i-RESTORE
Protecting Child Victims
Through Restorative Justice

Q&A on Restorative Justice:
Key concepts and frequently asked questions

"i-RESTORE: Protecting Child Victims through Restorative Justice" Project (2019 – 2021)

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Terre des hommes
Helping children worldwide.

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EUROPEAN FORUM FOR RESTORATIVE JUSTICE

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Key concepts and frequently asked questions

Restorative justice is an approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved.

1. What is restorative justice?

Restorative justice is an approach to justice oriented towards repairing - as much as possible - the harm caused by a crime and/or conflict. A core element of restorative justice is the active participation of the parties involved, namely victims, offenders and, when applicable, community members, who voluntarily come together with the help of a facilitator to talk about the harm and its consequences and identify means for repairing such harm. Restorative justice aims at bringing justice closer to people and sees participation as a fundamental human value, which connects people instead of separating them. The focus of restorative justice is on what people perceive as a just, fair and safe experience in the aftermath of a crime or conflict.

2. What is the purpose of restorative justice?

The aim of restorative justice is to create a safe space for sharing the feelings (e.g. fears, anger, sadness) that arose from the crime or conflict and to talk about possible solutions for repairing the harm. Restorative justice is oriented towards the future: its objective is not to identify the right punishment proportionate to the offense, pain and suffering, but to look at the harm and suffering as the starting point of a shared story. Restorative justice aims at giving a voice to all individual stories and truths to identify points for understanding, sharing and repairing the harm and to allow the parties to construct their own narrative and dialogical truth together.

3. What kind of practices fall within the framework of restorative justice?

The most common restorative justice practices are victim-offender mediation, restorative conferencing and (sentencing or restorative) circles. Victim-offender mediation brings together the parties directly affected by a crime in the presence of a facilitator who encourages a dialogue between them. Restorative conferencing includes a larger group of participants, e.g. family members, community members, and colleagues supporting the direct parties, but also sharing their own experience and truth about the facts. Circles bring together a large group of people to discuss a certain theme or conflict in a structured way.

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Even within these three most common practices many variations occur, e.g. when face-to-face encounters are not possible video calls or letters between the direct parties may be foreseen, or when verbal communication is problematic (due to language barriers, or other impairments) innovative non-verbal communication tools may be used.

4. Is restorative justice compulsory?

One of the key elements of restorative justice is voluntariness and, before any face-to-face encounter takes place, sufficient time is dedicated to inform and prepare the parties. Such a preparation phase is arguably even more important than the actual encounter: this is the moment when the parties can express their motivations to meet "the other", to express their expectations from the encounter and to understand if such an encounter will be beneficial or not to them. During the preparation phase, well-trained facilitators should assess if restorative justice will be a valuable experience for both parties and, if needed, share these doubts with them. So restorative justice is not compulsory, even though it asks active participation from people when they accept to take part.

5. Is restorative justice only for criminal cases?

In recent years, the restorative justice philosophy and its practices have been opened to conflict situations beyond criminal justice. This is because restorative justice has been proven to be useful for preventing crime and conflict (e.g. in neighbourhoods, schools, youth care) but also for responding to offences that are not reported to the police (e.g. intra-familial violence). Several action research projects were initiated in urban settings and in communities suffering from different types of conflict situations because of the melting point of social differences (in terms of culture, age, gender, social background). Among others, some cities across Europe started to work on the concept of a "Restorative City", putting together all projects and associations working at the local level to prevent conflict, encourage solidarity and responsibility and activate its citizens in this way. Also, the movement arguing for "Restorative Schools" looks at another setting where conflict may easily occur, and engages students, teachers and others in learning to address such conflicts to prevent harm and (serious) offences.

6. At what stage can restorative justice take place?

Restorative justice can in general be applied at any stage of the criminal justice process. In practice, legislation and policy differs, as in some countries this option is offered only in certain stages. In principle, restorative justice can be offered and delivered in cases not coming to the attention of the criminal justice

system (through self-referrals) and during the charge, conviction, sentence, incarceration and reintegration stages of a criminal justice procedure (through referrals by the police, prosecutor, judge, probation officers, prison staff, NGOs working with ex-detainees for their reintegration, or NGOs supporting victims of crime). In some countries, referrals occur more often at the police level while in other systems more often at the court level (by public prosecutors or judges). Mediation or conferences are often used outside of the criminal justice procedure, when the offender is in prison or even long after his or her sentence has been served. If a victim or offender is not yet ready to participate in a restorative justice procedure when they are first offered the opportunity, they may still ask to be involved at a later stage.

