



The Roman Catholic Archdiocese of Port of Spain

Catholic Commission for Social Justice (CCSJ)

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**The Permanent Secretary
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SUBMISSION BY CCSJ TO DISCUSSION PAPER ON RESTORATIVE JUSTICE IN TRINIDAD AND TOBAGO

FROM THE MINISTRY OF JUSTICE

19 MARCH 2014

On behalf of the Archdiocese of Port of Spain, The Catholic Commission for Social Justice (CCSJ) is pleased to submit our views on the Ministry of Justice's (MOJ) Discussion Paper on Restorative Justice (RJ) in Trinidad and Tobago – sent to both Archbishop Joseph Harris and to me, Leela Ramdeen, Chair of CCSJ. Although our response is not in the format that you require, I have addressed the various issues in this paper.

CCSJ agrees with the MOJ that the development of an RJ policy, “in conjunction with other policies, can aid in the strengthening and transformation of the criminal justice system” in TT. As Catholics, our commitment to promote the sanctity of life and the dignity of the human person compels us to stand with both the victim and the offender. This does not mean that offenders should not be accountable to society for the harm they have caused.

But as Blessed John Paul II said: The penal system must conform “both to the dignity of the human person and to the effective maintenance of public order...Prison should be a place of redemption... Not to promote the interests of prisoners would be to make imprisonment a mere act of vengeance on the part of society...”

The Catholic Church teaches that punishment for a crime, “in addition to defending public order and protecting people's safety, has a medicinal purpose: As far as possible, it

must contribute to the correction of the guilty party.” (*Catechism of the Catholic Church*, no. 2266).

In August 2012, at a Symposium on Crime and Punishment, Archbishop José H. Gomez of Los Angeles, while recognizing that “we need to acknowledge the pain, loss and sadness of the victims of crime”, rightly asked: “How we can offer those who break our laws a chance to redeem themselves and be restored to their families and society... Our Catholic tradition leads us to try to balance justice and mercy in dealing with those who break society’s laws. For us, punishment must be more than making criminals “pay” for their crimes. Punishment should protect society, defend the public order, and restore harmony in the social relationships disrupted by crimes.

“But our punishments must also be ‘medicinal.’ Our punishments must contribute to the moral correction and education of criminals. We must seek to ‘restore’ them as productive members of society....This work of ‘restorative justice’ is vital to the Church’s mission of creating a city of love and truth and a culture of peace and reconciliation.”

“It’s not easy to love those who commit violence and other crimes. But Jesus calls us to love our enemies. That includes those who make themselves our enemies by threatening our safety and the decency and common good of our society. So as we pray for one another this week, let’s ask for the grace to remember that those who break our laws are still children of God...Loving the guilty means we can never give up on them. We need to always be seeking the conversion and repentance of criminals and those already behind bars. We need to get these people to take responsibility for their actions and to make restitution. But we also need to get them to change their lives — so they can live with the dignity and purpose for which God made them.”

Here in TT all stakeholders in the criminal justice system should address issues such as:

- What moral vision does T&T bring to the marketplace in relation to its treatment of those who have been charged and await trial, as well as those who have been convicted and sentenced to incarceration?
- What vision do we have of a rehabilitating and returning to society - after incarceration - productive and law-abiding citizens who are willing to serve their family, community and country?”
- How can TT provide earlier, more effective intervention e.g. with those at-risk (before an offence is committed) and when people first offend?
- How will we prevent areas becoming ‘Hot Spots’ and how will we deal with ‘Hot Spots’?

- What strategies can we adopt to promote meaningful partnerships between all those involved in the Criminal Justice System to deliver a faster, more efficient system e.g. from arrest to sentence? (We must find ways to ensure that all the criminal justice agencies work together to produce better results).

We are bound by our common humanity. Therefore, our interdependence and interrelationships, as Howard Zehr, a key proponent of an RJ approach states, “imply mutual obligations and responsibilities.” It is fitting, therefore, that we should ask: “What do we need to do to move our Criminal Justice System along the RJ continuum?” Remember, it is a continuum. It is time for us in TT to be more creative and embrace the concept of RJ, which is a philosophical paradigm shift.

We need a multi-faceted approach to address crime and violence in TT as the causes are many and varied. Our response must include a focus on *repentance, reparation, restoration, reconciliation, rehabilitation, empowerment, and re-integration* with a sense of *responsibility*. These are the some of the watchwords of an RJ approach.

