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RESTORATIVE JUSTICE IN FIJI



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Title: Restorative Justice in Fiji

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RESTORATIVE JUSTICE IN FIJI

SUMMARY

Although the Fiji Prisons and Corrections Service (FPCS) has made significant investments in prisoner rehabilitation starting as far back as 1993, the institution embraced restorative justice programming only after the concerted but measured advocacy of the Pacific Centre for Peacebuilding (PCP). Employing dialogic principles and practice, PCP's success offers important lessons on how civil society can effect changes in large bureaucracies hesitant to embark on significant policy shifts.

1. CONTEXT

Fiji's prison system was first established in 1874 under the then British Governor General. Under a colonial policy known as "native administration," Fiji's prison system was managed at the provincial level as dictated by Native Councils. Prisons served to punish tax evasion and violations of native laws. In time, increased urbanization and population growth necessitated the building of larger and more modern corrections facilities, including a more centralized command and control structure. In 1967, Fiji's largest correction facility, the Naboro Complex, was established.

The Fiji Prisons and Corrections Service (FPCS), under the overall guidance of the Ministry of Home Affairs, currently manages twelve prisons with a total population of approximately 1,200 inmates. With an official holding capacity of approximately 1,000 inmates, these figures indicate overcrowded conditions. A 2011 U.S. State Department Country Report on Human Rights Practices, Fiji, reports that:

Prison conditions were harsh and did not meet international standards. The national prison system was seriously underfunded and overcrowded, with deteriorating infrastructure and complaints about delivery of essential services. Prisoners had access to potable water, but the system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. However, there were no reports of inmate deaths during the year due to poor prison conditions.¹

Though current data may be subject to interpretation, recidivism rates in Fiji have traditionally been high, averaging about 50 percent per year. The Ministry of Home Affairs reports that in 2011 the recidivism rate stood at 43 percent, marking a reduction from previous years.² There are some indications that rehabilitation and reintegration policies may be facilitating a drop in recidivism.

As in many countries, Fiji's convicted criminals face strong stigmatization after release from custody, resulting in diminished job prospects, and ostracism from former social circles. Much of this stigma is fostered through longstanding government policies that aim to manage and deter crime through punishment. Under theories of retributive justice, prisons are viewed primarily as a tool to protect the public.

1 U.S. Department of State, 2011 Country Reports on Human Rights Practices, Fiji, <http://www.state.gov/j/drl/rls/hrrpt/2011/eap/186271.htm> (accessed 3 July 2012)

2 "Recidivism Rate Drops," The Fiji Times, 29 October 2011, <http://www.fijitimes.com/story.aspx?id=184424>, (accessed 3 July 2012).

A shift in corrections policy away from retributive justice, and towards prisoner rehabilitation first gained traction in Fiji starting in the 1990s with increased exposure to international norms in corrections work. In 1993, the FPCS established the Rehabilitation and Training Unit, and in 2006, the government passed the Fiji Prison and Corrections Act (FPCA). This Act mandated deep structural changes at FPCS in an attempt to both improve prison conditions and foster prisoner rehabilitation.

Underscoring its intended purpose, section 3(e) of the FPCA provides that, “When interpreting or applying any provision of this Act, and when exercising any prescribed power, duty or function, all persons shall facilitate the shift of underlying philosophy from the containment of prisoners to the provision of effective and appropriate corrective services.” In 2008, the FPCS launched the Yellow Ribbon Campaign (YRC), demonstrating continued commitment to prisoner rehabilitation.

The YRC is currently the FPCS’s flagship rehabilitation program. The programme involves a three prong approach in implementation: 1) generate community awareness of the need to give second chances to offenders; 2) promote acceptance of the offenders and their families into the community and; 3) inspire community action to support the rehabilitation and the re-integration of offenders. The YRC allows prisoners and ex-convicts training opportunities in farming techniques, industrial skills development and literacy and counseling on alcohol and drug abuse. Prisoners are also allowed to sell produce or arts and crafts during public parades and market days and other events. Significantly, communities are directly involved in reintroducing released prisoners back into society, relying heavily on traditional mechanisms to do so. The FPCS continues to devote significant resources to prisoner rehabilitation, however, the shift in organizational culture towards correction, rehabilitation and reintegration is still developing.

In December, 2010, officers from the Fiji Prisons and Corrections Service (FPCS) attended an inaugural training on restorative justice principles and practice, marking the start of the Fijian government’s commitment to a new approach in prisoner rehabilitation. Though FPCS had made significant investments in prisoner rehabilitation starting as far back as 1993, the institution embraced restorative justice programming only after the concerted but measured [advocacy] of the Pacific Centre for Peacebuilding (PCP).. This case study examines how PCP employed dialogic principles in its efforts to institutionalize restorative justice within Fiji’s prison system.