7. Why would a party want to take part in a restorative justice process?

The most common motivations for someone to participate in a restorative justice process are: the opportunity to tell one's side of the story, to be heard, to ask questions and to express feelings; the opportunity to be better informed about the case; the opportunity to be actively involved in the reparation of the harm. The offender, on a voluntary basis, is also given the opportunity to take responsibility, express remorse and take action for repairing the harm done (which decreases reoffending). The victim has the opportunity to feel reassured by having their questions answered (such as: "why did this happen to me?") and be empowered concerning matters relevant to him/her. Both may improve the relationships with their wider social network following the restoration of feelings of safety and control.

8. Who is paying for the restorative meeting?

Restorative justice services, and thus also their facilitators (e.g. salaries, travel, training), may be funded by public and/or private sources (e.g., ministerial, institutional and local funding, and/or charities, foundations). Since restorative justice is frequently linked to the criminal justice system, financial support often comes from the State. In some cases, offenders are required to contribute, though they often receive some type of financial assistance. Importantly, as restorative justice prevents recidivism and empowers victims, the State's investments on these services should lower other costs.

9. Where does the restorative meeting take place?

Restorative justice processes take place in different locations, depending on a series of reasons linked to the availability of restorative justice services in the country, but also on the specificity of the case to be dealt with. In Scandinavia, for example, restorative justice facilitators travel across the country and offer the encounter in a public space (e.g. library, school), as offices are not present in all provinces because of the

low population density of population. In Belgium, instead, restorative justice services have offices in Flanders and Wallonia and they have rooms dedicated for the restorative justice encounter to take place. In the Netherlands, victim-offender mediations within the court system take place in special mediation rooms of the Court. Still, in some cases, the encounter simply takes place in prison, as the offender cannot be released, or in places chosen by the victim because of safety or personal reasons. The primary consideration is that any place is able to give a sense of safety to both parties.

10. How long can a restorative meeting last?

Restorative justice encounters do not have time limitations attached to them. Cases have ranged from 2 minutes to a full day or multiple days – in both situations leading to empowerment of the victim and opportunities for closure. In cases of political violence, the restorative justice encounters took place only after the prison sentence for the combatants terminated?? and the encounters themselves are still happening on a regular basis for twelve years. This is to say that there is no ideal time to initiate a restorative justice process but also no ideal time to end it. The process belongs to those affected by the harm; for this reason, they themselves must identify how long is needed for perceptions of justice to occur.

11. Is there a follow-up process to a restorative meeting? What if one of the parties changes their mind regarding what they agreed to during the meeting? Are there any repercussions? If parties reach an agreement during the restorative meeting, who ensures its implementation?

The follow-up of a restorative justice meeting should be part of the service provided. Indeed, the face-to-face encounter is only part of the work of a restorative justice facilitator if we account for the time investment in preparing and following up the meeting. After a face-to-face encounter, especially in more complex cases, the facilitator has the opportunity to debrief on what happened with a colleague appointed for this task. This is an important moment ensuring that supervision, evaluation and care are provided to the facilitator. Clearly, the facilitator also follows-up with the parties, on an individual basis, for example to understand how they feel after the encounter, if they achieved what they wanted and if they have more questions or needs to be answered. In case of a concrete agreement reached by the parties, it is important that the facilitator follows-up on its implementation. If the offender cannot maintain his/her promise (or simply changes his/her mind in relation to the agreement made), the facilitator has a role in communicating the reasons to the victim and discusses together with him or her what can be done further. The latter may entail m another face-to-face encounter to let the parties talk to each other. In practice, the roles concerning

aftercare differ per project and per country and are sometimes said to be lacking or not receiving enough attention.

12. Why is it important to talk about protecting the rights of child victims in restorative justice?

Child victims must be considered and treated as full bearers of victim rights, , and are entitled to exercise their rights in a suitable manner that considers their own capacities and needs. This applies also to the right to access (restorative) justice, keeping in mind that an experience of justice is personal and cannot be easily applied in a standardized way. Children often require special support and protection to avoid the risk of secondary victimization. For this, restorative justice should provide a targeted service, taking into account special needs of the people involved as well as the specificity of the crime and its consequences; also, restorative justice services must provide a programme integrated with other disciplines and services (education, health) to focus on the social environment of the child for providing a tailor-made programme.