Over the years, as stated in Section ‘C’ of the MOJ Discussion Paper, there have been a number of reports in TT that have recommended that an RJ approach to the criminal justice system be embraced. The 2002 Task Force Report on Prison Reform and Transformation (1 of 5 reports listed in Section ‘C’ of the MOJ Discussion Paper) summarized three general principles of RJ as follows:

- Doing justice demands that we work to repair the damage inflicted by the offence and so far as possible restore the victims, offenders and communities.
- Those directly involved and affected by the crime should have the opportunity to participate fully in the restorative justice conference if they so desire.
- The State’s role is to preserve a just social order while the community’s role is to maintain a just peace.

Pope Emeritus Benedict XVI urged us in his encyclical, *Charity in Truth*, to promote integral human development, that is, the development of each person and of every dimension of a person. If we are to do this and to build a civilisation of love, we must move away from our current retributive model which is obviously not working.

RJ is not a ‘soft’ option. Inter alia, as the MOJ Discussion Paper states, it addresses the experiences and needs of the victim, offender and the community. It encourages offenders to understand the real human consequences of their actions. It places the responsibility for the crime squarely in the hands of those who commit the offence.

Since, as Howard Zehr (2001) said, the values/underlying assumptions that underpin an RJ system are somewhat different from those that drive the current retributive system, CCSJ urges the Minister of Justice to consider the need to embrace a holistic approach to RJ and not seek to implement it piecemeal. Such an approach is essential if we are to reduce crime and promote social justice.

There are different forms of RJ e.g. victim-offender mediation to facilitate healing, family group/community conferencing, restorative circles, sentencing circles, community based sentencing, and community restorative boards.

RJ must be linked to attempts to address the *risk factors* that contribute to crime e.g. poverty, urban decay and social exclusion, family disintegration, lack of quality education and employment, poor housing, the proliferation of guns and drugs in TT, white collar crimes. These all contribute to crime and unless our strategies address them, we will be spinning top in mud as the saying goes.

While schools cannot compensate totally for the role and function of parents, schools can and must make a difference e.g. in seeking to strengthen family life; beefing up violence prevention/ conflict management programmes in schools. The current spate of violence among students – both within and outside of some schools, must be addressed as part of a wider programme on RJ.

The relevant authorities should increase the number of guidance officers, social workers, and counsellors in secondary schools; address structural and institutional injustices; create conditions that will allow each person to realise his/her potential; complete the restructuring and reformation of our prison system; and address the deficiencies in the administration of justice in TT – such as lengthy delays in trials, poor witness protection system etc.

The state of places like the Remand Yard remains a scandal. The lack of adequate youth correctional facilities for ALL youth who are sent to such facilities in TT, unacceptable infrastructure, lack of adequate rehabilitation programmes within and outside prison are just some of the areas that must be addressed if RJ is to succeed.

TT's Inspector of Prisons, Daniel Khan, Attorney-at-Law, says in his 500 page 2012 report that TT's recidivism rate is about 74 per cent. The motto of our Prison Service is: "To hold and treat", yet, so many leave without receiving any real treatment. As Khan said in an interview with Cleveon Raphael in TT Guardian on 7 April 2013:

"...98 per cent of all prisoners are released back into society, with the other two per cent there for the rest of their lives. In 2012 it was recorded that 74 per cent, that is three

quarters of them, returned to the prisons in three to five years. They are re-offending, and we need to focus more on rehabilitation programmes and treating them in a manner where they can respect themselves, their fellow citizens and to respect the law.”
<http://guardian.co.tt/news/2013-04-06/prison-reform-will-reduce-crime-khan>

It is worth reminding ourselves of what he says about prison conditions in his report and in this interview e.g. “the priority should be to close down the Port-of-Spain prison, because Madam Justice Gobin has said it is a hell hole...”

Prison Fellowship International is involved in Ministry in TT. As is stated on its website: “Prisons are not a natural place for restorative processes because relationships are often highly coercive. There is a clear authority structure between prison staff and the prisoners, and in a less formal way, between powerful prisoners and the others. Furthermore, the prison sub-culture, which tends to respect only the exercise of power, is not conducive to values of respect, humility and constructive dialogue.

