

Restorative Juvenile Justice I

- Legal basis in article 40 CRC:
- 1. The overall goal of juvenile justice:
 - the child's reintegration in society:
 - the child assuming a constructive role in society.
- 2. Fundamental requirements for "how to".
 - treatment consistent with promotion of child's sense of dignity and worth;
 - treatment reinforcing child's respect for human rights and fundamental freedoms of others

Restorative juvenile justice II

- What is restorative justice/ definitions:
 - Broad: Every action that is primarily oriented towards doing justice by restoring the harm that has been caused by the crime (Walgrave + Lima Declaration)
 - Specific: Any process in which the victim, the offender and/or any other individuals or community members affected by a crime actively participate with the help of a fair and impartial third party (ECOSOC Res. 2002/12).

Restorative juvenile justice III

- Forms of restorative juvenile justice:
 - specific: victim – offender mediation, conferencing and sentencing circle.
 - broad: repairing the harm, compensation and community service.

Leading ideas/purposes: in addition to serve the overall goals of juvenile justice: deal with juvenile delinquency without resorting to judicial procedures and/or avoid deprivation of liberty and thus the risk of violence.

Restorative juvenile justice IV

- Basic principles and rules (ECOSOC Resolution 2002/12).
 - sufficient evidence to charge the juvenile
 - free and voluntary consent of victim and offender + right to withdrawal at any time.
 - for all types of crimes + at any stage of the juvenile justice system (in principle), but to be decided by national legislator.

Restorative Juvenile Justice V

- When and by whom?

1. Police

2. Prosecutor

Re 1. and 2. RJJ in that stage is in fact diversion and referral to appropriate services. Authority to do so by law + specific rules/regulations e.g. on consequences of success (no criminal record?) and failure (referral back to RJJ programme or trial in court?)

Restorative Juvenile Justice VI

- 3. The judge or juvenile court
 - RJJ as part of the set of measures or sanctions available.
 - as stand alone measure + rules in case of success(case closed?) and failure (continuation of case in court?)
 - as condition in a conditional sentence e.g. of deprivation of liberty.
- 4. After sentencing e.g. in a juvenile justice institution. Interest of sentenced juvenile? Incentive: early release?

Restorative Juvenile Justice VII

- Some challenges:
 - change of juvenile justice practice.
 - establishment of service(s) to carry out to carry out RJJ.
 - consent of victim and offender: risk of undue pressure.
 - applicable for all types of offences?
 - consequences of success and failure.