



RE-JUSTICE

Judicial Training in  
Restorative Justice


## **Annex 4**

# **Handout 4: Values and standards of restorative justice**



*What values and standards guide restorative justice practices? These vary widely, however common values, standards and practices are: voluntary participation, informed consent, direct communication, cultural adaptability, valuing all participant's needs, non-judgmental & multi-partial facilitation, involvement in decision-making and so forth.*

## CONTINUUM CONCEPT OF RESTORATIVE JUSTICE [1]

	
Fully restorative	Not at all restorative
<b>The more a process is...</b>	<b>The less a process is...</b>
<b>Voluntary</b>	encourages direct dialogue
<b>involves participants in decision making</b>	is suited to the culture of the participants
<b>cares for everyone's needs</b>	ensures participants give informed consent
<b>and so forth....</b>	and so forth....
<b>...the more it will be restorative</b>	<b>...the less it will be restorative</b>

## EUROPEAN FORUM OF RESTORATIVE JUSTICE [2]

The EFRJ identifies values and principles that guide and safeguard restorative practices: Justice, solidarity, human dignity, truth, restoration and reparation, voluntariness, inclusiveness of the process, active participation, commitment of the parties involved and confidentiality.

The EFRJ also identifies restorative justice practice standards, such as: voluntary participation based on informed consent; direct and authentic communication; processes designed to fit the participants' capabilities and culture; valuing each participant's needs and wishes equally; non-judgmental, multi-partial facilitation; the importance of dialogue, and rigorous implementation of agreed actions

## JOHN BRAITHWAITE STANDARDS AND BOTTOM-UP EMPOWERMENT 3

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*"Evidence and innovation from below instead of armchair pontification from above should be what drive the hopes of restorative justice to replace our existing injustice system with one that actually does more to promote justice than to crush it. It would be a less tidy justice system, but tidiness seems decisively not a good candidate for a justice standards framework." (See 3, p 576)*

### CONSTRAINING STANDARDS - minimum, which must be assured

Non-domination	Empowerment
Honouring legally specific upper limits on sanctions	Respectful listening
Equal concern for all stakeholders	Accountability
Respect for the fundamental human rights (Universal Declaration of Human Rights)	Appealability

### MAXIMIZING STANDARDS - to be actively encouraged for best practice, based on the parties actual needs

Restoration of human dignity	Restoration of property loss
Restoration of safety/injury/health	Restoration of damaged human Relationships
Restoration of communities	Restoration of the environment
Emotional restoration	Restoration of freedom
Restoration of compassion or caring	Restoration of peace
Restoration of a sense of duty as a citizen	Provision of social support to develop human capabilities to the full
Prevention of future injustice	

**EMERGENT STANDARDS** – cannot be demanded or expected, may ‘emerge’ in successful restorative justice processes

Remorse over injustice	Apology
Censure of the act	Forgiveness of the person
Mercy	

Braithwaite proposes a ‘bottom-up’ approach for setting up restorative justice programs : stakeholder assemblies, the use of restorative justice practices to discuss contested standards, on-going peer view and local regulatory conversations holding a balance between state support of certain rights and standards and care for local innovation and cultural differences.

## COUNCIL OF EUROPE CM/REC(2018)8 4

- ▶ Principle of stakeholder participation
- ▶ Principle of repairing harm
- ▶ Voluntariness
- ▶ Deliberative, respectful dialogue
- ▶ Equal concern for the needs and interests of those involved
- ▶ Procedural fairness
- ▶ Collective, consensus-based agreement
- ▶ Focus on reparation, reintegration and achieving mutual understanding
- ▶ Non-domination.

**Confidentiality** “discussions in restorative justice should remain confidential and may not be used subsequently, except with the agreement of the parties concerned (see Rule 53)” – this is important to create a safe environment for the dialogue

**Availability** “the type, seriousness or geographical location of the offence should not, in themselves, and in the absence of other considerations, preclude restorative justice from being offered to victims and offenders”

“Restorative justice services should be available at all stages of the criminal justice process.”

**Autonomy** “restorative justice agencies should be given sufficient autonomy in relation to the criminal justice system. Balance should be preserved between the need for these agencies to have autonomy and the need to ensure that standards for practice are adhered to.”

## Questions for Reflection

- ▶ Which values, standards and principles do you think are most important in restorative justice? Please explain.
- ▶ If something is called "Restorative Justice" does that necessarily mean it is? In what ways do you think values, principles and standards can support and safe-guard restorative justice?

## References

1. Howard, Zehr, *The Little Book of Restorative Justice*, Intercourse, PA: Good Books. 2002.
2. European Forum for Restorative Justice, *Manual on Restorative Justice Values and Standards for practice*, 2021
3. John Braithwaite, Setting standards for Restorative Justice, *British Journal of Criminology*, June 2002
3. Council of Europe Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters
4. [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016808e35f3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808e35f3)

## For further study

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>