

Why and How to Support Restorative Justice

Excerpt from European Research on Restorative Juvenile Justice: Toolkit for Professionals: Implementing a European Model for Restorative Justice with Children and Young People

In 2014, the European Council for Juvenile Justice (ECJJ) undertook the task of creating a European Model for Restorative Justice with Juveniles in order to spread and advocate the benefits of a restorative approach. Restorative measures encourage a participative notion of justice that favours reintegration over retribution and punishment.

The following summary represents an excerpt from the recent ECJJ report on best practises within the EU. It illustrates a widespread attraction to use restorative measures. Yet, the findings suggest its practice in European countries is very limited, even non-existent. The document, therefore, provides an elaboration of key arguments for why it is important to support development of restorative justice measures as well as essential steps on how to do it.

Why support restorative justice:

- *Restorative justice is a way of understanding and doing justice through the active participation of victims, perpetrators and the community in repairing harm and preventing further harm.*

Harming someone entails consequences, the person harmed experiences injustice and needs the person responsible for the harm to be made accountable for this. Strong feelings will arise – anger, fear, humiliation, anxiety which may even cause physical or mental illness and have an impact on family, friends, neighbours etc. From society's point of view those affected by the harm are often not able to engage as productively as before in their education, employment or social activities. However, restorative justice offers a method of bringing the perpetrator, victim and the family members together to overcome re-offending through setting the sense of responsibility for one's actions.

- *Restorative justice delivers justice more quickly, more fairly and at a lower cost than formal systems of justice.*

For most harm restorative justice provides a less formal approach, which still protects rights and earns the confidence of the public. RJ can resolve many acts of harm in families, schools and communities in a relatively short time without recourse to the criminal justice system.

- *Restorative justice reduces the costs of state interventions, satisfies victims, stimulates remorse in perpetrators and reduces the risk of reoffending.*

There is substantial evidence that restorative processes:

Enable families to resolve their problems without formal interventions by professionals.

Enable schools to reduce disciplinary incidents and exclusions while improving educational

attainment. Satisfy victims' needs. Stimulate remorse and a commitment to make amends in perpetrators and reduce the risk of further harm and costs to the state.

- *Restorative justice is supported by international and European policy.*

Arguments for policy change towards restorative justice include:

Effectiveness: The criminal justice system is more effective in reducing offending and satisfying victims when the public participate actively in it

Legitimacy: People trust the criminal justice system and find it more credible, the more they can participate in it

Civic virtue: Participation in the process of justice enhances people's civic responsibility and their capacity to participate actively in society as citizens

- *Restorative justice contributes to bringing up children who can flourish in modern, democratic and pluralist European societies.*

How to support restorative justice:

There are two forms of legislation for restorative justice: **permissive** and **mandatory**.

Permissive legislation: allows the prosecutor or judge to consider making a referral for restorative justice whereas mandatory means that they are obliged to offer the young person a referral. It leaves the choice with the prosecutor or judge, while **mandatory** law allows the perpetrator or victim to decide whether to participate in restorative justice. Mandatory legislation is likely to meet considerable resistance from the legal profession. However, the evidence is that if a country wishes to put restorative justice at

Governments should support the implementation of family group conferences, as this has been found to be effective in families where there is a risk of neglect or where parents or carers are struggling to cope with a child's behaviour.

Key recommendations outlined by the report include:

1. *Pass legislation enabling or mandating prosecutors and judges to refer suitable cases for restorative processes.*
2. *Develop a holistic policy for criminal justice that includes prevention, diversion from the formal system, diversion from detention and reintegration through restorative processes.*
3. *Review policies on family support, children and schools to introduce restorative processes.*
4. *Establish standards of practice to assure the quality of restorative processes*
5. *Support high quality training to prepare practitioners to engage and prepare parties for participation in restorative processes and to facilitate the processes.*
6. *Promote restorative justice with the public and among key stakeholders.*
7. *Commission research into the delivery of restorative justice and its outcomes.*



Source: International Juvenile Justice Observatory,. *Toolkit For Professionals: Implementing A European Model For Restorative Justice With Children And Young People*. Brussels: International Juvenile Justice Observatory, 2015. Web. European Research on Restorative Juvenile Justice Volume III.

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