“Nonetheless, restorative processes and concepts are being adopted within prisons in a number of countries. These tend to focus on **four areas**: victim awareness, victim-offender dialogue, restorative justice in prison administration, and restorative justice approaches to preparing for release.” <http://www.pfi.org/cjr/restorative-justice/restorative-justice-in-prison>

No document on RJ should ignore the recommendations made in the 5 reports referred to in Section ‘C’ of the MOJ Discussion Paper. Reducing recidivism is a secondary goal of RJ. What after-care/support systems exist for high risk former prisoners/deportees e.g. drug offenders, sexual offenders? Our offending youths in particular, need support if they are to be saved from a life of crime.

Rehabilitation and integration of ex-offenders can be achieved through mentoring, counselling, mediation, apprenticeship and job placement, skills training and literacy development. There should also be opportunities for spiritual, social and intellectual transformation of offenders. Such opportunities should be made available in:

- a. **pre-sentence facilities** e.g. using some of the Catholic Church’s ‘halfway ministries’ as a model for pre-sentence options rather than sending certain individuals to prison – see St Jude’s and Marion House.

You may wish to access via: <http://www.restorativejustice.org/court-house/06restorative-justice-and-sentencing>, some of the articles that describe programmes, issues and research relating to Restorative programmes which are “sometimes used after a determination or plea of guilt but **before sentencing**. The resulting agreements are then used by the judge in determining the sentence. The

result is typically a reparative sentence, with or without diversion from detention or prison facilities.”

- b. **rehabilitation programmes within prisons:** We urge the Ministry to consider using the Catholic Church’s *Walk Tall Programme* (for inmates) and
- c. **programmes for former inmates – post-release:** The *Anthony Pantin Reintegration Centre* (post-release facility) in San Raphael and the Walk Tall Programme should be used as models that can be replicated in various prisons and in various parts of TT.

See **Appendices I-IX** for further information about these programmes. These Appendices are taken from CCSJ’s AGM Reports from 2003 – 2012 and show the development of the programmes.

Mediation is another useful tool to facilitate the implementation of an RJ system. See the work of

- Justice Kokaram and his Mediation team in the Judiciary;
- the team involved in the recently launched *Community Peacemakers Project* (Our Lady of Perpetual Help Parish Office, Harris Promenade, San Fernando. Tel: 299 1587. E-mail: mediate1@hotmail.com – led by Catherine Ali).

Also, the experience of those involved in *the Bail Boys Project*, initiated by President Carmona when he was a sitting Judge, should be drawn on as this Project has much to offer an RJ approach to the criminal justice system.

The *European Forum for Restorative Justice* contains useful information about a Project that focuses on Mediation and RJ in prison settings. See:

<http://www.euforumrj.org/projects/previous-projects/mediation-and-restorative-justice-in-prison-settings/>

Given the nature of some of the crimes in our country, it is clear that we need custodial sentences. However, there are practices in other countries on which we can draw. For example, in England, an extensive range of community penalties exists ranging from absolute discharge, admonition and caution at the lower end of the scale through a fine to those which entail active intervention with the offender. If we are to adopt a RJ approach, we should examine sentencing structures/powers e.g. of Magistrates, and options that we may wish to adopt.

For 3 years (2004-2007) CCSJ’s Chair was a member of a Cabinet appointed Committee - the *Parole Introduction Committee* to determine, inter alia, the kind of model and infrastructure that will be required if TT is to introduce Parole. A report was produced but

no action was taken on the recommendations. The MOJ may wish to consider Parole as an RJ strategy.

The US Bishops rightly say that we can take action now in our communities e.g. by offering pastoral care to victims, offenders, and the families of both. If we are to shift the mindset of all parties and encourage everyone to consider other ways of administering justice, we must embark on a programme to **educate citizens about RJ** – in parishes, schools etc. It is essential that the Ministry of Justice seek to recruit the support of all citizens in this important initiative, particularly as RJ is a useful system for everyone.

As UK MP, Paul Goggins has said: “I don't want Restorative Justice to simply be reserved for serious offenders. I also want to see this approach become firmly *embedded in the everyday life of local communities*. It can guide the way that schools develop effective discipline and anti-bullying strategies. It can help deal with low level anti-social behaviour as well as provide a way of mediating between neighbours who can't get on - and don't have a clue about how to start putting things right. Restorative Justice should be a way of restoring balance to relationships and situations where conflict and fear may otherwise reign.”

The iron fist is not working. The UNDP 2012 report on Citizen Security rightly recommends that we seek to get a better balance between law enforcement and preventative measures. An RJ approach can help us to achieve this goal. But embracing such a system has major implications for the training of all those involved in the criminal justice system e.g. guidelines/training for Magistrates and Court staff, as well as prison staff, probation officers, social workers etc. will be vital.

