

Tools of Restorative Justice

Prof. Dr. Dobrinka Chankova



[Philosophy of restorative justice /RJ/]

- A new approach to crime and punishment
- Central role of victims
- Taking responsibility for actions and the damages resulting from them
- Community involvement
- Key word - restorative

[Philosophy of restorative justice (RJ)]

- RJ is a concept, doctrine
- It operates through various models
- The terms of models of restorative justice, restorative practices and restorative approaches are used interchangeably, taking into account context

Models of RJ

- Mediation between victim and offender
- Family Group Conferences
- Community conference
- Peacemaking circles
- Restorative conferencing
- Restorative warning

Victim - offender mediation

- A voluntary and informal process whereby the victim of a crime meets with the offender on neutral territory and with the help of a third neutral party (a mediator) aiming to reach an agreement on the consequences of the crime committed whereupon eliminating the need to start/continue criminal proceedings.

[Stages of Mediation]

- In-take procedure
- Preparatory meetings
- Mediation session(s)
- Individual meetings
- Monitoring the agreement implementation

Mediation Sessions

- Introduction
- Presentation of the case from different perspectives
- Generating options for decision
- Reaching agreement
- Closing the session

[Family Group Conference (FGC)]

- Originate from New Zealand and Australia
- Currently used in Europe too
- Applied mainly to juvenile offenders
- Useful when a program is needed to support a young person or their family in making changes.
- FGCs include the opportunities of the extended family and the interested institutions.
- They are held at neutral locations by trained independent coordinators.

[Family Group Conference (FGC)]

- *First stage:* begins with the professionals (police, social services, specialized units) who share information with family members and advise them on opportunities for further development.
- *Second Stage:* Family members discuss, reflect on and develop a plan for helping the minor with the specific situation.
- *Third stage:* The key professionals and the coordinator listen and record the family plan and prepare monitoring and review.

Restorative conference

- A hybrid between mediation and family conferences
- A process led by a police officer in which the victim, the perpetrator and those who support them (usually family members and friends) discuss the committed crime and the ways to “mend the situation.”
- This mechanism is particularly popular in England.
- It is mainly applied to juvenile offenders

Peacemaking circles

- Typical of the native population of North America.
- Specially formed groups, including community members, discuss and solve problems resulting from the crime.
- One of the main goals is "healing" of the community after the criminal act.

School Circles

- useful when a problem should be discussed in a group or there is a conflict or event having caused anxiety the group.
- focus on: the importance behind a specific behavior, conflict or event, who is injured, what they all felt and thought then and now, how the evil done can be corrected, how to meet the needs of people and how things can get better, what can be done to avoid what has happened so it doesn't happen again.

[School Circles]

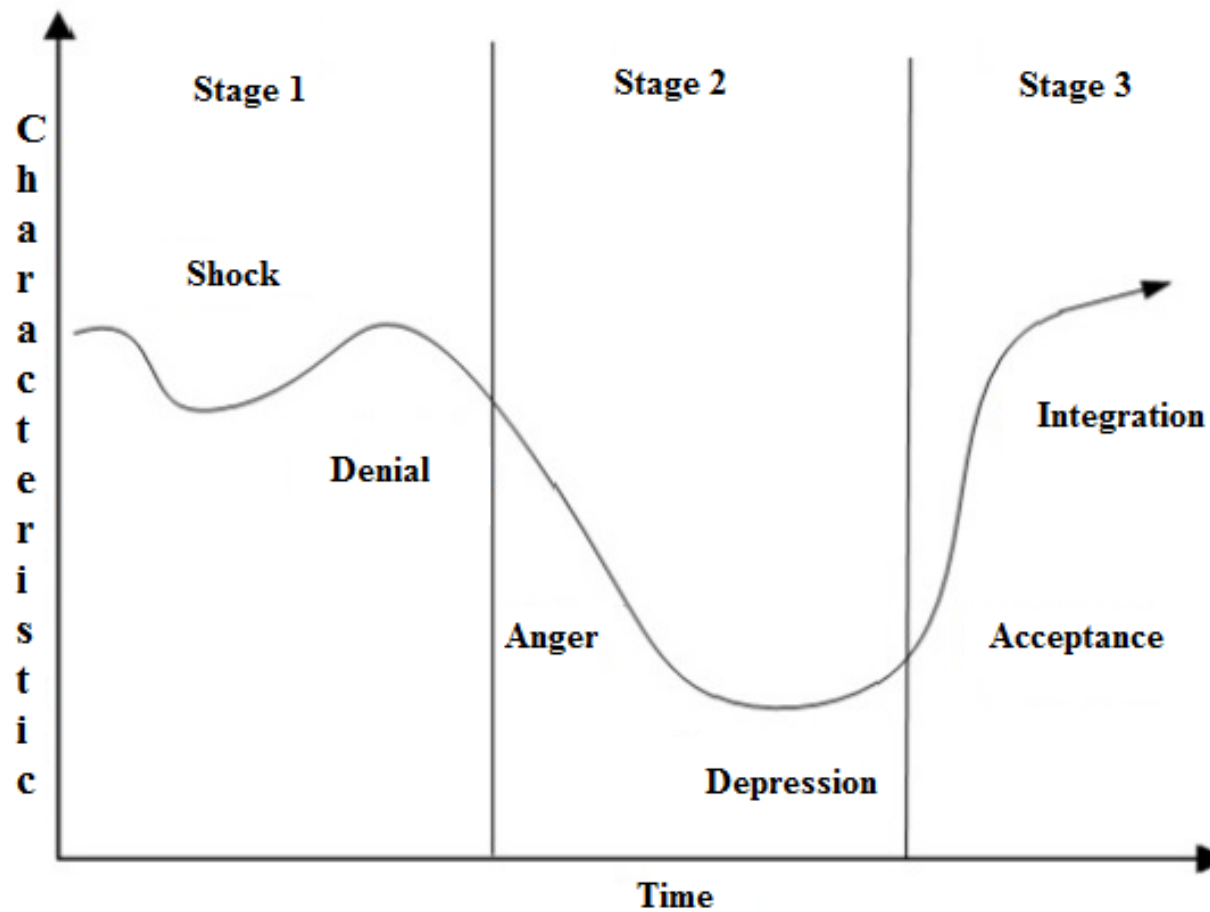
Help to:

- develop respect & self-respect
- understand other people
- build skills for dealing with conflicts
and resolving problems

[Truth & reconciliation commissions]

- Innovative practice, which started in South Africa in 1997 under the "Public Peace" Program
- It aims at mobilizing the local resources for resolving conflicts, "pacification" and building up society
- Restoration results: apology, correction of the damage, financial compensation and more.

The recovery process



Conclusion

- Restorative practices are not an universal cure.
- Not all crime problems and difficult situations can be successfully solved through them.
- If a model leads to better results an environment, it should not be taken for granted that it will happen everywhere.

Conclusion

- There are many different ways to promote restorative practices in different environments.
- Get ready for forthcoming trials and errors.
- But definitely, restorative approach could transform the way societies are currently organized, promote restorative climate and make them safer places.

[Thank you for your attention !]

- Time for questions

Practice

- Brain Storm 1

Would you identified the key issues for a restorative process?

Possible answers

- Could you explain what happened?
- What were you thinking about at that time?
- What did you feel at that time?
- How do you feel now?
- What do you think now?
- Who, besides you, has been affected by what happened?
- What can be done to make things right?
- What did you learn from the case?

Brain Storm 2

- Would you identified the key competences for a restorative process?

Possible answers

- Keep impartiality
- Active listening
- Respecting the counterparty
- Sympathy
- Patience
- Sensitivity
- Recognizing body language

Case 1

A group of youths start misbehaving in a local store. Some come from dysfunctional families living in a nearby building, whose fathers are known for their aggressive behavior. The Asian family running the store, trying to stay on good terms with local customers, ignores petty shoplifting from the store. The young people are becoming more and more daring and dangerous until one of them gets caught by a passer-by but resists violently. A call to the police and an arrest for theft and threatening behavior follow. The case goes to the specialized department for juvenile delinquency.

The owners, being the victims, are interviewed about their expectations for compensation.

Case 1 (continuation)

They show that they value their business and are disappointed by the attitude of the locals. They are “visited” by friends of the perpetrator and are told that they must accept an apology from the young offender to avoid his further punishment. The case falls within the jurisdiction of the Special Department of Juvenile Delinquency and by the law it is negligible. The owners are afraid of retaliation, as well as losing their source of income.

After a successful mediation, victims receive the expected benefits and assurances by the parents of the perpetrator without meeting face to face. However, the question whether the restorative intervention have been appropriate, since they have been pressured to participate, still remains?

Case 2

A young man is brought before the court for defrauding the charitable organization he works for. Most likely, he will be sentenced to imprisonment as a result of broken trust and the size of the fraud. However, this could make the young man a professional offender and cost the taxpayer a lot. Nothing can be done for the victim (the organization), nor the money can be returned. The judge, however, considers the inclusion of a restorative element in the offender's conviction.

The victim is mortified by the behavior of the young man, whom it has regularly helped, and wants their money back.

The judge sentences him to one-year imprisonment, but delays the implementation, taking into account the participation in a future Restorative process.

Case 2 (continuation)

An initial assessment of the injury is worked out followed by a suggestion how to fix it.

The perpetrator works with a facilitator to reach the appropriate level of remorse and awareness of his own responsibility. Then, he submits a written apology and offers to repair the damage. He eventually returns the money.

The victim approves the apology and agrees to accept it in person. A full restoration, including emotional, is reached. The offender reintegrates into his community, knowing that he has “paid back” for his illegal actions.

Case 3

- There is an argument for inflicting a light bodily injury by the volleyball star C. Darakchiev to the journalist B. Canova working for commercial magazine. She has taken a picture of him in the company of some female models without his permission out of working hours. Canova claims damages amounting to 10,000 BGN. Otherwise, she threatens to sue him and spread the photo. Darakchiev doesn't want neither the case nor the picture to get public, as he has a serious girlfriend and claims the negative. The sides turn to a mediator. What agreement can be reached?

[Good luck!!!]

chankova@yahoo.com