

## REHABILITATION, CORRECTIONS AND SOCIETY

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### Abstract

Last October, I was honoured to provide the Distinguished Scholar address to the ICPA conference in London. This short paper summarises my talk, in which I tried to unravel the knot of inter-related meanings of rehabilitation and reintegration. The paper explores how these different forms of rehabilitation and reintegration relate to the roles and purposes of 'correctional' agencies (i.e. prisons, probation, parole). Through this exploration, I aim to show that these agencies of the state (or commissioned by the state) have an important but ultimately limited role to play in rehabilitation and reintegration; both processes require a broader engagement with individual citizens and with civil society. It follows that correctional agencies need to focus as much on engaging with communities as on preparing people who have offended for integration or reintegration into those communities.

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## Introduction

In an earlier book chapter, I explored the question: 'What (good) is punishment?' (McNeill, 2016). Part of my answer involved looking back to the early history of human civilisations. I argued that:

'...reciprocal social relations of cooperation are essential to human and social life (just as they were to human evolution); without an established network of reasonably reliable reciprocities, we can enjoy peaceful co-existence neither at the level of the community nor at the level of the state' (McNeill, 2016: 71).

I went on to quote, via a conference speech by the British historian Bettany Hughes, a phrase from one of the oldest surviving human texts (from Ancient Babylon): 'Ana shulmi u balaatu'. According to Hughes, this translates as: 'To peace and to life'. It is understood to be a greeting used when social or kinship groups came together and perhaps as a statement of mutual respect that had to be uttered to make discussion (and trade) possible between social groups, for their mutual benefit. At the ICPA conference, I asked our 700+ delegates to practice this greeting; indirectly, by so doing, I invited them to 'keep the peace'.

Offending offends -- and demands a response -- precisely because it disrupts this peace and with it the reciprocities on which social life depends. Left unaddressed and unresolved, offending gnaws away at the fabric of social life, opening up tears that threaten its unraveling. But, even if we accept this characterization of the need for a response to offending, this tells us neither about the type of response that we might make, nor about the social consequences -- for better or worse -- of how we do so. Crudely summarizing the range of possibilities that have evolved into the criminal legal

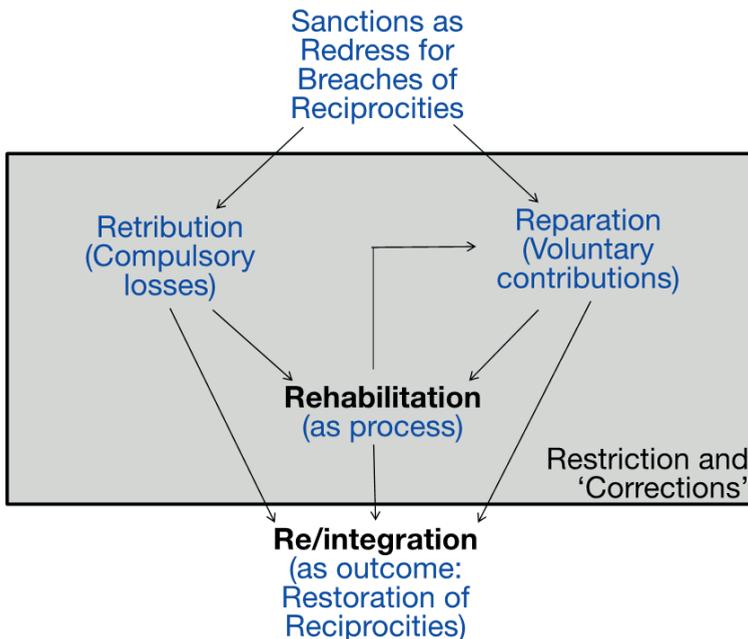


Figure 1: A model of sanctioning

systems of modern democratic societies, I offered the model shown in Figure 1.

In this admittedly simplistic model, there are two main kinds of responses. We can take a retributive approach, imposing compulsory losses on people who have offended. We might do so to deprive them of an illicit advantage gained, to re-balance the 'scales of justice', to denounce the wrong that they did or to deter them or others from further similar acts. Alternatively, we might take the other track; inviting the 'offender' to repair the harm by making some appropriate, proportionate contribution to the wellbeing of the victim and/or the community. In simple terms, we might ask people to *pay back* or to *make good* (by paying forward) for the losses they imposed on others. We can demand losses for losses, or we can ask for contributions to make good the debt.