2. PROBLEM

Though the FPCS had adopted prisoner rehabilitation programming as early as 1993, by 2008 the institution had not yet contemplated the impact that reintegration was having on victims, especially victims of gender based violence.

Rehabilitation of offenders without dialogic engagement with their victims is problematic: victims may feel unready to make amends on behalf of the offender out of fear, anger, or loss of dignity. The sudden reappearance of an ex-offender in the community can also re-traumatize the survivor of violence. This is especially true where the underlying crime victimized a vulnerable member of society. Lastly, the lack of dialogic engagement between victim and offender can split communities, exacerbate levels of domestic violence with a community and otherwise present obstacles to the reintegration of the offender into society.

Restorative justice theory argues that crime and wrongdoing is an offence against an individual and community, and not simply against the state. Thus, restorative justice practices focus on the issues and concerns of the victim and community before or during the ex-offender's reintegration. Offenders are encouraged to take responsibility for their actions and repair the harm they've done through apologies, restitution, or community service.

However, this approach requires significant institutional support from corrections officials, as programming interventions often begin while the offender is still incarcerated. PCP's effort to institutionalize RJ programming at FPSC proved challenging given the lack of awareness among FPSC staff of RJ principles and high rotation of prison officers. Implementation of RJ practices also required significant policy changes in prison management. Thus, some institutional resistance was expected. Overcoming these challenges required the adoption of dialogic approach, often times subtly deployed during awareness-raising efforts and other meetings.

3. PROCESS

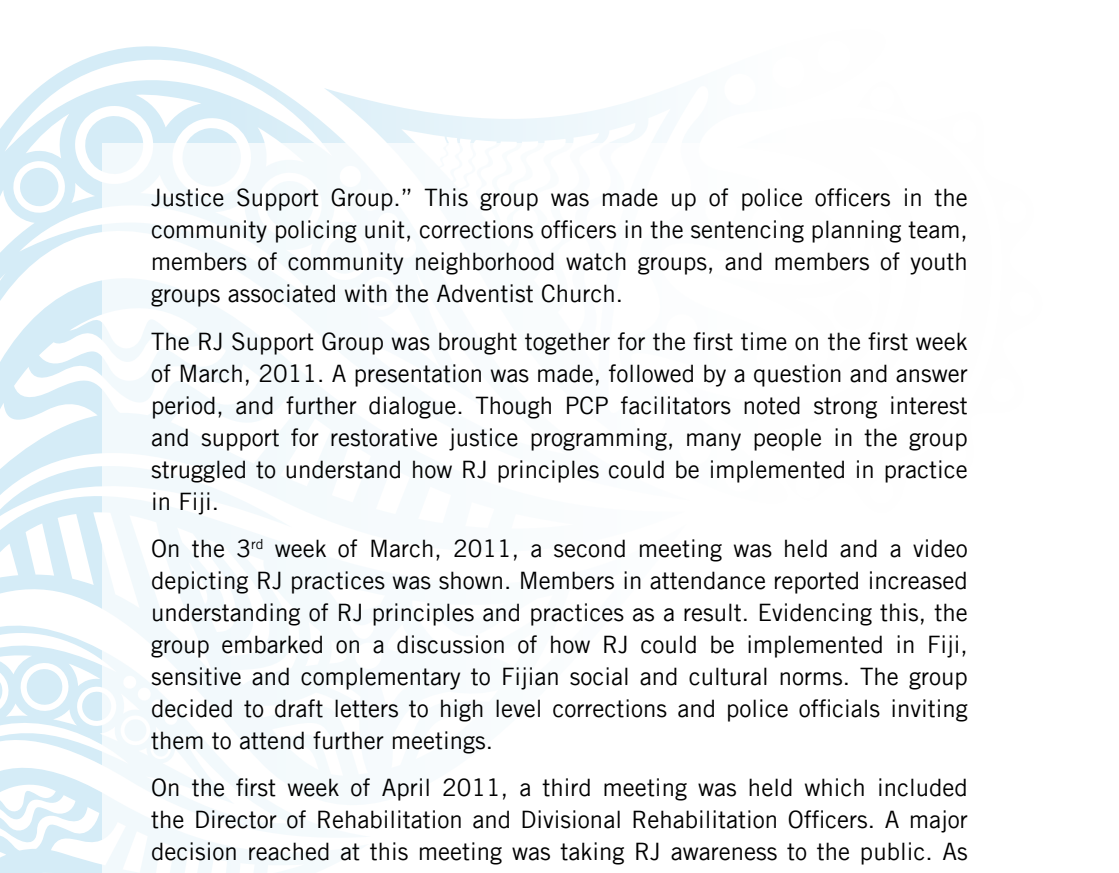
Restorative Justice practices were first introduced to the FPCS slowly and informally. A prison volunteer with FPCS, Paulo Baleinakorodawa, provided insights into the merits of RJ approaches over several years, until a formal programme was institutionalized. In his first years of service, Baleinakorodawa shared RJ principles at relevant points in conversation, without forcefully promoting the concept. Simultaneously, and independently of Baleinakorodawa's

