RESTORATIVE JUSTICE: UNDERSTANDING THE APPROACH
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Restorative justice is based on the idea that parties to a conflict ought to participate actively in repairing the harm, alleviating the suffering that it caused, and taking steps to prevent the further occurrence of the harm.
VARIATIONS IN PROGRAMMES AND APPROACHES

- Various forms of victim-offender mediation
- More participatory, community-based approaches
- Focus on diversion and alternative to the justice system
- Focus on the reintegration of the offenders
- Focus on assistance to victims
COMMON CHARACTERISTICS OF RESTORATIVE JUSTICE PROGRAMMES

- A focus on the harm caused by crime
- Voluntary participation by those most affected by the harm, including the victim, the perpetrator and, in some processes, their supporters, members of the community, and appropriate professionals
- The process is prepared and facilitated by a trained restorative practitioner
- Dialogue between the parties to arrive at a mutual understanding of what happened and its consequences and an agreement on what should be done
- Outcomes of the restorative process vary and may include some reparative action for the victim or for the community
- An offer of support to the victim to aid recovery
- Support the reintegration of the offender and his or her desistance from crime
RESTORATIVE JUSTICE OBJECTIVES

Support: Support victims, give them a voice, enable their participation, and address their needs

Restore: Restore community order and peace and repair or heal damaged relationships

Denounce: Denounce criminal behaviour as unacceptable and reaffirm community values

Encourage: Encourage all concerned parties to take responsibility, especially the offender

Identify: Identify restorative, forward-looking outcomes

Prevent: Prevent recidivism by encouraging change in individual offenders and facilitate their reintegration into the community
THE MANY BENEFITS OF RESTORATIVE JUSTICE PROGRAMMES

- wider access to justice
- more effective resolution of conflicts
- greater victim satisfaction
- a therapeutic impact on the victim
- greater likelihood of offenders’ desistance from crime
- greater likelihood of successful social reintegration of offenders
- greater community engagement and confidence in the justice system.
“Member States should consider the formulation of national strategies and policies aimed at the development of restorative justice and at the promotion of a culture favourable to the use of restorative justice among law enforcement, judicial and social authorities, as well as local communities” (para 20).
Participation of an offender in a restorative justice process should not be used as evidence of admission of guilt in subsequent legal proceedings.

Agreements arising out of a restorative process should be arrived at voluntarily and should contain only reasonable and proportionate obligations.

The confidentiality of proceedings must be protected.

Failure to reach an agreement should not be used against the offender in subsequent criminal justice proceedings.

RECOMMENDED SAFEGUARDS
The right of the victim and the offender to consult with legal counsel concerning the restorative justice process.

The right of minors participating in a restorative justice process to the assistance of a parent or guardian.

The right of parties to be fully informed about their rights, the nature of the restorative justice process, and the possible consequences of their participation in the process.

The right not to participate. The consent of both the victim and the offender is required. Neither the victim nor the offender should be coerced, or induced by unfair means, to participate in restorative processes or to accept restorative outcomes.
THE BASIC PRINCIPLES RECOMMEND THE ADOPTION OF NATIONAL GUIDELINES TO COVER:

- The conditions for the referral of cases to restorative justice programmes;
- The handling of cases following a restorative justice process;
- The qualifications, training, and assessment of facilitators;
- The administration of restorative justice programmes; and,
- Standards of competence and rules of conduct governing the operation of restorative justice programmes.
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules, 2010)
- Council of Europe’s Recommendation (2018) 8 concerning restorative justice in criminal matters
USE OF RESTORATIVE JUSTICE

- Outside of the justice system
- At any stage within the criminal justice process, either instead of or in addition to criminal sanctions
- With most types of offences, including serious offences, provided that certain important precautions are taken (reservations are often expressed about the use of RJ in cases involving child victims or victims of violent offences)
WHY WE NEED TO PROCEED CAUTIOUSLY WITH PROGRAMMES FOR SERIOUS VIOLENT CRIMES

- Concerns for the victim’s safety
- The frequent power imbalance between the offender and the victim
- The traumatic impact of the offence on the victim and the concern that the restorative justice process may compound the trauma
- The fear of re-victimization
- The need to assess victims and ensure that they are psychologically ready to participate in a restorative justice process
- The lack of victim assistance services for follow-up support
- The need for special training for facilitators
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THANK YOU