Whether we take the retributive or the reparative track, rehabilitation -- the central topic of this paper -- soon comes into play, though perhaps in different ways. If we choose to impose retributive harms, we have a duty to make sure that they stop when the debt has been settled. In this context, rehabilitation becomes an important means of helping to make sure that punishment is proportionate and parsimonious, that it ends when it should end, and that restoration is secured. If we choose to invite reparative contributions, then many people in the justice system may need our help (for example, with developing skills, or securing opportunities) to make good. In both cases, processes and practices of rehabilitation ultimately aim towards the reintegration of the citizen into a community where reciprocal obligations have been honoured and restored. Civically, peace reigns once again.

The grey area in Figure 1 shows where correctional agencies have responsibility for these processes. Those agencies decide neither the track to take nor the degree of harm to be imposed or the extent of the contribution to be elicited; in these matters, they take their lead from the courts. The decision of the court sets the terms and conditions of the correctional process, but it often leaves room for correctional agencies to shape the means by which that process is best negotiated.

The model above also adds a further 'R': 'restriction'. This reflects the reality that some people offend in ways so dangerous to public safety that significant restrictions must be imposed on them, at least until retribution, reparation and/or rehabilitation have taken place, and perhaps sometimes beyond that point, if there are compelling grounds for seeking reassurance that no further serious threat continues -- a reassurance that might require time and supervision to secure. Again, these are usually decisions for courts or for quasi-judicial bodies (like parole boards), but they are informed by and implemented by correctional agencies.

Rehabilitation, then, sits at the heart of this model, but playing a range of different roles:

- It helps to ensure that punishment ends at the right time
- It helps people to make good or to make a contribution
- It interacts with restriction to secure the safety of the community
- In all of these ways, it prepares people for and aims at reintegration

However, precisely because these roles are complex and perhaps sometimes contradictory, the meanings, requirements and merits of rehabilitation are often disputed. In the rest of this paper, I aim to explore these points of contention and to offer a way beyond them; a model of four forms of

reintegration -- one that, I think, offers correctional services some conceptual clarity in relation to their own roles and the roles of others in pursuit of reintegration.

### **Rehabilitation, wrong and right?**

In all the time that I have been interested in the subject, it has often seemed to me that, in discussions of rehabilitation, people often seem to be talking at cross-purposes, whether writing as advocates, critics or merely as observers. In my talk, I provided the following illustrations – all from scholars whose work I deeply admire:

'...[T]he question of 'rehabilitation' is today prominent less by its contentiousness than by its growing irrelevance' (Bauman, 2000: 210).

'...the Humanitarian theory wants simply to abolish Justice and substitute Mercy for it. This means that you start being 'kind' to people before you have considered their rights, and then force upon them supposed kindnesses which they in fact had a right to refuse, and finally kindnesses which no-one but you will recognize as kindnesses and which the recipient will feel as abominable cruelties' (Lewis, 1953: 230).

'...the ideal of rehabilitation is played-out through different disciplinary, welfare and security rhetorics, and yet with always the same effect – of malignantly returning poorer and already-disadvantaged lawbreakers to their place at the same time as benignly keeping richer and more powerful criminals in theirs' (Carlen, 2013: 90).

'What the punishment paradigm has wrought 'in the real world' over the past decades is disquieting; doing more of the same would be an unpardonable mistake. It is time to take a new pathway – one that draws on Americans' long-standing cultural belief in offender reformation and on the emergent 'what works' scientific literature. We should reaffirm rehabilitation as corrections' guiding paradigm' (Cullen, 2007: 728).

'It is future victims who are now 'rescued' by rehabilitative work, rather than the offenders themselves. The practice of rehabilitation is increasingly inscribed in a framework of risk rather than a framework of welfare' (Garland, 1997: 6).

The first and last of these quotes contain sociological observations on the fate of rehabilitation in late-modern societies (see also Robinson, 2008). The meat in this sociological sandwich includes a liberal critique of rehabilitation as an affront to individual rights and autonomy, a radical critique of rehabilitation's role in the perpetuation of *social* injustice and inequality, and a staunch defence of rehabilitation's merits as a 'guiding paradigm' for evidence-based corrections and (by implication) for the production of a safer and more just society.

In a previous paper (McNeill, 2014), I have already tried to unravel (or as we say in Scots, 'de-fankle') this mess, by examining more closely how rehabilitation has been defined and how it has been critiqued. For example, I noted Raynor and Robinson's (2009) use of the Oxford English Dictionary to clarify that rehabilitation is 'the act of restoring something to a previous (proper) condition or status'.