In general, victims have been given a stronger position in criminal justice in the last decades, which was partly stimulated by international standards and the binding EU Directive on the protection of victims of 2012. This Directive also refers to restorative justice and created a basis for many countries to develop legislation dealing with restorative justice and with a specific emphasis on the rights of victims, including child victims and their particular needs.

13. Is restorative justice a safe practice for children?

Restorative justice is a safe practice and considered a priority by the Committee on the Rights of the Child in reaction to crime. In order to enhance safety, however, procedures must follow important guidelines fundamental to this approach. First, the parties must voluntarily agree to engage in this programme and must be free to interrupt it at any point and without any justification. Second, the service must be provided by well-trained facilitators, who also receive special training for dealing with specific cases (e.g. involving children, or complex serious cases such as sexual violence). Additional training for those working with youth is recommended. Third, restorative justice must be a flexible approach developed around the needs of the parties involved, thus, in cases involving children, it takes into account age, maturity, views, needs and concerns; for this, there are different tools that can be used when involving younger children. Finally, when dealing with children, there is always a risk of power imbalances that need to be addressed. For this reason, support persons such as parents, teachers or other care takers are involved, and the preparation phase and aftercare are crucial.

14. Why is there a facilitator/mediator involved? Can anyone be a mediator?

The role of the facilitator is important at different moments. The facilitator has the duty to explain in detail the aims and practicalities of a restorative justice process and to assess the motivations of the parties willing to participate. He/she has the responsibility to prepare the parties to the encounter and foresee the challenges and risks of the encounter: he/she must inform the parties and together they must find the opportunities and solutions to allow the encounter, if the parties still wish to do so. For example, where one of the parties may be fearful of a face-to-face encounter, he/she may propose alternative ways to meet, such as via video messages or letters. During the actual restorative justice meeting, if the preparation phase was well planned and organized, the facilitator often has a minimal role, almost invisible, allowing the parties to engage in a safe and honest dialogue about the harm, its consequences and possible reparation. Quality standards and good training for mediators and facilitators are very important and should be in place in each country.

15. Which offences are best suited for restorative justice?

Restorative justice can theoretically be offered for any type of offence, even the most serious and complex ones (e.g. sexual abuse, homicide, terrorism, domestic violence), though there are restrictions based on legal criteria. From a theoretical perspective, however the only criteria is the voluntariness of the parties to meet and engage in a dialogue with the aim to repair the harm. Research has indicated that restorative justice is suitable in cases of serious crime, also when victims and offenders are difficult to be identified and responsibilities are spread among different actors (e.g. road traffic offenses, violent extremism, environmental harm, corporate crime). What is important is not the type of offence as such, but the suitability for the parties to engage in a restorative justice process in terms of safety and prevention of secondary victimisation. For this, policies and risk assessment tools may be used as indicators to identify reasons to avoid offering and delivering restorative justice.

16. What about restorative justice in schools?

Restorative justice practices can be used in schools to prevent conflict and crime, but also to create a stronger sense of belonging, solidarity and responsibility within the school community. This is particularly important to educate children and adolescents in perceiving the normality of conflicts as an opportunity for learning and for change, and not as a threat. In some cases, educational institutions decided to adopt the restorative justice philosophy within the whole school community, meaning with students, teachers, administration staff, families, neighbours: this meant an overall change of the school system from a punitive

and conservative approach to a restorative and innovative one. There are typical methods used to introduce restorative justice in schools, e.g. circles are used to express emotions and share experiences in a structured way, so that the same method can be used later on to discuss problems and conflicts, or peer-mediation is used to train students to identify and manage conflicts occurring within their social network (at school or at home). Peer mediation happens already in some primary schools, where trained children can take up the role as mediators when a fight or a conflict occurs in the classroom. It is particularly important to educate children and adolescents about the existence of another way of dealing with conflicts and expressing emotions, as they are the citizens of the future, who can make a change in our societies by spreading values such as connectedness, solidarity, responsibility, and inclusion, all core in the restorative justice approach.

