

# Probation, Ethics and [Social] Justice



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# CEP Values (2010)

**(1) Probation works towards rehabilitation through working with offenders to help and encourage them to lead law-abiding lives...**

**(3) Social inclusion is a requirement of social justice and a key guiding principle in probation practice.**  
Since people who do not have fair and reasonable access to the services and institutions of civil society (social exclusion) are more likely to offend, probation's commitment to social inclusion also helps to reduce offending...

## CEP Values (2010)

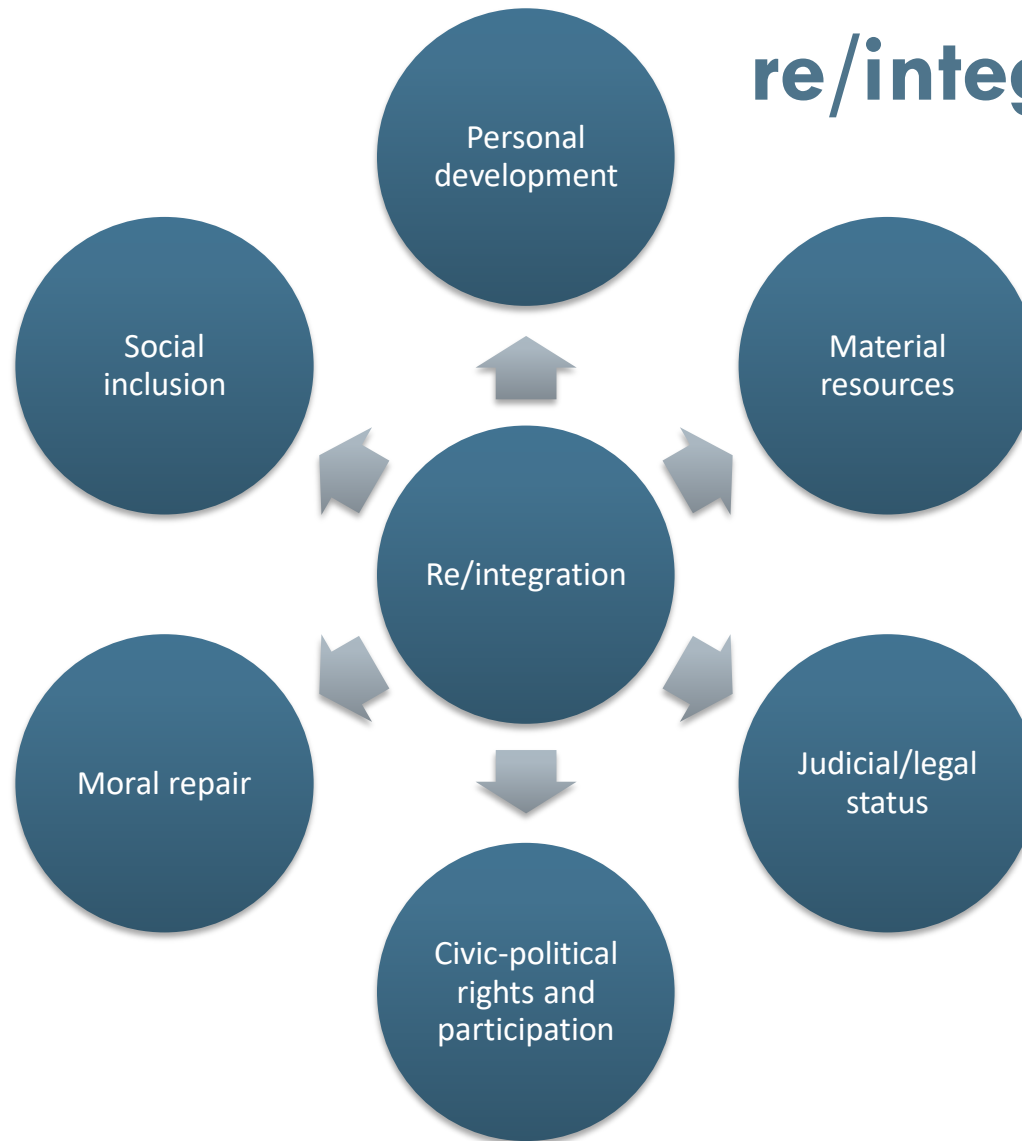
**(5) Each person is unique and their differences are to be respected and valued.** Probation services shall ensure that in all their work they respect the diversity of those who use their services and challenge all unfair discrimination...

