



Italian Minister of Justice, Marta Cartabia's Speech at the

11th international conference of the European Forum for Restorative Justice (EFRJ): *Justice Beyond Borders: Restorative Connections Through Space and Language*

Opening Session – 23 June 2023, Sassari, Luigi Canepa Music Conservatory

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Restorative Justice: What I Was Looking For

1. Welcome and relevance of the topic at the international, European level (Eu and pan-Europe) and national level (criminal justice reform)

I would like to deeply **thank the European Forum for Restorative Justice and the Università degli Studi di Sassari** for their invitation to this 11th International Conference and for their long-term commitment to develop, implement and study restorative justice, an extremely relevant matter that is also very dear to me.

I would like to address my special thanks, in particular, to **the Rector of the Università di Sassari, Professor Gavino Mariotti**

the **European Forum's President, Tim Chapman,**

the **Executive Director, Edit Törzs,**

Emanuela Biffi from the Secretariat,

and the Board of Directors among whom Patrizi Patrizi, full professor in the hosting university.





I am indeed deeply impressed **by this Forum**, a lively global restorative community of practitioners, scholars and thinkers, and by the **Forum's activities**, always engaged with national and European institutions to advance restorative justice in EU policies and law, in UN and CoE recommendations and strategies, and in national criminal justice systems and legislation.

I deeply appreciate and praise the work carried out by the many Forum **Committees** and **Working groups** devoted to the most important topics in the field of restorative justice – such as training, values and standards, and research – and to advancing restorative justice in new and complex fields– such as policy work, gender-based violence, restorative cities, environmental restorative justice, restorative justice with institutions.

I also wish to express my appreciation for the work carried out with students, post-graduate students, local municipalities, institutions and in particular prison facilities by the **University di Sassari** thanks to the insight and wisdom of its Team for restorative practices and the "Tempio Pausania restorative city" initiative.

The **Conference programme** is very rich. It reflects the creativity of the restorative movement, its global dimension and local diversity, and its attention to several different justice needs.

As the **Minister of Justice of Italy**, though, **let me also address a word of welcome to all of you**, and especially to the many coming from abroad: my warmest **welcome to Italy**, my warmest **welcome to the field of restorative justice in Italy**, a field where a lot is happening in these very days, weeks and months, thanks to a process of reform of criminal justice that for the first time includes expressly a chapter on restorative justice. I know that this international conference was initially due in 2020 – and regrettably, for self-explanatory reasons, it had to be postponed twice. Yet **no other moment could be more favourable** for this international meeting.

I said no other moment would be more appropriate, because **restorative justice is indeed at the centre of several initiatives and circumstances**.

Let me mention some of the most relevant ones

- **At the national level, Italy's criminal justice reform** calls for the adoption of a comprehensive regulation on restorative justice in criminal matters. **Parliamentary Law n° 134/2021** mandates the Government to draft one or more legislative decrees regulating restorative justice in compliance with the international and European principles and standards and according to a set of criteria established by the Italian Parliament.

These criteria include:

- the operation of restorative justice in relation to criminal proceedings,
- the impact of restorative justice outcomes on judicial decisions,
- the establishment of restorative services,
- the training of mediators and facilitators.

Building on national and international good practices and standards, this comprehensive reform requires that restorative justice programmes shall be accessible and available at





every stage of the criminal proceeding and during the execution phase, regardless of the type of crime and its seriousness, upon free and informed consent and, indeed, on a voluntary basis.

The law binds the legislative decree to be consistent with the principle that restorative justice should be responsive to the interests of both the victim(s) and the offender(s) or accused person(s), and of the community.

Furthermore, it demands that restorative outcomes are positively evaluated by the competent judicial authorities during the criminal proceeding and in the post-conviction phase; on the other side, failure to accomplish a restorative programme or to reach a specific outcome shall not have negative effects in criminal proceedings or in the execution phase, neither on the victim nor on the offender.

- At the international level, last December the [Venice Declaration on the Role of Restorative Justice in Criminal Matters](#) has been adopted unanimously by the Ministers of Justice of the Council of Europe Member States during a Ministerial Conference that I had the pleasure to convene during the Italian Presidency of the CoE.

I have been informed, with great satisfaction, that the Declaration is being used by many of you at institutional, academic and practical levels and that it offers a solid ground for further actions, projects and proposals.

Indeed, it is important that the advocates of restorative justice, in their respective capacities, promote the implementation of the set of recommendations laid out in the Declaration.

