



**EXAMPLE OF A
CRIMINAL
JUSTICE
LITERATURE
REVIEW**



The criminal justice system is basically a retribution system of the so-called institutionalized retaliation (Price, 2001). Due to the disappointment in the retribution that led to great criticism of the penal system against children, new models of treatment of children were eliminated, eliminating the possibilities for occurrence of harmful consequences, such as regular court proceedings. The approach towards children has always had its specifics that distinguished it from acting against adults, as perpetrators of crimes. This need is justified by the psycho-physical, emotional and mental development of the child, and the age-to-maturity ratio. In the 70's of the last century, the revival of various theoretical concepts, international instruments, campaigns, projects, etc. began to revive. which are essentially a constructive answer to the criminality in which the focus of the social reaction is not in punishing the perpetrator, but in the compensation of the damage done and the correction of the disturbed relations between the perpetrator and the victim. Given the fact that restorative justice is a response to a critical reaction to criminal behavior, one should not be surprised that it is assessed as "a progressive alternative to the increased number of prison and other penalties that attempt to control criminality and achieve justice" (Johnstone, 2002, p. 1). The restaurant model has grown into a meaningful alternative in response to criminal behavior given the fact that it focuses on the relationship between the child and the victim, and if both parties are children, then their parents are involved. Through change in the conduct and level of moral judgment of the perpetrator, with restorative justice, reintegration is achieved without isolation of the perpetrator from the society. This approach assumes a greater interest in the position of the injured party in the penal field and overcoming the situation in which the victim was on the margins of the penal system. Restoration presupposes a flexible response within firmly defined principles for the involvement of the stakeholders and their active participation in the process of finding the ultimate acceptable outcome.

The restorative justice focuses on the interests of the victim and the wider community, and the benefits to the child are undoubted.

Restorative justice redefines the primary goal of the criminal law, and it is to restore peace, to cure the injury, to compensate for the damage, and to teach the perpetrator of empathy and compassion when it caused suffering. The pronouncement of severe punishments does not resolve the conflict between the perpetrator and the victim and leaves room for dissatisfaction with both sides and the feeling that they are outsiders in their own case. Three basic postulates that characterize restorative justice could be distinguished: Firstly, the crime should not primarily be understood as a violation of a legal norm and a state-only act, but rather as a conflicting situation that disturbed relations between the directly affected parties to the conflict - the perpetrator, the victim and the community. The violation of a legal norm has secondary importance for the relationships between the parties concerned; Secondly, the general objective of the criminal justice system should be reconciliation of the parties concerned, correction or compensation of the harmful consequences that arose from the criminal act, and not primarily aimed at punishing the perpetrator through which it will be affected by its correction or re-socialization; and Thirdly, and most importantly, the criminal justice system should not be the exclusivity of the judicial authorities that marginalize the role and interests of the victims, the community and the perpetrators themselves and are focused on the past, rather than the future. The restorative justice contains a philosophy that leads from punishment to reconciliation, from vengeance against the perpetrator to the care of the victims, from alienation and isolation from the community to the support and assistance of the perpetrator in order to restore the relations with the victim, which is in favor of the community as a whole (Consedine, 1995).

Although restorative justice is a relatively new concept in penal legislation that began in organized criminal law to be investigated in the '70s of the last century, yet its beginnings date back a long time ago. Numerous authors seek its roots in tradition, customs and religion at a time when there was no difference between criminal offenses, on one hand, and other conflicts, on the other, and everything was judged as a conflict between individuals whom individuals themselves should resolve (Gavrielides, 2005).

Certain authors call restorative justice a new name for an old concept (Friday, 2003, p. 1). In this sense, restorative justice today supersedes the above terms: restitution, compensation, compensation, settlement, mediation, reconciliation, etc. which points to its roots in the earliest legal systems. The term restorative justice was first used by Albert Eglash in 1977, pointing to three types of criminal justice systems: a punitive justice based on the punishment system; distribution justice based on therapeutic treatment of perpetrators; and restorative justice based on restitution or compensation or remedy of the damage done by the crime (Van Ness, & Strong, 2002, p. 27).

