

Restorative Circles Within the Juvenile Justice System

Restorative justice processes are deeply resonant with the philosophy and principles of juvenile justice in the Juvenile Justice (Care and Protection of Children) Act, J Act, 2015 as well as the United Nations Convention on the Rights of the Child, 1989. The Committee on the Rights of the Child has stated:

“The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives in dealing with child offenders.” (Committee on the Rights of the Child, General Comment No.10 (2007) Children’s Rights in Juvenile Justice, CRC/C/GC/10, 25 April 2007, para 10)

Restorative process is “any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator.”¹ Combined with rehabilitative measures under the JJ Act, 2015, Restorative processes can be an effective mechanism for addressing victims’ needs, facilitating accountability, rehabilitation and social reintegration of children found to be in conflict with the law, in preventing recidivism, and in aiding the healing of all parties.

In an express reference to restorative justice, in *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India*,² the Supreme Court observed:

The importance of rehabilitation and social re-integration clearly stands out if we appreciate the objective of the JJ Act which is to foster restorative justice. There cannot be any meaningful rehabilitation, particularly of a child in conflict with the law, who is in need of care and protection unless the basic elements and principles of restorative justice are recognized and practised. (para 45)

Restorative processes can also be used to enable children in need of care and protection to process harm and state what they need to move forward. The Supreme Court Committee on Juvenile Justice has acknowledged the urgent need to operationalize the principles of

¹ ECOSOC Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, ECOSOC Res. 2000/14, U.N. Doc. E/2000/INF/2/Add.2 at 35 (2000).

² AIR 2017 SC 2546.

diversion, especially for children repeatedly involved in petty offences, and the principle of institutionalization as a measure of last resort for children in conflict with the law (CICLs).³ This would entail intensification of efforts to deinstitutionalize children as well as development and strengthening of family and community based care programmes. In this context, Restorative Processes can be used to repair and rebuild the relationships between the child and the family. For instance, the families of children rescued from trafficking or children found to be in conflict with the law often refuse to accept them back. The feeling of isolation, rejection, stigma, and blame that a child internalizes because of this, impedes the child's social reintegration. Restorative processes can serve as a tool to rebuild familial relationships in furtherance of the principles of family responsibility and repatriation and restoration.

Since 2016, staff and consultants with Enfold have been trained on restorative justice processes by international experts.⁴ They are competent to use restorative processes to facilitate social reintegration and mainstreaming, and family strengthening and are offering these services for a select number of children in conflict with the law as well as children in need of care and protection.

Restorative processes are well suited for children in conflict with the law and children in need of care and protection as well as their families and caregivers and can be initiated at any stage. Restorative processes can also be included as part of the Individual Care Plan “to restore the child's self-esteem, dignity and self-worth and nurture [the child] into a responsible citizen...” (Rule 2(1)(ix), JJ Model Rules, 2016).

To initiate this work in your institution or to learn more about restorative practices, please contact info@enfoldindia.org

³ Supreme Court Committee on Juvenile Justice, “Strengthening Rehabilitation & Restoration of Children under the Juvenile Justice System – Recommendation Regional Consultations”, September 2016, pp.26, 36. Supreme Court Committee on Juvenile Justice, “Effective Implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015: Focus on Rehabilitation Services and Linkages with the POCSO Act, 2012”, August 2017, pp.13-15. Supreme Court Committee on Juvenile Justice, “Effective Implementation of the Juvenile Justice (Care and Protection of Children) Act: Focus on Integrated Child Protection Scheme – Consolidated Report 4th Round of Regional Round Table Consultations”, 2018, pp.48, 55.

⁴ Staff and consultants at Enfold have been trained by sujatha baliga, Impact Justice USA on circle process and harm circles; by Terry O'Connell, Real Justice, Australia on Restorative Justice Conferencing; and by Sonya Shah, Ahimsa Collective, USA on circle processes.