

Position Paper**Self-determination in prison – a basis for participating in society**

The concept of prison evolves; it should not be a place only dedicated to safety and sentence, where we are infantilised and helpless, that leave us as misfits lacking everything when we are released.

(Quote from a French prisoner)

I really enjoyed working in the prison kitchen. It gave me a reason to get up in the morning and I was able to take pride in my work and myself for the first time.

(Quote from an Irish prisoner)

Introduction:**The promotion of self-determination to protect the dignity and reintegration of prisoners**

Caritas Europa is a Catholic network working with people of all faiths to end poverty and to promote the dignity of all people. We believe that people and the environment, not profits, should be at the heart of all policies. We oppose all kinds of exclusion and support initiatives that promote sustainable development that benefit everyone and enable all people to find a meaningful role to play in society.

Human dignity should be respected under all circumstances. In the case of prisoners in particular, there is room for improvement. In order to empower prisoners and ex-offenders to make a meaningful contribution to society, they need support to prepare their reintegration in society. For Caritas, the key factor for successful reintegration is the promotion of the self-determination of the prisoners.

This Caritas Europa position paper is based on the work of Caritas organisations across Europe for many years working with prisoners and ex-offenders. Caritas Europa member organisations have brought together their expertise and experience in the Prison-Justice Network,¹ conducted a survey providing a collection of 1,200 questionnaires mainly from prisoners, and cross-referenced the data with answers from justice professionals and stakeholders. Legitimated through this survey, the Prison-Justice Network was able to pool promising practices all over Europe in matters of self-determination in order to contribute to policy making aimed at better protecting the human dignity of prisoners, their social rights in and after prison, and their full reintegration into society.

What is self-determination?

In a prison context, preserving human dignity includes ensuring the ability to choose between options – be it in regard to the seemingly trivial choices of meals, clothes, or visiting hours. However, the penal system frequently denies inmates any ability to choose and demands obedience and conformity. It must be made very clear that human dignity, self-determination, and personal autonomy are inextricably intertwined.

We regard human dignity as non-negotiable, as belonging to a person without any prerequisites. Human life is sacred and the dignity of the human person is the foundation of a moral vision for society. Self-determination can be defined as having sufficient human agency to achieve personal empowerment. This

¹ <http://prison-justice-network.eu/network/>

involves both knowing and having what it takes to achieve goals for the ultimate attainment of optimal human functioning and well-being.

This is an ideal that is pursued by all human beings. That is why impediments towards the attainment of this ideal can immensely affect one's personality and outlook on life. The widely known self-determination theory popularised by Deci and Ryan² identifies three psychological needs that are considered to be innate and universal:

- Competence: People need to gain mastery of tasks and learn different skills.
- Connection or Relatedness: People need to experience a sense of belonging and attachment to other people.
- Autonomy: People need to feel in control of their own behaviours and goals.³

“If these universal needs are met, the theory argues that people will function and grow optimally. To actualise their inherent potential, the social environment needs to nurture these needs.”⁴

Promoting self-determination in prisons is much more effective than traditional repressive methods. In everyday life in prison, inmates are hardly given any freedom of choice. However, a key factor for successful reintegration is that prisoners experience themselves as self-determined and self-effective people and citizens – as it is the only way they can take responsibility for themselves, their families, and the community, and also deliver restitution for damages. Giving prisoners the option to choose and to take responsibility for their actions and behaviour may also help to ease the burden of prison administration in monitoring and patrolling them. Such self-determination can be practiced in compliance with the goals of the prison system and is known to help in reducing recidivism. Caritas Europa is convinced that self-determination is integral to human dignity and is therefore indivisible and available to everybody.

Recommendations

We rely on the European prison rules (EPR)⁵ as a common legal framework and advocate for a change of practices in order to promote self-determination in penal institutions.

At European level, Caritas Europa recommends the Council of Europe Institutions to:

1. Inform about and promote awareness of the EPR in all Member States, with a specific focus on the added value of applying the principle of self-determination.
2. Encourage acceptance and implementation of the EPR by all Member States, e.g. by supporting the exchange of promising practices implemented by Member States, NGOs, or other stakeholders.
3. Monitor and evaluate the implementation of the EPR, involving civil society in the process.
4. Use the available instruments, in particular the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), to ensure application of a human rights-based approach in the Member States' prison systems.

At European level, Caritas Europa asks the European Commission to:

1. Commit to a better coordinated prison policy, given the importance of judicial control over detention conditions in ensuring effective judicial cooperation, with a view to creating conditions for mutual trust

² Edward L. Deci, & Richard M. Ryan (2008). Self-Determination Theory: A Macrotheory of Human Motivation, Development, and Health. In: Canadian Psychology 49, 182–185.

³ Verywell Mind. (2019). How Does Self-Determination Theory Explain Motivation? <https://www.verywellmind.com/what-is-self-determination-theory-2795387> [Accessed 27 May 2019].

⁴ <https://www.learning-theories.com/self-determination-theory-deci-and-ryan.html> [Accessed 28 June 2019].