**(8) ...In accordance with the European Convention on Human Rights, restrictions on offenders' rights must not exceed what is proportionate to the seriousness of the offence or what is necessary to protect the public from a real risk of substantial harm...**

# CoE Probation Rules (2010)

1. Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to **supervise (including control where necessary), guide and assist them and to promote their successful social inclusion**. Probation thus contributes to community safety and the fair administration of justice
2. Probation agencies shall **respect the human rights of offenders. All their interventions shall have due regard to the dignity, health, safety and well-being of offenders.**

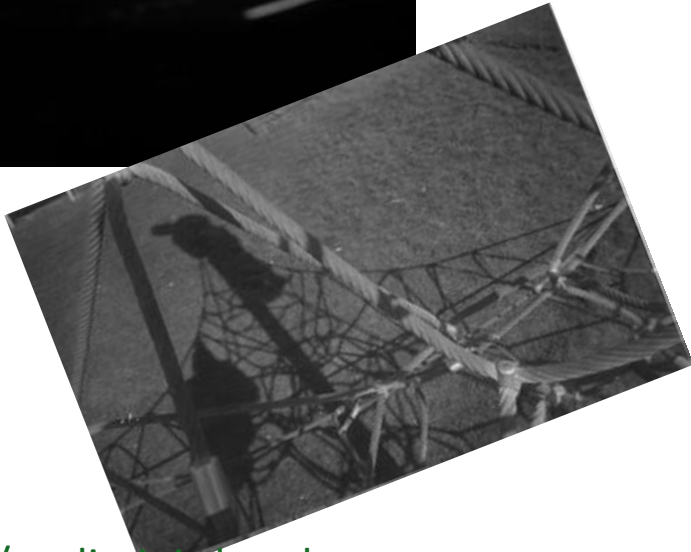
# Six aspects of re/integration (Rubio Arnal, 2021)



# Seeking Social Justice?

- **Fraser (2007)**
  - Redistribution, representation and recognition
  - ‘...people can also be prevented from interacting on terms of parity by institutionalized hierarchies of cultural value that deny them the requisite standing; in that case, they suffer from status inequality or misrecognition’ (Fraser, 2007: 20).
- **Misrecognition denies status**
  - Maldistribution denies resources, misrepresentation denies voice

# Misrecognition: '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*

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?

# Recognition: Mary's story

- A very 'good story' of 1960s probation, from an oral histories project
- She was 17 year old, on probation for a second offence: rebelling against classed and gendered constraints, and her frustrated hopes
- Interview excerpt...



# Grace recognizing Mary

- **She moves towards her (socially)**
  - As opposed to maintaining hierarchy and distance
- **She practices hospitality**
  - As opposed to hostile authority
- **She listens attentively**
  - As opposed to lecturing (like the judge and the first PO)
- **She hears and validates Mary's story**
  - As opposed to imposing another story on her (unlike everyone else in her life)
- **She shows Mary her potential (the tearoom 'turning point')**
  - As opposed to cementing her current position
- **She sets about co-authoring a new story with Mary**
  - By licensing silence about a discrediting past

# Comparing Teejay and Mary

- Teejay's misrecognition by 'Blankface' means that he is stuck in an unequal, vulnerable and degraded social position; one which entails **immobility**, irrespective of his changed disposition.
- Mary's recognition by Grace means that her **movement** (not just through probation but in her wider life trajectory) is enabled.

# Conclusions

- Probation misrecognizes where it is **monological**; the state and its agents impose narratives *of people on people*. This creates problems of legitimacy and of immobility (often by reifying risk).
- Probation recognizes (and finds legitimacy) where it is **dialogical** (listening and hearing before it speaks) and where it enables forward movement, respecting people *both* as they are *and* for what they can become.
- In this sense, probation is less about enabling return, and more about **'reintegrative momentum'** (du Bois Pedain, 2017) and onward mobility... BUT...

