

Long Abstract – Monographic Section

INVESTING IN THE SOCIAL REINTEGRATION CARE FOR DETAINEES: TRENDS AND NEW PERSPECTIVES OF THE ITALIAN WELFARE SYSTEM

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Restorative justice programmes in prison: what real rehabilitative and transformative potential?

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Restorative justice (RJ), since its modern formulation in the 1970s in the national context of countries such as Canada, New Zealand, Australia and USA, has been progressively gaining recognition, and has thus spread in many countries across the globe. As a result, despite its abolitionist origins and critical spirit of the criminal justice system, RJ is nowadays institutionalized in many states, where it coexists with traditional criminal theory. RJ programmes are therefore arranged at all levels of criminal justice, including prison.

The coexistence of the restorative paradigm and imprisonment, which follows different models – either rehabilitative or retributive –, undoubtedly represents an issue. Both scholars and practitioners in the field of RJ and criminal law, criminal procedure and prison law have thus addressed the relationship between these two opposing (at least apparently) systems of dealing with crime and punishment. This debate has resulted in the delineation of two diverging stances, albeit with a range of variations in between. On the one hand, some support the introduction of the restorative paradigm in the penitentiary environment, in view of improving its efficiency, humanizing and possibly transforming it, and even creating “restorative prisons”. These voices seem to believe that restorative programmes not only are compatible with imprisonment, but that – if correctly implemented – they can enhance penitentiary treatment, encouraging restoration of harm and reducing the risk of recidivism.

On the other hand, other authors distrust this operation, fearing that the many limits and risks generated by the tension between the rationales behind restoration and imprisonment cannot be easily overcome, especially because of the “total” character of the penitentiary institution.

This paper aims to explore the various positions fueling this debate and the theoretical and empirical studies that support them. In this analysis, particular attention is given to the significant, even if generally scarce, results provided by research on the implementation of RJ in prisons. The goal of this article is to draw, rather than conclusions on the topic – as not enough research has been conducted on this subject –, suggestions about the rehabilitative and transformative potential that RJ can realistically exert on the penitentiary.

These findings could prove useful as a basis for further research in the Italian context, especially in the light of the recent adoption of the so-called “Cartabia reform” of the justice system, which promoted implementation of a RJ system through a specific “organic discipline”.