efforts, government support for rehabilitative approaches to corrections work gained momentum at the most senior levels through the Yellow Ribbon Campaign that was inaugurated in 2008. By the time Baleinakorodawa left the FPCS to work for PCP, in 2009, he had earned the trust of his colleagues in the prison system and created the kinds of relationships that served him well when he returned to train officers in RJ efforts under a PCP programme.

In 2007, Baleinakorodawa was invited to speak on RJ at the Corrections Commissioner's conference in Suva. The event raised considerable interest in the topic among key actors. So, when, in 2009, the PCP RJ team was invited by the then Commissioner of Prisons, Mr. Iowane Naivalurua, to facilitate the first ever restorative justice workshop for all the prison staff at the National Headquarters in Suva, there was much receptivity built up for the idea and PCP was recognized as an authority on the topic. More than 30 officers including the Commissioner himself attended the workshop. As a result, the RJ team was asked to participate in a two week Yellow Ribbon Campaign "road show" in the Northern Division. This was the first time the FPCS acknowledged the importance of victim's involvement in prisoner rehabilitation processes.

Starting in 2010, PCP conducted Security Forces Capacity Building training on change management with military and prisons officials. In the context of these trainings, restorative justice practices were briefly covered stoking significant levels of interest among participants. In response to this, and in the context of the government's endorsement of the Yellow Ribbon Campaign, PCP decided to invest more time and resources to RJ programming. As an initial step, the PCP developed a steering committee known as the "Restorative





Justice Support Group.” This group was made up of police officers in the community policing unit, corrections officers in the sentencing planning team, members of community neighborhood watch groups, and members of youth groups associated with the Adventist Church.

The RJ Support Group was brought together for the first time on the first week of March, 2011. A presentation was made, followed by a question and answer period, and further dialogue. Though PCP facilitators noted strong interest and support for restorative justice programming, many people in the group struggled to understand how RJ principles could be implemented in practice in Fiji.

On the 3rd week of March, 2011, a second meeting was held and a video depicting RJ practices was shown. Members in attendance reported increased understanding of RJ principles and practices as a result. Evidencing this, the group embarked on a discussion of how RJ could be implemented in Fiji, sensitive and complementary to Fijian social and cultural norms. The group decided to draft letters to high level corrections and police officials inviting them to attend further meetings.

On the first week of April 2011, a third meeting was held which included the Director of Rehabilitation and Divisional Rehabilitation Officers. A major decision reached at this meeting was taking RJ awareness to the public. As a result, PCP was invited by the RJ Support Group to conduct an awareness raising presentation at the Police Crime Prevention Office in Suva, which was attended by the representatives from national NGOs, and government including the current Commissioner of the Prison Services. . Following this meeting, some participants held interviews with the press which engendered further interest from other high level police and corrections officers.

These three meetings were conducted under ideal circumstances, given that activities of the Yellow Ribbon Campaign were ongoing and reform-minded corrections officers were given some latitude to expand their rehabilitation efforts. As the RJ project was getting off the ground, 20 corrections officers were slated to be trained in offender rehabilitation. Still, there was much confusion in the ranks regarding rehabilitation programming. Introducing yet another component to the training agenda, for a cadre of constantly rotating officers, would not bode well for the campaign to institutionalize RJ practices at the FPCS.

In parallel with these activities, PCP worked to secure a Memorandum of Understanding with prison leadership to ensure sustainable programming

on restorative justice. The MOU proved critical when the FPCS rehabilitation office welcomed a new director into its fold. Based on the MOU, RJ training and awareness-raising efforts moved forward as planned with little objection from new corrections staff. Today, the institutionalization of restorative justice practices at FPCS is well underway. There are now 11 corrections officers assigned to a RJ corrections team. These officers work together with community groups in designing RJ interventions.