Even such an apparently simple definition begs questions however: Who decides what is and is not a 'desirable' state? Who does the restoring and how?

Even bespoke criminological definitions of the term seem to import assumptions and contradictions. For example, Hudson (2003: 26) suggests that:

'...taking away the desire to offend, is the aim of reformist or rehabilitative punishment. The objective of reform or rehabilitation is to reintegrate the offender into society after a period of punishment, and to design the content of the punishment so as to achieve this'.

While this is consistent with Figure 1 above in clarifying the ultimate aim as reintegration, it suggests a very narrow view of rehabilitation as 'correctional' in practice, focused on treatment; 'taking away the desire to offend'. As we will see below, there are many different sorts of obstacles to reintegration that rehabilitation might address, including but extending far beyond any desires that may drive offending. Certainly, at some points in its history, rehabilitation has been associated with the 'treatment' or 'correction' of 'deviance'. Indeed, this version of rehabilitation as treatment has suffered sustained attacks. Lewis's (1953) critique is one important example. By the end of the 1970s, these critiques of rehabilitation as treatment were developed enough to allow Bottoms (1980) to sum up the case; rehabilitation was theoretically faulty in its understanding of crime and its causes, systematically discriminatory in its application, inconsistent with the pursuit of justice in its disregard for proportionality, morally objectionable because of its coercive assaults on autonomy and – to put the nail in the coffin – it was ineffective.

Cullen's (2007) rebuttal (quoted above) was based in part on later evidence that challenged the last of these claims, arguing that rehabilitation could and did work in certain circumstances. Just as importantly, he and others argued for a *principled* reformation of rehabilitation as a duty of the state that should be constrained by and delivered within the bounds of proportionality; and with the greatest degree of voluntariness possible. In so doing, he and others intended to make imprisonment a measure of last resort (Cullen and Gilbert, 1982, Rotman, 1990; Lewis, 2005).

However, neither the articulation of these principles of a new rehabilitationism nor the accumulation of evidence about 'What Works?' (cf. McGuire, 1995), has driven or determined the character of contemporary rehabilitation. Indeed, Gwen Robinson's (2008) compelling analysis of rehabilitation's evolution as a penal strategy points (like Bauman [2000] and Garland [2001] above) to its cooptation as a penal means not an end. Rehabilitation no longer aimed at the reintegration of the 'offender'; instead, it aimed at the management of risk and the protection of the public.

In a very recent paper (McNeill, 2018), I present and reflect on one Scottish man, Teejay's experience of being the object of this sort of putatively rehabilitative penal intervention, as represented in his photographs and in a song we co-wrote. In my ICPA talk, I discussed the lyrics of the song, 'Blankface' and played it to the audience. These lyrics are reproduced below; the song can be listened to (free) here: <https://www.voxliminis.co.uk/media/blankface>



## Blankface

The clock spins, zero hour begins  
This is the end, the end again  
Here sits Blankface and she spins my tale  
I've stopped listening now I know that I'll fail

*Tick by tick and line by line  
Thread by thread now you weave mine  
A web of shadows, a silk spun tomb  
A windowless room, windowless room*

Sliding doors open and they welcome me in  
This is the place, the place we pay for sin  
These four seasons they reflect in glass  
Trapped in a jar here where the time will not pass

*Tick by tick and line by line  
Thread by thread now you weave mine  
A web of shadows, a silk spun tomb  
A windowless room, windowless room*

One day ending, a new day begins  
Tick says 'he'll do it', again and again and again  
You see what you want but I know it's not real  
Anyone out there who can feel what I feel?

Teejay's weariness with a life lived under supervision surfaces in the final verse, and in many of his photographs. This weariness was not about being supervised *per se*; it was about *still* being construed as a subject *requiring* supervision, many years after release from a long prison sentence:

'The pain that he articulates in the song then is not primarily the pain of being surveilled and disciplined, it is the pain of being relentlessly ('tick by tick', but now in the sense of time passing) *misrecognised* as someone who (still) needs to be surveilled. As Teejay had asked in our brief meeting to discuss his photographs: 'You see me [as I am] coming across to you? Am I a risk in any way that you see?' What Teejay most wanted was to be recognised and trusted as a person worthy of unsupervised freedom' (McNeill, 2018: 18).

What Teejay wanted was to be seen – and to be finally liberated – as someone who *is* rehabilitated, restored, reintegrated. But that destination stayed always out of reach.

