



Banishment/Custody

Every society must have ways of protecting its members from dangerous people. One of the purposes of custody is to keep people who are a danger to others away from others. When custody is used for this purpose alone society is only safer while the person is in custody. For this reason custody is also intended to serve other purposes. It is meant to deter the person and others from committing crimes. It is meant to show society's disapproval of the actions of the offender. It is also meant to help people change so that they are not as likely to go back to a life of crime. This can be done in a number of ways including drug or alcohol counselling, anger management or skills training.

The purposes of custody for youth include protecting society and holding youth accountable for their actions, as well as helping youth to turn their lives around. Deterring other people from committing crimes is not a purpose for sentencing a youth under the *Youth Criminal Justice Act*. That leaves holding youth accountable and rehabilitating youth as purposes for sentencing a youth to custody. How effective custody is in rehabilitating offenders, particularly young ones, is the subject of much debate. Some people argue that when a youth is placed in custody the youth is likely to be negatively influenced by other youths who may be more involved in crime. As well a youth may get a reputation in the community that could lead the youth to continue to associate with others who are involved in crime. Others argue that custody is the only way to properly hold a youth who has committed a serious crime accountable and that a youth can receive rehabilitative programming while in custody.

In traditional Aboriginal communities banishment served some of the same purposes as custody. Society was protected because the individual was removed from the society. Banishment can also provide for rehabilitation and hold the person accountable for their actions. The Saskatchewan Court of Appeal has said that the central features of banishment are things like the self-discipline, self-treatment, introspection and self-examination of one's goals designed to make the person a better person. The Court also noted that banishment is also a form of punishment because of the deprivation involved.



Handout

Persuasive Writing: Did Banishment Fail Cole or Did Cole Fail Himself?

Instructions: Read the following, then create a report for Cole's Circle.

There is more than one way of examining the events that led up to the situation Cole finds himself in at the end of Chapter 13. You may think that Cole's banishment has been a complete success, or a total failure. Examine Cole's behaviour and the events that have taken place on the island since his arrival. Use these events to write an evaluation of punishment report to Cole's Circle. Your report should outline the successes and the failures of Cole's banishment, and conclude with a summary of who is to blame for Cole's fate. Thoughts to consider...

- Were Cole's actions his responsibility?
- Is the Circle responsible for not properly punishing Cole?
- Is Garvey to blame for putting too much trust in Cole?
- Is anybody or anything else responsible for the outcome?
- Should Cole be sent back to the island to complete his punishment?