4. CHALLENGES

Institutional skepticism

Given a long history of treating the prisons as a public security institution, restorative justice program initially received a tepid response from some prison officers. Many officers were concerned that they would be saddled with new operational responsibilities, some of which might put themselves or the public at risk. Others were already consumed with the implementation of rehabilitation programs and were ill-at-ease with new approaches.

High turnover rates

Though restorative justice programming eventually gained the necessary institutional support at FPCS, different officers would sometimes have their own unique approaches to implementation. When these officers then rotated to different units, their predecessors were not kept abreast of the core needs and requirements of the restorative justice program. PCP staff would need to re-brief and re-advise the incoming officers of the program's components and merits. These changes caused significant implementation delays, leading to much frustration among community leaders, victims and offenders.

Security considerations

In a prison complex, the safety and security of correction officers, visitors and offenders, are of primary importance. However, the RJ program required that security conditions be relaxed or altered to accommodate large awareness-raising events with inmates in prison. In other circumstances, offenders were transported over long distances to remote villages before their official release date in order to meet with community members and victims. Alternative security arrangements required time consuming planning efforts. On occasion, decisions to provide for offender mobility were overturned by skittish prison officials. In still other cases, a breakdown in the lines of communication

between senior and junior officers would delay action. Junior officers were unwilling to depart from routine security procedures without clear and timely orders from their superiors.

Policy dissonance

There is some concern that the Fijian government interest in restorative justice is primarily driven by the need to address prison overcrowding and recidivism rates. Restorative justice techniques may be embraced as a means to justify the early release of offenders putting undue and unjust pressure on victims to reconcile. This could have an impact on relationships within a community and even provoke domestic violence.

Inadequate levels of funding

Transporting participants in the program was a significant logistical challenge, made more difficult still by insecure funding levels. As restorative justice practices can potentially involve large numbers of participants, securing adequate and sustainable funding is a matter of first importance.

5. BREAKTHROUGHS

Awareness-raising with corrections officers

At the insistence of PCP, awareness-raising efforts were not confined to higher level decision-making officials, but were targeted to all prison staff in eight prison facilities. PCP staff believed that raising awareness among the widest possible range of prison officials was required in order to [enact] a shift in organizational culture in support of RJ principles. These awareness-raising events were also helpful in addressing concerns of those who felt that RJ policies would mitigate prison security.

Awareness-raising with prisoners

Also at the firm insistence of PCP, large number of prisoners were assembled to take part in awareness-raising events at eight correctional facilities. As many prisoners had to be reached as possible in order to stoke interest among strong candidate for the program. At the end of the series, the program had reached 314 inmates, though only 5 were chosen to take part in the piloting of the program. These awareness-raising events were the first of their size and kind in FPCS history.

Memorandum of Understanding

The MOU between PCP and the FPCS proved crucial to ensuring sustainability of the RJ programme in a context of changing leadership roles within the FPCS. The MOU stipulated on what basis the PCP and the FPCS would work together and how they would jointly implement the RJ project. It provided for security guarantees for PCP staff and related contingency plans. However, the MOU took nearly a year of negotiations before government authorities would affix their signatures. Often, delays related to simple chain-of-command inefficiencies, where a managing staff officer would postpone review of the MOU and fail to pass the document up to his or her supervisors in turn.

6. RESULTS

Restorative Justice Corrections Team

Eleven new officers were assigned to a newly created restorative justice unit at the FPCS. This development was the single most important indicator that the FPCS had institutionalized RJ into its practices.

Restorative justice programme launched

Significant awareness-raising efforts were conducted involving over 300 inmates and 34 corrections officials in eight corrections facilities. As of June 2012, five offenders were identified to take part in the RJ program, of these, two agreed to take part.

7. PARTICIPANTS

Pacific Center for Peacebuilding

PCP is a non-governmental organization founded in 2007 and based in Suva, Fiji. PCP works through traditional and Western peacebuilding knowledge and strategies, while partnering with communities, government and non-government organizations and institutions, to transform, reduce and prevent conflict in Fiji and the Pacific. In addition to designing and implementing restorative justice programs, PCP works in the areas of mediation, stress and trauma awareness and healing, conflict analysis, prevention, and resolution. PCP's efforts in launching the RJ program were instrumental in institutionalizing RJ practices at the FPCS.

Ex-Prison Counselor

PCP was critical to the institutionalization of restorative justice programming in Fiji's corrections system. Yet, PCP consolidated support for restorative justice programming at the FPCS on the basis of interventions made by a close partner, Paulo Baleinakorodawa. Baleinakorodawa was a former volunteer in the prisons who had since 2003 built strong relationships with prison staff at many levels in the corrections system chain of command. His use of dialogue at the interpersonal level in introducing RJ to prison officials paved the way for wider FPCS endorsement once PCP had formalized a program proposal.

