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RELINQUISHING RESPONSIBILITY: No rehabilitation for sex offenders in prison



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Social justice relating to rape and sexual violence requires that governments should hold sex offenders to account for their deeds. Benita Moolman observed and interviewed sex offenders in three South African prisons and shows the gaps between community needs, policy and existing treatment programmes in this report.

Sex offenders and recidivism

According to the Department of Correctional Services there are currently 19 531 sex offenders in prison, of which 26 are female. A 2005 doctoral dissertation by Annette van der Merwe notes that sentences in rape cases varied between 12 and 25 years. This represents longer and stricter imprisonment than has been the case in the past, and is the result of concerted advocacy initiatives, mainly by feminist organisations, to punish sex offenders for the crimes they have committed.

However, research has shown that imprisonment is only one aspect of the management of sex offenders, since it does not necessarily result in rehabilitation, a

reduction in the likelihood of reoffending, or in connecting offenders to treatment. So, for example, research by Dennis Doren from the Mendota Mental Health Institute in Wisconsin, USA, shows reoffending rates of 52% among sex offenders.

There are currently no comparable rates of recidivism (reoffending) of sex offenders in South Africa, but we can assume they are also high. Marcel Londt from the University of the Western Cape says there is much for us to learn about sex offenders in South Africa, including how they view their victims and their modus operandi in entrapping those they assault. Van der Merwe also notes that there is a dearth of research and policy directives on sex offenders in South Africa.

The Sexual Offences Amendment Act (2007) has made a start in addressing sex offending, but in a limited way as it provides no direct interventions for the treatment of sex offenders within a restorative justice framework.

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The policy framework

The Act stipulates the need for treatment of sex offenders and identifies the national register for sex offenders as one of two new interventions in the management and monitoring of sex offenders.

The second intervention is the compulsory testing of alleged sexual offenders for HIV/AIDS. The National Register for Sex Offenders was introduced in light of global interventions, particularly from countries in the North. Countries such as the United States of America and Europe have spearheaded registration and community notification legislation as a means of monitoring sex offenders and preventing recidivism.

In South Africa, the Act allows for a National Register for Sex Offenders and defines the purpose of the register as the 'Prohibition on certain types of employment by certain persons who have committed sexual offences against children and persons who are mentally disabled'. The national register is very specific about who has access to information on sex offenders in order to protect the privacy of sex offenders while simultaneously aiming to protect children and persons with mental disability.

A central critique of this legislation is that it does not address the need to prevent the recurrence of primary sexual violations by incarcerated sex offenders upon their release. Without specific legislation, supervision and monitoring of sex offenders is diluted and they are managed only as part of the general criminal population. While the merits of a national sex offender register can be debated, it cannot be (along with imprisonment) the primary form of intervention in the management and treatment of sex offenders.

Similarly, the National Policy Framework for the Act has two primary aims: first, to collectively guide government departments and other roleplayers in the coordinated implementation, enforcement and administration of the Act; and second, to enhance efficient service delivery for victims. As important as this latter aim is, the protection of victims cannot be addressed in isolation of treatment services to offenders. A key conclusion from my study of sex offenders is that a focus on services to sex offenders will contribute to the safety of women and children.

There is an urgent need for the state to acknowledge that the absence of treatment programmes for sex offenders will result in more danger for communities, and particularly for women and children.

Methods used

The study involved 24 focus group discussions and 15 individual interviews over a period of six months. These included 72 diverse incarcerated male sex offenders in three South African prisons in the age group 15-70. The participants comprised all race groups (black, coloured, Indian and white), and were from a range of religions (Christian, Muslim and Hindu) and cultures (Xhosa, Zulu, Pedi and Venda).

I also spent time inside the prisons and spoke with social workers about current treatment programmes. The study also included an analysis of current policies.

The reality on the ground

In visiting the prisons across the provinces it was clear that treatment approaches differed from prison to prison, and were *ad hoc* and fragmented. There was no clear vision or strategic plan for the management and treatment of sex offenders, and hence each province was left to implement its own treatment programmes (or not), depending on the availability of personnel, skills and programme guidelines. Both policies and legislation pertaining to sex offenders were limited in both content and direction.

As a result it seemed that criminal justice personnel responsible for its implementation were uncertain and restricted in what could be done. There was a lack of personnel to attend to sex offenders within the social work and psychology units. An example was provided by a group of young sex offenders who assumed that I was a social worker when they met me for my research. Many within this group of sex offenders had been in prison for

five years, and during all this time never had contact with a case worker.

Research demonstrates that sex offenders only realise and understand their behaviour as harmful through cognitive behavioural group therapy by skilled clinicians.

Another example of the lack of personnel was that in one province, there was only one psychologist appointed to service all offenders. This was confirmed by social workers who described the limited resources available to monitor and intervene through treatment.

The lack of resources and limited policy interventions provides a fertile ground for sex offenders to reoffend. There is an urgent need for the state to acknowledge that the absence of treatment programmes for sex offenders will result in more danger for communities, and particularly for women and children.

Conclusion

Treatment programmes for sex offenders have to form a central component in the management of sexual offences. In light of our constitution and our focus on restorative justice as an ethical approach to punishment and discipline, we have to examine restorative justice approaches in the management of sex offenders.

Treatment programmes afford us the opportunity to do this. Through treatment programmes, society provides sex offenders opportunities to come to terms with their own behaviour, and to take responsibility for their own actions. It also allows an opportunity for case workers to learn from sex offenders about their motivations and modus operandi in committing these acts of violence. Failure to do this results in government relinquishing its responsibility to hold sex offenders accountable.

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