17. What are the benefits of restorative justice?

Research findings of meta studies are consistent in reporting that at least 85% of participants expressed satisfaction after participating in a restorative justice programme, which is a much higher percentage in comparison with the traditional criminal justice processes. The most common benefits named by participants are: recognition and mutual understanding of each other's status; acknowledgement of everyone's needs (of support, protection, reintegration); emotional restoration, including feelings of respect and dignity of oneself; reparation of the harm caused by the offense and (when possible) of broken relationships; empowerment, including the restoration of feelings of safety and control; fear reduction about meeting each other again; positive changes about the view of the world in general and of oneself; and satisfaction and perception of fairness in the justice process, compared to the criminal justice system. In addition, studies found other benefits, more relevant for the justice system and societies in general: restorative justice offers victims a real experience of justice that facilitates their recovery, it can encourage desistance from crime, helping to create safer societies, and it strengthens communities (helpful for offenders' reintegration and victims' support, but also to prevent that a place of conflict becomes a place of violence).

18. Can the parties stop the process if it becomes too much?

Restorative justice is based on the principle of voluntariness, which applies at any stage of the process, from the moment in which the service is offered through the actual encounter. Facilitators have the responsibility to constantly check a if the parties are still willing to proceed with the process. Especially when the actual face-to-face encounter comes closer, the facilitator must create a safe space for the parties to stop the process, without a reason, but in respect of the other party who may wish to know the reasons

for this decision. This safeguard means that both parties can stop the process whenever they want, feel or need to end their participation.

19. What is the role of parents and other supportive adults in restorative justice?

Depending on the restorative justice model chosen, parents and supportive adults may be present during the actual face-to-face encounter (e.g. restorative conferencing). Their role is to make sure power imbalances are addressed. Also, given the final responsibility of parents (or holders of parental responsibility) over the child and his/her rights, it is important to involve them in this process. In conflicts between parents and children, other support persons can be identified and included in the process. Obviously, the choice of including supportive adults is to be done in the best interest of the child and taking into account the child's wish to be supported by an adult during this process. This is not an issue in terms of restorative justice principles and practices, as restorative justice itself aims at the participation and responsibility of all parties affected by the harm to take action towards reparation.

20. Why do we need the i-RESTORE project?

i-RESTORE is an important project to better understand how child victims can be offered restorative justice and how they can better benefit from this experience, if they voluntarily agree to engage into a dialogue with the other party. While we know a lot about the positive impact of restorative justice in adult cases, we have less information on cases that involve child victims. This is a particularly vulnerable group with separate needs, behaviours and developmental capacities, and we therefore must engage in research focused on this target. In addition to the desk research, i-RESTORE uses an innovative approach to involve children in this project. Indeed, the so-called "Child Advisory Boards", composed by children in three different countries (Romania, Greece, Albania) have the responsibility to practice and understand the restorative justice values in a series of local meetings to finally give feedback to the researchers and project officers on the outcomes of the project and to propose an awareness campaign to engage other children in restorative justice. The project also aims at involving many experts in these countries that can play a role in further developing policy, practice and legislation.

21. What is the role of the European Forum on Restorative Justice in this project?

The European Forum for Restorative Justice (EFRJ) is the largest umbrella organisation bringing together researchers, practitioners and policymakers working in restorative justice and related fields in Europe and beyond. Established in 2000 within the walls of the KU Leuven Institute of Criminology (Belgium), the EFRJ

is a non-profit organization counting almost 500 members including 80 organisations. Since 2012, the EFRJ is also part of the Criminal Justice Platform Europe, a network of 3 organisations working on criminal justice matters in Europe (Europris on prisons, CEP on probation and EFRJ on restorative justice). Its role in i-RESTORE is to contribute to the research and training development, in addition to the dissemination of the project findings within its network. The EFRJ also provides expertise on the specific topic of restorative justice, finding links among research, practice and policy work in the field of children's rights.

22. What is the role of Restorative Justice Netherlands in this project?

Restorative Justice Netherlands (RJN) is a Dutch foundation, a centre of expertise and innovation in the field of restorative justice and restorative practices. The organization is not a provider of RJ services but an umbrella organization. Their main activities are: research & consultancy; knowledge transfer through (e-) training, lectures etc., lobbying & advocacy; and building strong networks. Together with other research and mediation partners, RJN initiated the Dutch Restorative Justice Academy (RJA). In this project, RJN and EFRJ are responsible for the research reports and the development of the methods and tools to be used at the national level. These organizations will also share national experiences and host a work session for the national researchers and a group of young people of Albania, Greece and Romania.

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For more information about the i-RESTORE project, please visit the project webpage
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