### Four forms of rehabilitation

The use of the song in the talk was intended to illustrate the fact that –as Lewis (1953) argued – practices intended to be rehabilitative can end up being experienced as intensely painful, even when

they take place not in the prison but in the community. My recent paper (McNeill, 2018) cites a range of other recent studies (mostly from the UK and the USA) that have uncovered and analysed these pains. But rather than exploring that literature in my talk, I focused instead on outlining a model of what I argue rehabilitation *should* involve; of how it should be imagined; and of what role correctional agencies should play within it. Figure 2 (below) outlines this model, which builds on several previous publications (Kirkwood and McNeill, 2015; McNeill, 2012, 2014). Figure 2 (below) outlines the four forms of rehabilitation discussed in this model:

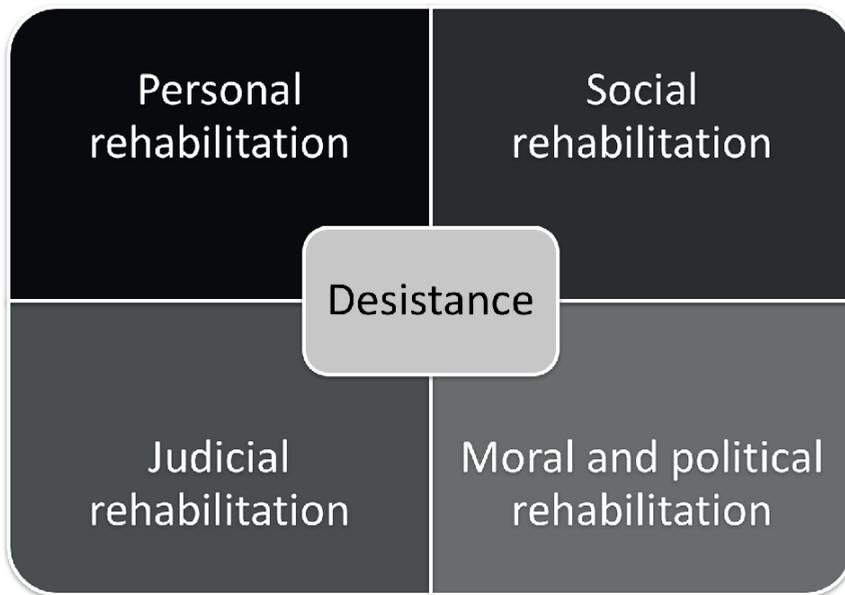


Figure 2: Four forms of rehabilitation

If we think of rehabilitation metaphorically as a process or journey that leads to reintegration, then **personal rehabilitation** is focused on the traveller. It is concerned to develop any aspect of his or her self that will equip him or her for the journey. This might mean the acquisition of new skills or the honing of existing skills; the strengthening of motivation; the clarification of related beliefs and values or, more broadly, support for the sorts of shift in personal identity often associated with desistance from crime (Maruna, 2001; Maruna and Farrall, 2004). Personal rehabilitation is perhaps most familiar as the existing work of correctional agencies; work that aims to help returning citizens become 'fit' for (and able to fit into) social life. Education, vocational training, offending behaviour programmes, improving mental and physical health and wellbeing; all of these sorts of interventions might be considered part of personal rehabilitation. That said, it is important to recognise that personal development of this sort often happens even in the absence of, and sometimes in spite of, any intervention at all (see Schinkel, 2015). We all change as we age; and sometimes our relationships are our best teachers.

If personal rehabilitation is about the traveller, then **judicial rehabilitation** is a kind of 'passport

control'. It concerns what Cesare Beccaria called 'the requalification of the juridical subject'; a process of formal, legal de-labelling in which the status of the (once-degraded) citizen is elevated and restored. This is a duty that the punishing state owes to those citizens who have settled their debts (whether by losses or by contributions); it signifies and secures the end of punishment and, as such, is a logical requirement of the twin commitments to parsimony and proportionality that govern liberal approaches to retributive punishment. Judicial rehabilitation – as the term implies -- is perhaps more the business of the courts and the law than of correctional agencies, but the latter should be always cognisant of the human and/or civil rights of those over whom they exert (or have exerted) the power of the state. The limiting principle *nulla poena sine lege* (no punishment beyond the law) applies before, during and after the execution of a sentence; judicial rehabilitation reflects the 'after' part of this.

