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SPEECH

by

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A NEW TOOL OF PRISON MANAGEMENT

Rule 50

“Subject to the needs of good order, safety and security, prisoners shall be allowed to discuss matters relating to the general conditions of imprisonment and shall be encouraged to communicate with the prison authorities about these matters”.

A unique Rule

Rule 50 is a new Rule appearing for the first time in the latest, 2006, version of the European Prison Rules (EPR). It is unique because this is the first time in European prison history that an international instrument provides for a degree of inmate participation in the management of prisons.

However, even before 2006 a number of progressive prison administrations had begun to allow such communication between prisoner representatives and prison management. I have described these developments in a paper presented at the International Penitentiary Congress, Barcelona, April 2006.

Some general implementation difficulties

Creating and using this new form of communication is neither easy nor simple. It is impossible when imprisonment is carried out with a continuous disregard of the fundamental principle that prisoners shall be treated with respect for their human dignity. I note that the CPT reports on visits made since 2006 often pay tribute to constructive prison work but they also contain a disturbing number of accounts of prisoners being subjected to both staff and inter-prisoner violence, other forms of ill-treatment and the use of denigrating, disrespectful and racist language. The custodial staff is usually responsible for the ill-treatment of prisoners but senior prison managers are criticised for a reluctance to take action against basic grade prison officers involved in such ill-treatment.

Rule 50 cannot be implemented safely when the enforcement of imprisonment is carried out with a flagrant disregard for the provisions of the European Prison Rules.

A special implementation difficulty

A special difficulty with implementing Rule 50 occurs when particular sections or grades of prison staff are opposed to allowing prisoners to exercise the collective participation in prison management allowed by Rule 50. It is usually the custodial staff who believe that safety and security will be jeopardised if prisoners are allowed to make representations to prison authorities. Such a view is not supported by the experience of the prison administrations that make use of Rule 50. On the contrary, there is reason to suppose that dynamic security is enhanced through the use of Rule 50 communications.

Resistance by prison staff may arise through a fear of losing power. Whatever its source, resistance must be met by providing full information on the reasons for, and the experiences with, Rule 50 communication. Staff training should take account of this necessity.

It is a truism that the essential instrument for the correct and humane enforcement of imprisonment is the prison staff. But this means the staff in its entirety. The effectiveness of prison staff actions is seriously weakened if the basic prison officer grades are excluded or exclude themselves from the task of creating a constructive prison climate in which positive activities and relationships can flourish. But in focusing on staff I do not ignore the fact that a minority of prisoners cause enormous trouble in our prison systems. Rule 50 allows for such prisoners to be segregated since it asserts that discussion with the prisoners' representatives must be subject to the needs of good order, safety and discipline.

Changed roles – not only for prisoners

Implementation of Rule 50 means acknowledging that prisoners can accept responsibility and behave responsibly in order to create and contribute to a safe and constructive prison climate. This represents a huge change in the perception of prisoners and their role in the prison system. But changing the role of the prisoner also has implications for the role of the custodial staff. If the governor and senior staff discuss and decide on general prison matters with prisoners in a prisoners' council but do not undertake similar discussions with all grades of staff especially including the prison officer grades, then prison officers will almost certainly feel that the prisoners are more important than they are. They will feel discriminated against and excluded. Staff-inmate relations will suffer.

As long ago as 1966, Resolution 66/26 of the Council of Europe on the Status, Recruitment and Training of Prison Staff declared: "The essential task of the basic grade custodial staff has been, and is, to ensure safe custody and good order. However, it is apparent that basic grade prison officers can and should moreover be actively associated with modern methods of the treatment of prisoners". The advent of Rule 50 emphasises the importance of enlarging their role so that custodial staff become actively involved in supporting the implementation of Rule 50 and the changes in prison life that ensue.

Good order

Rule 50 is placed at the beginning of Part IV of the European Prison Rules – the Part that deals with good order in the prisons. This is because the most immediate benefit to be found in the wise use of Rule 50 is an important contribution to good order. Rule 50 discussions allow daily-life problems to be brought up and discussed factually. Damaging rumours are corrected in a safe and reasoning atmosphere. Differences of opinion can emerge without escalating into threatening disturbances. Even when prisoner requests must be refused, prisoners feel better when they have been given explanations for a refusal. In the only research on Rule 50 that I know of, prison governors asserted that the two-way communication that had become possible had become an essential tool of prison administration and contributed much to improving the general climate of

the prison. It is good news that the CPT has included the implementation of Rule 50 in three of its inspections carried out during 2010 and will presumably focus on this aspect in future.

Treatment programmes

Recent years have seen an impressive growth in the use of evidence-based treatment programmes. These programmes, largely based on research originally conducted by the Canadian Correctional Service, provide real opportunities to reduce recidivism for the first time in the history of prisons. These programmes, based on cognitive psychology, seek to help prisoners deal with such behavioural problems as uncontrolled aggression, domestic violence, drug and alcohol misuse and other forms of personal criminogenic problems.

Prisoners are more likely to enter these programmes when the general prison climate is supportive and encouraging of entry. And personal changes in behaviour learned in the course of treatment are reinforced by the exercise of collective responsibility within the prison community.

Future developments

Giving prisoners responsibility for assisting the creation of a constructive prison climate is paralleled today by an increasing growth of external organisations created by successful ex-offenders, often ex-prisoners. These emerging organisations assist pre-release preparation and provide practical post-release support to released prisoners. Two examples of such organisations are User Voice in England and KRIS (Criminals Return Into Society) in Sweden. A development that should be encouraged is to harness deliberations under Rule 50 discussions so as to intensify the link between internal pre-lease preparations and the external support offered by offender-based external organisations.

Research

The new treatment possibilities to which I have just referred are totally dependent for effectiveness on continuing scientific evaluations. Rule 91 in the European Prison Rules and Rules 104 and 105 of the European Probation Rules call for policies and practices to be based as far as possible on sound scientific research and evaluations. Unfortunately, there is almost no research on the creation, use and effects of Rule 50 communications, nothing on their contribution to a constructive prison climate and thereby to improved ways of securing the better social reintegration of prisoners. I believe – I hope wrongly – that many, perhaps most, European prison administrations have no research capacities and in consequence cannot make use of evidence-based policies and practice. Unless this grave deficiency is remedied efforts to improve the social reintegration of prisoners will continue to be weak and reducing recidivism will remain an ambition but not a reality.