

Preserving family relations – challenges and good practices

1. Introduction

a. Presentation of the topic

Family relations are affected under the execution of sentences. Children and spouse will often suffer when their relative is serving a sentence. The best way to avoid that, and to preserve family relations – is to stay away from crime! Every measure to prevent criminality and recidivism can thus be a measure to preserve family relations...

In my presentation I will talk about some of the challenges and dilemmas we meet as correctional services when facilitating for preserving family relations, and good ways and practices to help us with such a task.

The first question I want to discuss, however, is: Why should family relations be preserved when serving a sentence? Before doing so, I would like to spend a couple of minutes on some definitions/key concepts.

b. Definitions, etc

First of all, in my presentation I will talk about sentences served not only in prison, but also the community-based ones (and even sentences served abroad, as Norway as from September this year will rent prison capacity in the Netherlands☺).

Second, is the notion “preserving” too static and unambitious? Perhaps we should speak about *developing*

family relations instead of merely preserving them. I will come back to this point later in my presentation.

Third, what do we mean by “family relations”? Most of us are probably now having a picture in our head of mom, dad, a couple of children... And thinking that our challenges are related to a convicted parent’s contact with his or her child and/or spouse, or imprisoned children’s contact with parents. On the one hand, “traditional” family structures are being challenged in a modern society – we obviously need to include homosexual and transsexual relations, etc.. On the other hand, many of our jurisdictions have a prison population that is highly multi-cultural – for instance in Norway, one-third of the inmates have another citizenship than a Norwegian one. Many of these inmates have another understanding of “family relations” – perhaps regarding a third cousin as a close relative..?

And what about convicts that do not have any close relatives? Could it be purposeful to include other people or organisations in the concept?

The understanding of what a “family relation” is in our context, may surely vary from jurisdiction to jurisdiction. Anyway, we have to bear these factors in mind when we discuss today’s topic. Maybe the challenges, the perspectives and the solutions are different depending on which relations we talk about.

c. Why preserve family relations?

Before discussing challenges in *how* to preserve family relations under the execution of sentences, it is crucial to ask: *Why* preserve family relations?

The starting point is the principle of normality – life under execution of sentences should resemble life in general as far as possible. The penalty is the deprivation/limitation of liberty, and other rights are in behold, included the right to a family life.

The principle of normality is based on the individual's rights. I believe we over the years have had a tendency to look upon the right to preserve family relations from the convict's point of view, and from a rehabilitative perspective, and not so much from the needs of the family. I am glad that the previous speaker from COPE presented the needs of the children involved. I will come back to this point, as I acknowledge that there may be some dilemmas for us as a correctional service when assessing what is in the children's best interest.

In a historical perspective, there has been a massive change in how we evaluate the importance of maintaining family relations.

To sum up: Maintaining family relations is based on rights – both the convict's rights, and children's rights. In addition, keeping up family relations can be a measure in the preparation of a safe reintegration to society, and thus reduce recidivism.

Since we now have established *why* family relations generally should be preserved under the execution of sentences, it is time to look into dilemmas and possible solutions in the “preservation process”.

2. Challenges/dilemmas/limitations

a. General overview

Various dilemmas and limitations occur when the ambition of preserving family relations is to be transformed into practice. I will concentrate on three groups of challenges/limitations; legislative/policy-driven, practical and “ethical” – and point out possible strategic measures.

b. Legislative/policy-driven limitations

The *legislation* will often constitute the basis for how family relations can be preserved. One important way of maintaining a family relation is by contact, preferably physical. Community-based sentences, like community sentences and electronic monitoring, obviously ease the maintenance of social obligations and family relations. At the other end of the scale we find prison sentences served at a strict high-security regime. Safety and security must always be observed – even if it means that relatives must have a security wall between themselves and the inmate. Between these two “extremes”, there is a variety of possibilities to have contact with the family – through visits, video meetings, telephone calls and leaves – laid down by regulations.

What we should observe at a strategic level is to strike the right balance between the different aspects, and not have stricter rules for family contact than necessary. I know for instance that there are different opinions on whether conjugal visits should be allowed – the question to ask is: Why prohibit such visits? My answer is that it is the rejection of the visit that should be argued for, not the permission.

Another perspective is which choices that are applicable on the correctional menu, and in what way family relations are influenced by choice of execution form.

From a Norwegian perspective, I would have liked to expand the target group of electronic monitoring. Today this is an option for sentences up to four months (or the last four months of a longer sentence). I will come back to why I argue for legislative changes when I speak about good practices.