Whereas judicial rehabilitation has a formal and institutionalised legal character, **moral and political rehabilitation** is more informal and relational. Here, attention turns from the citizen's relationship to the state under the law, and towards the negotiation within civil society on which reintegration depends; a negotiation between citizen, civil society and state. This is the dialogue required on the journey to reintegration – a civic and civil conversation between these parties that looks back towards the offence, that explores harm, repair and renegotiation of reciprocities, and that looks forward to reintegration. Importantly, all three parties have duties in this process; and all must acknowledge any role played in the original breach in the social fabric. For example, in unequal and unjust societies, social conditions may differentially propel some people towards crime *and* differentially select some for criminalisation. Others are endowed with and propelled towards privilege and unearned social advantages. These criminogenic social conditions create obligations on the unjust state and the unjust community to repair harms done to the 'offender'.

The disenfranchisement – both formal and substantive – of correctional populations in some states is a significant problem here. Clearly, it is impossible to have a meaningful moral and political dialogue with someone who is (politically) silenced. In these circumstances, rehabilitation can only be authoritarian in character (Rotman, 1990); morally, it amounts merely to a censorious monologue – a set of instructions in compliance -- rather than to the renegotiation of just social relations.

For correctional agencies then, moral and political rehabilitation raises profound challenges – particularly in some states. It speaks to the moral character of these agencies and to the ways in which they see and construct the citizens with whom they engage. In practical terms, it points towards the importance of restorative approaches and, more broadly, of encouraging philosophical inquiry and development in the process of helping people making sense of their sentences (Schinkel, 2014; Szifris, 2017).

The necessity of a more dialogical approach – one centred on finding a path to a negotiated social peace settlement – becomes obvious in thinking about **social rehabilitation**. This concerns neither the development of the individual nor their legal position, rather it concerns their social position and their social identity. On the journey to reintegration, social rehabilitation is about the company that the traveller finds, and the climate through which they travel. It is about their connections and resources, their social capital; the help and welcome that the traveller requires along the long and winding road.

Social rehabilitation is a responsibility of all citizens, of civil society and of the state. While the state cannot and should not force one citizen to offer re-integrative hospitality to another, it can and should provide resources to help us all provide that shelter and support. For correctional agencies, this means working with and for communities to support the return of those who are being or have been punished. In some parts of the world, that challenge may require the development of new forms of community development that seek correctional 'climate change'; challenging the hostility and exclusion that justice-affected people often face (for an interesting example of a novel and creative approach to these challenges, see [www.distantvoices.org.uk](http://www.distantvoices.org.uk)).

These four forms of rehabilitation are inter-dependent; and the possibilities of any and all of them are influenced by social structures and by cultural conditions. For example, hostility and exclusionary attitudes that lead to the denial of reintegrative hospitality may often be the result of a different kind of disenfranchisement; the sense in some communities that no one cares and no one is listening to *their* concerns; that no one respects *their* status or supports *their* development or integration. Communities cut off from the workings of criminal and social justice (and of corrections) are hardly likely to embrace returning citizens as the 'graduates' of a remote and alien set of state institutions. Equally, community support and acceptance will carry the returning citizen only so far if, for example, the collateral consequences of conviction exclude the individual from state support or the labour market. No amount of personal development seems like to secure desistance and integration where the law and the state stand *de facto* against it, even while claiming in principle to pursue it. But conversely, a lack of development in the individual may expose even the welcoming, reintegrating community to problems and risks.

### **Conclusion: To peace and to life?**

It should perhaps be obvious by now that I see rehabilitation – and the work of corrections – as inherently relational. Indeed, what 'correctional' agencies need to work to correct is not an errant individual, but – more often – a broken set of social relationships. If offending breaks relationships and tears at the social fabric, then *both* the tear *and* the repair must be relational; between the people directly involved; and between citizen, civil society and state. These people – and these social institutions – need to find a way towards mutual recognition and mutual respect, if peace is to be restored. We should not underestimate the pain and challenge involved in those processes. Like a wound on the skin of the social body, the two sides have been torn apart; they need to be punctured, stitched and drawn together by the needle, bound up and held gently, until the two sides knit together.

To add to these inter-personal challenges, wider structural problems in our societies, and the cultural pressures that they produce and reflect, may make social peace-making a challenging task. Sometimes it seems as if salt is being poured into wounds, and those trying to work for healing are denied needles, threads, liniments and bandages. Even so, correctional agencies can't duck these wider issues; it makes no sense to work on only one side of the tear. It's time to look beyond personal rehabilitation and to look towards the other three forms; and to see what 21st century corrections can achieve, when they aim to fix broken relationships rather than broken people.

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