For your further reflections during the coming days and to stimulate your policy work further, I point out a few issues stemming from the Venice Declaration that I consider as priorities:

- “the **development of national action plans or policies** for the implementation of Recommendation CM/Rec (2018)8 of the CoE, in order to **make effective the right to access to appropriate restorative justice services** for all the interested parties, if they freely consent;
- The promotion of the widest application of restorative justice in all the relevant sectors, beyond the juvenile justice system, aiming at “desistance from crime, offenders’ reintegration and victims’ recovery”;
- investment of adequate financial and human resources in restorative justice systems, **for the safety and well-being of our societies**;
- promotion of “**awareness-raising**” **campaigns and widespread communication** around the benefits of restorative justice”;
- introduction of restorative justice classes as an essential part of **university curricula** and “**training curricula** of legal professionals, judges, lawyers, prosecutors, social workers, the police as well as of prison and probation staff”.





- Given the worldwide scope of this conference, let me mention also the increasing attention towards restorative justice by the **United Nations** thanks to both the [Doha Declaration Global Programme for a Culture of Lawfulness](#) and the 2021 [Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: Towards the Achievement of the 2030 Agenda for Sustainable Development](#).
- Last, but not at all least, I would like to recall the [new EU Victims' Strategy 2020-2025](#) that has triggered an ongoing process of revision of the EU Victims Directive: thanks to the work of this Forum, it is becoming a shared opinion that restorative justice can best contribute to address victims' needs, because – I quote – «Restorative justice services provide victims with a safe environment to make their voice heard and support their healing process».

2. Commitment as a scholar, a constitutional justice, a Minister of Justice, a citizen

Let me share with you the reasons why – as a scholar, as a former constitutional judge, as a minister of justice – I have been and indeed I am committed to develop a culture and a legal framework for restorative justice, in my country and on the European and International stage

My own turning point with restorative justice was experiential: besides my academic studies, I met restorative justice thanks to the Italian experience of restorative dialogues among victims and former members of armed groups of the age of political terrorism in the 70s and 80s. I had first the chance to come across these restorative experiences through **the Libro dell'incontro (The Book of the Encounter)** and then I had the chance to interact several times with the members of this restorative group. At that time, I was a member of the constitutional court and it was considered "unconventional" that a Constitutional Judge meet offenders – those offenders! – listen to them, talk to them, despite the wrongful (and often horrible) deeds they may have committed. Restorative justice made me feel at ease with these unlikely encounters particularly because they took place always in the presence of the victims, whom also I was able to meet, listen to, and acknowledge.

More relevant, I had the chance to witness the quality of the **relationship** between some of the victims and some of the offenders of that tragic page of the Italian history.

The encounter – l'incontro – seems to me the **core** of restorative justice: the encounter is the starting point of a new idea of justice, the idea of justice that I was looking for, that I was longing for.

Do you remember the famous U2 song?

And I still haven't found what I was looking for...

After years and decades of study and work in the field of law and justice, after years in one of the most relevant institutions of the justice system – the Constitutional Court – I still hadn't found what I was looking for..., the practice of justice that I was looking for.





It is difficult to explain. But those who have had the opportunity to witness to an experience of restorative justice know very well that it is the most convincing practice of justice available to us, human being.

Restorative justice: the practice of justice that we are looking for

Restorative encounters trigger new possibilities, initiate new paths, address complexity, and intervene meaningfully vis à vis the irreparable. This is not only because restorative outcomes are forward-looking, but because **the presence of the other, of the most unlikely other, with whom to open a dialogue, brings about something that mysteriously is capable of quenching the thirst of justice.**

Restorative justice seems more apt to address **the justice needs** of all those involved in stories of injustice, be they victims, responsible persons, bystanders, the community and the State.

Restorative justice ensures – even in highly conflictual and violent contexts – nonviolent, non-aggressive, safe, comfortable times and spaces where to find out the unexpected: something new that overcomes hatred, resentment, isolation, mistrust, revenge, the cycle of violence.