Another point that is often laid down by rules, is the principle of vicinity – convicts should preferably serve their sentence as close to their home as possible, inter alia because this could aid the preservation of family relations. As it often is – things might look good on the paper, but could be difficult to implement of various reasons... I will come back to that shortly, as a practical challenge. What I would like to challenge myself and the audience of, is however: Are we “sexists” in this question – treating mothers and fathers differently? Do we think differently about the mother’s and the father’s impact and importance in their children’s life and decide where inmates should serve their sentence accordingly?

I don’t hold the full answer, but I believe we might have a tendency to speak more about the principle of vicinity when it comes to female inmates, even if there is no formal difference. Of course, that has also to do with the fact that we have fewer prisons dedicated for female inmates, so the chances of serving the sentence close to your home could be poorer than for male prisoners. Nevertheless, both parents are in principle equally important for their children. Of course, on an individual bases, not all parents are suitable, regardless of their sex...

What I *can* tell you, is that when Norway now is to rent prison capacity in the Netherlands, where only male inmates are in the target group, those who have children visiting them on a regular basis, will not be sent abroad.

Another dilemma or policy-question is whether children should live in prison with their parent on an every-day-basis. Many jurisdictions allow for that, in so-called mother-and-child-units (I have never heard about father-and-child-units?). There could be good reasons for this system, especially when very small children are involved, inter alia because babies then can be breast-fed, and the important contact between baby and mum can be established and developed. There are also substantial arguments against such a practice, and in my country we have not opted for this policy. We believe a prison is not the best environment for children. Who holds the responsibility if something happens to the child? On the other hand, we see that babies may profit of being with their mums. In such cases we seek other solutions – like transfer to special health institutions for mothers in need of special follow-up. Regardless of which policy we choose in this field, the child’s best interest must be emphasised.

c. Practical limitations

I will now move on to some “practical” challenges/limitations.

One challenge is *architectural* – many countries, mine included, have facilities that were built in a time when visits were not seen as that important. Small rooms with a couple of toys in a corner often are the standard... And the possibility to receive “private visits” can be poor. There has in Norway been a “revolution”, I dare to say, in terms of developing new possibilities for family visits. All prisons have visiting facilities. Some prisons have separate houses/apartments in their area, furnished like a normal

home, to be used when children and families visit. But our building standard still proves a challenge many places.

Another limitation is staff density and lack of personnel to administrate controlled visits. As I mentioned, not all can receive uncontrolled visits. It is interesting to exchange experiences of how to conduct visits. In our preparations for renting prison capacity in the Netherlands, we learnt that the “Dutch method” was different from ours: Here visits are conducted in a “visit snake”; allowing many parallel visits. This is very unfamiliar to us, as we prefer separate rooms. (Perhaps we see cultural differences; that we are more private in the cold North..?)

A third practical limitation is the lack of prison capacity, because it can mean that inmates have to serve their sentence wherever there is a prison cell to be found, even if it is far away from their family.

d. “Ethical” limitations

The third group of limitations I have categorised as “ethical”.

I am in fact coming back to my initial question concerning why preserving family relations, but from a different angle: Should all family relations be preserved? It is well known that there is a high degree of social immobility, and that criminality may “run in the family”... Is the family relation always worth preserving?

We have some terrible examples – inmates’ sexual assaults on their own children during visits as the worst.

What is the role of the correctional service in this dilemma? We do not – and shall not – hold the authority to decide

which family relations that are worth preserving. But it is crucial to have a close cooperation with the child welfare authorities, and have good routines for the exchange of information.

3. Good practices

I will now turn to the “positive” part of my speech – good practices! I have already touched upon some good practices when discussing challenges, limitations and dilemmas, but let me now present them – and some other – in a more systematic way:

First, we have the actual contact in terms of visits, etc. In addition to the importance of visiting possibilities and facilities mentioned earlier, I will present one general and two very concrete measures. The concrete ones:

- Many prisons arrange tours on the prison area so children can see how their mother or father lives, included school, work and leisure activities.
- Some prisons facilitate for parents to read bedtime-stories for their children through various means of communication.

The general measure has to do with the regime for leaves. Leaves of absence are a normality measure and part of the safe transition from corrections to release. A reason for granting leaves of absence is family relations and children’s right to contact with their parents. (The person who has the daily care of the child shall be involved and give his/her opinion on the meeting between the convict and the child.) A leave must always be justifiable from a security aspect, and special assessments are made in cases involving violence and sexual offences.

