the judiciary and society in restoring the harm caused by the crime.

The period of the 70s of the XX centuries is significant in that the problem of restorative justice was raised in the world, the main task of which is to restore the social status of the individual, and not in punishment for what was done. It is aimed at contributing to the healing of both the individual and society itself. “Punitive” justice does not resolve the conflict between the victim and the perpetrator. Upon exiting the criminal justice system, the victim usually receives neither moral nor material satisfaction. For example, if a victim is crippled, her health will not be restored, and the victim does not receive material damage. A person who is condemned, especially to imprisonment, finds himself in harsh conditions. These are not conditions that would adapt him to life in a normal society, and society itself is not immune to repeated crimes. (Maruna,2016).

Restorative justice focuses on the victim of the crime and adheres to the principle of the maximum, as far as possible, compensation for the harm caused to the victim. Juvenile justice is characterized by “social saturation”. In different countries, this principle is implemented in various forms: probation services, social and psychological services, community education, etc. Restorative justice, entering the social arena as a new way to respond to crimes, establishes the relationship of cooperation not with a “pure” criminal process, but with criminal process already in the social and rehabilitation infrastructure. In the 60-70s of the last century, in connection with the growth of child crime in the world, they started talking about the crisis of juvenile justice. The initial model of juvenile justice was based on the idea that a crime committed by a teenager is a symptom of his social or mental distress; therefore, the child needs help. The classic juvenile justice model is rehabilitation instead of punishment. Despite the identical meanings of the word’s “rehabilitation” and “restoration”, we are talking about different models of juvenile justice - rehabilitation and restorative. Moreover, a recent study indicates that the experience of traumatic violence is highly correlated with subsequent arrest and incarceration.( Beckett, Kartman,2016).

The classical rehabilitation model was built outside the principle of responsibility. In international documents (in the Convention on the Rights of the Child, in the Beijing Rules), the well-being of the child is paramount. But the rise in child crime signaled that the model was ineffective. Restorative justice has brought about a fundamental turn in the “children's” justice, introducing the principle of responsibility, although not criminal. In fact, restorative justice, according to Gavrielides (2017) sets a new paradigm for juvenile justice, it “enters” juvenile justice with the already existing social and rehabilitation infrastructure, not abolishing it, but introducing new principles and goals: healing the victim, the offender’s obligation to make amends etc. There are various types of restorative justice programs depending on their structure and circle of participants.

A reconciliation program between the victim and the offender or face-to-face mediation is the most common, but not the only type. There are forms such as community and family conferences. The last two forms are distinguished by a wider range of participants and the fact that the decision is made as a result of an agreement between the families of the parties or the community, “circles of justice” are practiced that are based on the traditions of North American Indians, etc. Reconciliation programs for the victim and the offender, translated into the language of the criminal . “Another restorative justice rehearsal called Family Group Conferencing (FGC) was presented to the United States in the mid-1990s”( Beckett, Kartman,2016).

The process refers to reconciliation programs between the victim and the accused, where the minor is the defendant, and both children and adults are among the victims. Consider the line of folding restorative justice in the world, for example, in North America and Europe. (Gavrielides, 2017). Here, the area of ​​implementation of restorative justice is determined, first of all, by two points: the category of crimes and the subject of the offense. We are talking about mercenary crimes, for example, hooliganism, vandalism, that is, crimes for which redress seems to be the most reasonable and fair form of resolving a criminal situation. Punishment can be part of the restoration of justice, justice is aimed primarily at restoring justice, at eliminating the conflict of the individual and society by the efforts of the state.

The state cannot but intervene in this conflict precisely because society has authorized it to resolve conflicts. If you approach from these positions, the question arises whether punishment is always a restoration of justice. Punishment does not always reconcile the criminal with society and the victim with the criminal, which entails relapses, increased crime. To reconcile him with society, to explain what he did wrong, to awaken conscience is the goal of restorative justice.

The introduction of restorative justice in communities led to the formation of a request from community representatives, in particular from representatives of local authorities, to develop restorative practices not only in the field of criminal law, but also in family matters, in neighboring disputes, in decision-making processes at the local level, in schools, etc. Thus, today in Ukraine much attention is paid to the development of restorative practices in various spheres of life, which contributes to the formation of a more open, active and tolerant community as a whole.

There is a sufficient legislative framework for the development of restorative justice practices in the criminal justice system. A much more serious obstacle to the further development of the practice is the lack of political will in the Parliament and the highest echelons of power to help support social programs and the non-governmental sector, which to date has assumed responsibility for introducing restorative practices in USA. For example, the mechanism of social order has practically not been developed and does not work, as before, there is a painful dependence of all state structures on centralized decision-making mechanisms and the absence of clear guidelines for state policy in many important areas of work. In these rulings, the Supreme Court recommended that the courts cooperate with public organizations that develop reconciliation practices, provide them with relevant information, inform process participants about the activities of such organizations, and take mediation results into account when deciding. (Maruna, 2016).

But as we emphasized in social technology, it is necessary to distinguish between two different aspects: on the one hand, this is a modern type of social action that meets the conditions of mass production, the guidelines for management, quality and economy, standardization, training of specialists, and on the other, within the framework of humanistic values, this is specific social action working for a person and freedom, contributing to the constitution of the corresponding social nature. In this second aspect, a feature of restorative justice is public mediation and the restoration of justice.

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