Restorative Justice Support Group

In 2011, the PCP formed the Restorative Justice Support Group to build wider support for RJ among FPCS officials and members of the wider public. This group included religious groups, community neighborhood watch groups, sentencing and planning teams at the FPCS, among others.

Fiji Prison and Corrections Services

The FPCS is led by the Prisons Commissioner, Colonel Ifereimi Vasu and organized under the Ministry of Home Affairs. In recent years, the FPCS had undertaken significant changes in reorienting itself from a public security to a corrections institution, focused on rehabilitation. In 2006, the Prisons and Corrections Act mandated substantial changes in human resource allocations and improvements in prison conditions in an effort to meet international standards. Underscoring a new approach, the stated mission of the FPCS is, "to provide an effective and efficient prisons and corrections system through the adoption of innovative programs of offender management and rehabilitation programs." The 2011 U.S. Country Report on Human Rights Practices, Fiji, acknowledges the shift, noting that, "the Corrections Department accorded a high priority to prisoner rehabilitation and community reintegration, requiring considerable prison staff retraining to advance these goals."³

8. VALUES

Under normal operating guidelines, prisoner rehabilitation efforts often involve ceremonies that welcome the return of an offender to his community. At the end of various culturally informed practices, which included an apology and

³ U.S. Department of State, 2011 Country Reports on Human Rights Practices, Fiji, <http://www.state.gov/j/drl/rls/hrrpt/2011/eap/186271.htm> (accessed 3 July 2012).

the offering of kava to the community, a large feast is held. Though helpful to the offender to feel reintegrated, these ceremonies may have a traumatic or otherwise negative impact on the victim. PCP staff ensured that prison officials understood the consequences of not taking the needs of the victim into account by asking prison officials to put themselves in the shoes of the victim during a reintegration ceremony. PCP staff employed the power empathy to make the point to corrections staff that rehabilitation without restorative justice is an incomplete process.

Further, PCP staff expressed the value of inclusiveness by insisting that prison staff at all levels of authority be invited to take part in RJ awareness-raising events. Ensuing inclusiveness also led to increased levels of buy-in by FPCS and facilitated a change in the organizational culture. Additionally, partnering closely with communities and the FPCS was critical to generating a sense of joint ownership in the program. From a very practical standpoint, creating a sense of joint ownership allowed PCP staff easy access to prison facilities and allowed security regulations to be altered to meet the needs of the program.

9. LESSONS LEARNED

Raise awareness in an inclusive manner

After the MOU was signed and the PCP RJ programme was launched in earnest, awareness-raising on RJ principles and practice took place with communities, offenders and prison staff. Where correctional facilities were concerned, PCP insisted that officers at every level be engaged. This approach afforded PCP staff a large degree of trust among prison officials. As a result, PCP staff enjoyed short processing times as they checked in and out of prisons and quick responses to PCP staff questions and concerns.

Develop good working relations on an ongoing basis

PCP staff made ample use of opportunities to conduct informal discussions with corrections officials. At times bringing food to share, PCP supplemented informal conversations with small symbolic gestures demonstrating a genuine interest in knowing their colleagues. These gestures, in turn, helped to deepen the working relationship between prison officials and PCP.

Practice vigilance to maintain integrity

PCP expresses some concern that government efforts to reduce prison occupancy rates may “hi-jack” the RJ program, leading to rushed or pro-forma implementation. Victims would invariably be pressured to welcome back offenders into their midst before proper counseling and dialogue had taken place. PCP remains vigilant against the impulse to accelerate RJ processes and stands ready to dialogue with FPCS officers if and when the pressure to rehabilitate and reintegrate mitigates the integrity of the RJ program. PCP is vigilant of the impact of reintegration on the relationships between men and women at the village level. Disagreements between husbands and wives over the reintegration of offender could alter domestic violence patterns.

Manage expectations

Many delays related to the rotation of prison officers, among other reasons, required that PCP counsel patience with victims, communities and offenders. Preparing the various stakeholders for delays and other frustrations ahead of time, would promote patience if and when programmatic progress was temporarily derailed.

Timing is everything

The roll out of the Yellow Ribbon Campaign signaled a high level of government interest and commitment to prisoner rehabilitation. In this context, PCP found a rich and supportive environment within which a dialogue on restorative justice eventually took shape. Seizing the opportunity, PCP made a direct link between RJ and the YRC suggesting that rehabilitation and reintegration could be facilitated further, when victims’ perspectives were given due consideration.