Prisoners may be granted ordinary leave of absence when part of the sentence has been executed:

- After a continuous period in custody of four months.
- In addition at least one-third of the sentence must have been served.
- A convicted person with a longer sentence than 12 years may be granted leave of absence after continuously serving four years of the sentence.

Convicted persons may be granted a period of leave of absence annually (leave-of-absence quota) up to 18 days (24-hours), with extra time for necessary travelling. Inmates with children can be granted an annual leave of absence of up to 30 days, provided that the additional quota exclusively is used for contact with their own children and in the best interests of the child.

Also convicts who serve their sentence at home with electronic monitoring, can be granted 5 hours leave of absence a week (=the monitoring is turned off), giving opportunity to follow children to activities, play outside with their children etc.

Second, our ambition should be not only to preserve family relations, but also to develop relational skills. This can be done by tailored programs/measures – I will mention three programs:

- "Dad in prison" is a program for inmates with children that primarily focuses on the role of being a father. It is intended to help participants develop new perspectives and attitudes related to their commitment to the family. The program is conducted over a period of 4 weeks and includes meetings where the family participates, and an

assignment where the prisoner shall communicate with his kids via video. Some key elements of the program are

- Communication
 - Developmental theory - child development
 - Role theory - roles and role models
 - Emotions - how to deal with emotions - coping
 - Challenges and problem-solving
 - Children's health - prevention and treatment
 - Children's rights - parental responsibility
 - Public services – whom to work with
- VINN is a program that is aimed at female offenders and has a number of modules where especially relationships with children and/or partners are treated.
 - Anger management program is offered to men and women and is based on cognitive therapy, a recognized form of treatment to regulate emotional disturbances such as anxiety, depression and anger.

In addition to tailored programs, I believe another aspect also can have an impact on developing relational skills: Previously, staff in prisons was very male-dominated. At present, approximately 40 % of the Norwegian prison staff consists of female prison officers. This can enhance the respect for women in general and thus contribute to better relational skills.

Third, I will now come back to why I believe electronic monitoring should be expanded:

- First and foremost because the offender is able to maintain the social and economic elements as family and occupation during the sentence.
- Before deciding to implement electronic monitoring, we will always consider what is best for the child.
- Close and dynamic supervision with both support and control. An individually adjusted scheme is drawn up by the probation service in close cooperation with the offender. Always taking into account the offender's obligations concerning children, with possibility to follow the children to day-care, school and activities.
- Special units for electronic monitoring within the existing local probation offices, with well-qualified multidisciplinary staff of both prison officers and social workers. The controls at home – which are frequent – are conducted as discrete as possible to protect the privacy, no signs on the cars, no uniform.
- The offender is not obliged to inform children under 18 in the household. The Correctional Service still encourage doing so, and a brochure is designed for children to learn about EM and the impact on the everyday life. The staff offers conversations alone with the relatives.
- The results of an evaluation made by our Staff Academy in 2011 show that being together with the family, especially children, is one of the most important reasons why the offenders apply for serving their sentence at home with electronic monitoring. The offender also reports that they are pleased with the way the staff respect the privacy of the household during the sentence.

Fourth, we have implemented some organisational measures. We have introduced a new scheme in each prison and probation office. In each unit there is a certain officer who has the responsibility to point out and promote inmates' children's interests and perspectives. These officers have a coordinating role, and they are also informing children, relatives, inmates and others about how to handle the situation.

Another important measure is the partnership established between the Correctional Service and the Child welfare authority, for a closer look into how the exchange of information between our agencies may be carried out in the best way to safeguard the interests of both children as dependents and sentenced children.

Cooperation with relevant interest organisations is also an important element. Each year a substantial part of the budget available for voluntary and ideological organisations, in order to work with offenders, is provided to the Organisation for relatives of inmates (FFP). The Correctional Service has a fruitful cooperation with this organisation also in other relevant activities, both on a local and a national level. – As mentioned earlier, not all convicted persons have a family, or perhaps the family lives abroad. In these situations, NGOs can play an important role – for instance, Red Cross has a network of visitors in Norway. In addition to the immediate positive effect these visits often have, this activity could also enhance the relational competence and thus enable the inmate to establish and preserve future family relations!

4. Conclusions

In my presentation I have discussed some of the challenges and dilemmas that occur when we as correctional services facilitate for sentenced persons to preserve their family relations.

In general, activities and measures that preserve and further develop family relations and relational competence, should be promoted. All measures that support a law-abiding life and prevent recidivism can contribute to preserving family relations. Where children are involved, their interests must be safeguarded.