Defining restorative justice is not at all simple, and its correct and comprehensive definition depends on its acceptance as a useful and effective concept. Restorative justice is an approach to justice that focuses on the needs of the victim, the perpetrators and the affected community, rather than meeting the abstract legal principles and norms that result in the punishment of the perpetrator. Restorative justice implies to all programs that are based on a restorative process and mean the achievement of restorative goals. A restorative process involves the involvement of all stakeholders - victims, perpetrators and members of the local community in resolving the dispute on the occasion of a committed crime and finding an adequate solution. A restorative goal, in other words, is to achieve an agreement as a result of the restorative process, including compensation, community work and other programs designed to provide reparation for the victims and the community, as well as the reintegration of the victim and perpetrator. As can be seen, this complex definition emphasizes the participatory process thus created to enable the desired restorative result to be achieved, giving them equal importance to all participants in the procedure.

Restorative justice is based on four basic principles that are pivotal and in its determination (Zehr, 2002). The first principle is the principle of personality, that is, understanding the crime, initially as a human injury and interpersonal relationships. The second principle is the principle of remedying the damage that arose as a result of the crime.

The third principle refers to the participation of actions or the so-called principle of participativeness and, ultimately, the principle of reintegration that implies the stay of the perpetrator in the community, and not its isolation and stigmatization while reintegrating the victim, and not its marginalization, is a fourth principle. Criminal legislation is in crisis precisely because of the exclusive use of penalization. The restorative justice presupposes the use of a restorative process or restorative purposes in order to achieve a restorative end-effect i.e. a result.

"Restoration process" means any process in which the victim and perpetrator and, where appropriate, all other involved persons or members of the community who are affected by the offense are enabled to actively participate in the resolution of problems arising from the criminal act work, most often with the help of a specially trained and proficient mediator.

Restoration processes may include mediation, reconciliation, meeting, etc.

"Restoration score" means an agreement reached as a result of the restorative process. The restorative results include responses and programs such as reparation, restitution or community work in order to meet the individual and collective needs and responsibilities of the parties and to achieve the reintegration of the victim and the offender.

The restorative process and outcome can only be applied when the facts related to the event are indisputable both for the perpetrator and the victim.

This is exactly the most typical characteristic of restorative treatment - all efforts are aimed at resolving the consequences and finding a common solution as a reaction to the committed, and it does not get involved in determining the facts that make the essence of the work. Hence, the programs that can be referred to as restorative justice generally can be divided into two groups (O'Mahony & Doak, 2008):

- Those in the restorative process - mediation, panel discussions in order to overcome family problems and programs for the prevention of crime,
- Those that provide restorative end-outcomes - restitution, community service, victim support programs, and treatment programs for perpetrators.

REFERENCES

- Price, M. (2001): "Personalizing Crime". American Bar Association: Dispute Resolution Magazine, 7 (1): p. 8 – 11.
- Johnstone, G. (2002): Restorative Justice – ideas, values, debates. Devon: Willan Publisher.
- Consedine, J. (1995): Restorative justice: healing the effects of crime, Ploughshares Publications; 2nd revised edition.
- Gavrielides, T. (2005): "Some Meta-Theoretical Questions for Restorative Justice", Ratio Juris: Vol. 18: No. 1: p: 84 – 106.
- Friday, P. (2003): "Restorative Justice: The Impact on Crime", Stellenbosch, South Africa.
- Van Ness, D. W., Strong, K. H. (2002): Restoring Justice. Cincinnati, OH: Anderson Publishing Co.
- Zehr, H. (2002): The Little Book of Restorative Justice. Good Books, Intercourse, PA, USA.
- O'Mahony, D., Doak, J. (2008): Restorative Justice and Youth Justice: Bringing Theory and Practice Closer Together in Europe, Reforming Juvenile Justice, (eds. Junger-Tas/ Dünkel), Springer, p. 165 - 182.