Basic Principles on the Use of Restorative Justice Programmes

United Nations Office on Drugs and Crime

National Symposium on Restorative Justice
Bangkok, Thailand | Thursday, 20 June 2019

Valérie Lebaux
Chief, Justice Section
Division for Operations
Restorative Justice

- Both an **approach to crime** that operates on a different set of principles than the conventional criminal justice system and a **criminal justice process**

  Approach: **crime causes fundamental harm** to individuals, communities and society as a whole

  Process: **brings together** the **victim and the offender** to **participate together** in the resolution of matters arising from the crime, generally with the help of a **facilitator**

- A key measure in increasing access to justice by giving those affected by the crime a **voice and power to address the harm** (often the only measure that allows victims of crime to participate!)
Basic Principles on the Use of Restorative Justice Programmes (2002)

• Adopted by the Economic and Social Council in 2002 in response to the growing use of restorative justice by Member States

• Provide guidance in developing restorative justice at any stage of the criminal justice system

• Encourage Member States to adopt and standardize restorative justice, with legislative authority if necessary

• Articulate fundamental procedural safeguards to guarantee fairness to the offenders and victims
Rights of parties to ensure fairness of process

- The right of minors to the assistance of a parent or guardian
- The right to be fully informed
- The right to consult with legal counsel
- The right not to participate

Rights of **victims**, **offenders**, and **other individuals** affected by a crime who may be involved in the process

(para. 13)
Legal and policy safeguards

- Participation of an offender is not evidence of guilt (para. 8)
- Agreements should be voluntary and be reasonable (para. 7)
- Confidentiality of proceedings (para. 14)
- Judicial supervision (para. 15)
- Failure to reach an agreement (para. 16)
- No increased punishment for failure to implement an agreement (para. 17)
Other relevant international standards and norms

- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules, 2010)
Other relevant international standards and norms (Cont.)

- The Convention of the Rights of the Child (CRC)
Regional Instruments

The Council of Europe

Recommendation (2018) 8 concerning restorative justice in criminal matters

The European Union

Restorative justice processes in the context of violence against women

The Committee on the Elimination of Discrimination against Women

• The rights to use mediation, conciliation, arbitration and collaborative dispute resolution
• These procedures should not restrict women’s access to judicial or other remedies and not lead to further violations of rights
• Free and informed consent of victims, no indicators of further risks

The Commission on the Status of Women

• Prohibit compulsory and forced alternative dispute resolution processes, including forced mediation and conciliation, in relation to all forms of violence against women and girls

The Council of Europe Convention on preventing and combating violence against women and domestic violence

• Also prohibit the mandatory use of alternative dispute resolution processes
Thank You

Valérie Lebaux
Chief, Justice Section
Division for Operations
UNODC