I am sure that we all share here a certain unease in addressing this promising matter, calling for peaceful coexistence among victims and perpetrators, in a moment where the **war has come back at the heart of Europe.** We have here a unique opportunity, though, to pay attention to the lessons conveyed by the witnesses of restorative dialogues: there are many here; to quote those mentioned in the programme: Ailbhe Griffith, the Encounter of the Encounters, the Parents Circle from Israel and Palestine, and others. Let them be our masters and teachers. Let us use the restorative lenses (to quote Howard Zehr, *Changing lenses*), to see through their stories and their journeys in search of **peace and justice, a peaceful justice made of a just peace.**

As a Minister of Justice, one of the main challenges, as you all know and work for, is to find the wise and realistic ways to **embed restorative justice in the national and international justice systems.**

On one hand, it seems necessary to **avoid that restorative justice become an “added-on” or an “on the side” to criminal justice systems that remain unchanged.** On the other hand, as widely recognised, restorative justice can sometimes be an **alternative to criminal justice** and many other times (more often) it can **complement it:** the issue here is how to craft an **active relationship** between the two; how to allow a fruitful interplay between restorative and the traditional instruments of criminal law.

There is still a lot to do, I think, for the **cross-fertilisation between restorative justice in criminal matters and the law,** the harmonisation of their respective languages, and the mutual reinforcement of their (indeed) **common values and main objectives, especially if we refer to the Italian Constitutional provision of art. 27.**

I think that we are at the beginning of a new era in the history of the idea of justice.

3. Steps forward in the development of restorative justice: open issues, between lights and shades, in the current international and (pan)European debate

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In conclusion, let me address, as one last point, a set of future challenges in the restorative justice agenda, selected from my institutional point of view.

1. Inequalities and accessibility

A common effort is needed to overcome the persistent inequalities with respect to the level of implementation of restorative justice in European countries. There is a lot of 'formal' legislation, but not yet enough *factual* implementation, which results in an **unequal possibility of access** to restorative justice by those interested. Despite very clear international and (pan)European principles stating that restorative justice should be a generally accessible service, **accessibility is still not ensured** in the majority of the Countries.

2. Restorative justice is still under-used in the vast majority of the countries, even in those systems where restorative justice is embedded in the legal system. The reasons seem to be identifiable in a *lack of awareness* and a *lack of trust* by the legal professionals and by the citizens alike.

Restorative justice is still a stranger in our societies.

We need to develop a culture of restorative justice alongside an appropriate legal framework.

Academic courses, training for professionals and awareness-raising campaigns for citizens should be put in place in the framework of the action plans advocated by the Venice Declaration.

3. Is restorative justice a right or a service?

There is an ongoing debate on whether restorative Justice is, or should be, an individual subjective right. I invite you all to discuss and unfold the implications of conceiving restorative justice as an individual right or as a service (of course a public one) and to explore which State's duties are implied in conceiving restorative justice as a right or as a general and accessible service, free of charge, for all those interested.

Let me just highlight that the language of rights puts the individual at the centre, whereas in my understanding the restorative justice put the relations at the centre.

4. Potential of restorative practices to respond to citizens' justice needs

The scope of restorative justice. As stated in the Venice Declaration, restorative justice shall be considered "as a **culture** that should **permeate the criminal justice** system based on the participation of the victim and the offender on a voluntary basis, as well as other affected parties and the wider community in addressing and repairing the harm caused by crime".

Experience and research, though, suggest that restorative justice carries a potential to respond to justice needs also **outside the criminal justice system, such as**

- in prisons contexts
- in neighbourhoods and communities
- in schools
- in hospitals and health systems





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Connecting People to Restore Just Relations

- in institutional-organisational contexts.

Restorative justice calls for an ongoing, lifelong **social education** at large to support citizens in becoming more able and skilled to overcome conflicts – small and large – in a constructive way.

In this sense, restorative justice and restorative practices are an asset in building better social relations and in constructing more 'just' and peaceful societies. Restorative practices have the potential to foster a culture of responsibility in the nonviolent management of conflicts at the micro, meso, macro levels, from interpersonal micro conflictual contexts to institutional macro conflictual contexts, to international settings.

In this age of anger, fear, resentment, hatred, war, the practice of restorative justice can give an essential contribution in addressing the most urgent needs of our time. In the long-term, the dissemination of a restorative mindset promises to transform, step by step, the quality of our relational horizon, with the aim of preventing the outburst of irreparable dissent which opens wounds that cannot be healed.

After two years of pandemic, in the middle of a war, and in the aftermath of decades dominated by an extreme individualistic culture, restorative justice offers all of us the response that *we are looking for*, fit for the relational character of the human experience, where the other is not bound to be an enemy, a rival or a ghost, but is part and parcel of the experience of the self.

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