Indeed, there should be continuous formation and evaluation of those directly involved in the implementation of an RJ approach – especially prison staff. Any performance appraisal of such staff should include an evaluation of how they are implementing a RJ system. Measurement/indicators of success should be included as an integral part of such appraisal.

Since crime is about a breakdown of human relationships, RJ seeks to mend/heal and restore right relationships “through dialogue, community support, involvement and inclusion... restorative justice emphasizes the need to treat prisoners with respect and to reintegrate them into the larger community in ways that can lead them to engage in lawful behaviour.” <http://www.insightprisonproject.org/a-restorative-justice-agency.html>

There will also be staffing implications related to the adoption of an RJ approach to criminal justice, but in the long term we believe that by investing now our nation will save money and lives and build a better society.

Changing the culture, attitudes and practices that currently exist will take time and will not take place by ‘vaps’. Moving from Policy to Practice will require careful planning,

implementation, monitoring and evaluation. Too often in TT we are good at preparing Policy documents but lack effective follow-through. If we are to give more than lip-service to RJ, key stakeholders must commit to this approach.

Any adoption of new strategies will need to be monitored and evaluated, as part of an overall plan to monitor and evaluate the entire system. Such evaluation will require qualitative as well as quantitative data. There is an urgent need to monitor and evaluate those Centres that currently operate in TT and that deem themselves to be RJ options. The policies and practice in these Centres should be aligned with the Government's RJ Policy. RJ calls us to a pathway that is not the easy way, but it can be the way leading to safer communities, communities that serve the common good while guarding the well-being of each individual member.

CCSJ warns that RJ must not be seen as a panacea for all ills. Unless the root causes of our many social ills are addressed, short-term answers to deeper social problems will not work. We need to develop short term, medium term and long term strategies. The following recommendations, which were included in a statement entitled "*Mobilising the entire community to reduce crime*", issued by Archbishop Edward J. Gilbert and CCSJ at a press conference on 30th July, 2003, still apply today. RJ should be introduced as part of an overall plan that includes:

- a social analysis of the issues involved;
- anti-crime programmes at national, community and institutional levels;
- resocialisation programmes for youth at risk;
- guiding principles – at all levels - that will promote crime prevention;
- government intervention to create conditions that will enable individuals to realise their potential and their human dignity.
- action by the Acting Commissioner of Police to raise the level of confidence of the public in the Police Service; increase response rate to reports of crime; increase the number of those who are apprehended and the number of cases solved. We need a Police Service that demonstrates integrity, professionalism, fairness and compassion;
- government rehabilitation programmes for inmates and former inmates.”

As we said in that statement in 2003: “The Catholic Church is deeply concerned about the escalation of crime in T&T. Crime and fear of crime pervades our entire country. Our response to this scourge is a moral test for our nation and a challenge for each citizen. We are aware that the causes of crime are complex and that the ways to reduce it must be multi-dimensional. We cannot wait until the situation overwhelms us before responding with a range of measures.

“We call on the national community to join in a new commitment to reduce crime and restore our respect for law and for the dignity of human life. Our aim must be to challenge and reject the culture of violence and death that has engulfed T&T and embrace a culture of life. Together we can promote crime prevention, restore a sense of community and build the common good.”

Today, under the leadership of Archbishop Joseph Harris, the Catholic Church commends the Ministry of Justice for embarking on this important initiative and will continue to play its part in building a civilisation of love where justice, peace, truth and freedom prevails.

For further information, or to clarify any issues raised in this report, please contact:

- Me (Leela Ramdeen), Chair, CCSJ, on: 299 8945; or
- **Fr Robert Christo**, the Catholic Church’s Prison Chaplain, on 762 4799; or
- **Fr Matthew D’Hereaux**, Parish Priest at Our Lady of Mt Carmel, Carapichaima, on 673 0473. Fr Matthew was instrumental in developing the Walk Tall Programme in TT’s prison system, as well as the Anthony Pantin Reintegration Centre; or
- **Mr Clive Belgrave**, who currently oversees the work of the Anthony Pantin Reintegration Centre on behalf of the Society of St Vincent de Paul. He can be contacted on: 290 1634
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Leela Ramdeen, Chair, CCSJ, on behalf of the Archdiocese of Port of Spain.

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