⁵ <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ac> [Accessed 9 July 2020].

and the respect of fundamental rights by taking action to strengthen procedural rights and improve detention conditions. The conclusions of the report by the Fundamental Rights Agency can provide guidance in this context.⁶

2. Recognise the principle of self-determination as a key principle of a coordinated prison policy, use the EPR as a guiding framework to improve such a coordinated policy and strengthen the role of the Fundamental Rights Agency
3. Propose the adoption of Council Conclusions confirming the commitment of the Member States to improve detention conditions by recognising the principle of self-determination.
4. Monitor, evaluate, and report on the implementation of the coordinated policy in the Member States.
5. Accept the guidance of the CoE Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in this process.

At national level, Caritas Europa

1. Recommends the Council of Europe Member States, penal authorities, as well as the relevant bodies engaged in social services to support prisoners to preserve their human dignity and enable them to discover and develop their capacities.

Fostering self-determination is the first step towards preserving dignity in prisons. Being recognised as an integral person and not just as a detained person, and the preservation of one's sense of identity, physical as well as mental health are preconditions for living in human dignity. To this end, we ask for concrete implementation of EPR principles 1 to 4 in all penal institutions:

1. All persons deprived of their liberty shall be treated with respect for their human rights;
2. Persons deprived of their liberty retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody;
3. Restrictions placed on persons deprived of their liberty shall be the minimum necessary and proportionate to the legitimate objective for which they are imposed; and
4. Prison conditions that infringe prisoners' human rights are not justified by lack of resources.

Caritas' promising practices:

- *Penitentiary pastoral care Portugal (Bragança)*: Intensive course for personal valorisation, inner pacification, management of thoughts and emotions, personal and social development (Training "Novahumanitas")
 - *Caritas Spain (Barcelona)*: Personal Growth Workshop: Mindfulness (alternating different techniques such as yoga, meditation, relaxation. Led by music, stories)
2. Recommends the Council of Europe Member States, penal authorities, as well as the relevant bodies engaged in social services support activities that strengthen the connection between prisoners and society, involving civil society organisations.

Human beings are by definition human beings. They are constituted by their relation to others. It is our goal to move from a mere corrective and retributive understanding of justice to a restorative understanding. The only way we can raise awareness of these basic principles and develop an open-minded and welcoming society is to have the courage to initiate such encounters with communities and civil society members and show that it works.

Community and civil society organisations have a twofold role: visiting prisoners is one way to offer them support by listening, providing guidance, organising listening and animating workshops - all activities which play an essential role in reintegration. This is much appreciated and very important for many prisoners as they long for relationships based on trust, honesty, being able to speak without feeling judged

⁶ Fundamental Rights Agency: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-criminal-detention-conditions-in-the-eu_en.pdf [Accessed 26 October 2020].

and gaining moral support while preparing for their release. On the other hand, these visits symbolise that the prisoners are still members of society.

In fact, the European Prison Rules (EPR) encourage prison authorities to strengthen the links with the outside:

- Prison authorities shall assist prisoners in maintaining adequate contact with the outside world and provide them with the appropriate welfare support to do so (EPR 24.5).
- The prison authorities should encourage members of the public to volunteer in providing services in prison, where appropriate (EPR 90.2).
- The prison authorities shall continually inform the public about the purpose of the prison system and the work carried out by prison staff in order to encourage better public understanding of the role of the prison in society (EPR 90.1).

Caritas' promising practices:

- *General directory of vocational training, linked with Caritas Albania (Tirana):* professional courses within the institution, certified by the Ministry of Labour, with a focus on tailoring, computer skills, English language, hairdressing, elderly care, office administration, etc.
- *Caritas France (Rennes): Isolated women on leave hosted in a family.* Families say as evidence that a trustful and warm relationship, even for a weekend, is very helpful especially for those women, who serve long term sanctions.

3. Recommends the Council of Europe Member States, penal authorities, as well as the relevant bodies engaged in social services to develop alternatives to detention under criminal law and promote alternative sanctions as a much better support for reintegration than imprisonment.

It is not possible to learn to live in freedom, when one is in prison. Alternative sanctions, accompanied by social counselling, usually result in lower recidivism rates and lower administration costs. Moreover, there is a significant body of scientific research that imprisonment should only be used as a last resort.⁷

Caritas' promising practices:

- *Various Caritas Germany Members (e.g. Cologne, Koblenz, Mettmann):* Anti-violence training for offenders. Participating due to a judicial directive or as a part of probation; successful participants can avoid or shorten the duration of incarceration.
- *NGO "Farm of Moyembrie" Emmaüs-France in partnership with Caritas France (Moyembrie):* Passage of prison sentence in an external placement. Growing self-confidence at a different rhythm for each person, family links are restored, agricultural skills are gained, and global reintegration in an outdoor environment is progressively developed.

⁷ Cfr. Handbook of basic principles and promising practices on Alternatives to Imprisonment. United Nations. April 2007. ISBN 978-92-1-148220-1.