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Basic Principles on the Use of Restorative Justice Programmes

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Restorative Justice

- Both an **approach to crime** that operates on a different set of principles than the conventional criminal justice system and a **criminal justice process**

Approach: **crime causes fundamental harm** to individuals, communities and society as a whole

Process: **brings together the victim and the offender to participate together** in the resolution of matters arising from the crime, generally with the help of a **facilitator**

- A key measure in increasing access to justice by giving those affected by the crime **a voice and power to address the harm** (often the only measure that allows victims of crime to participate!)



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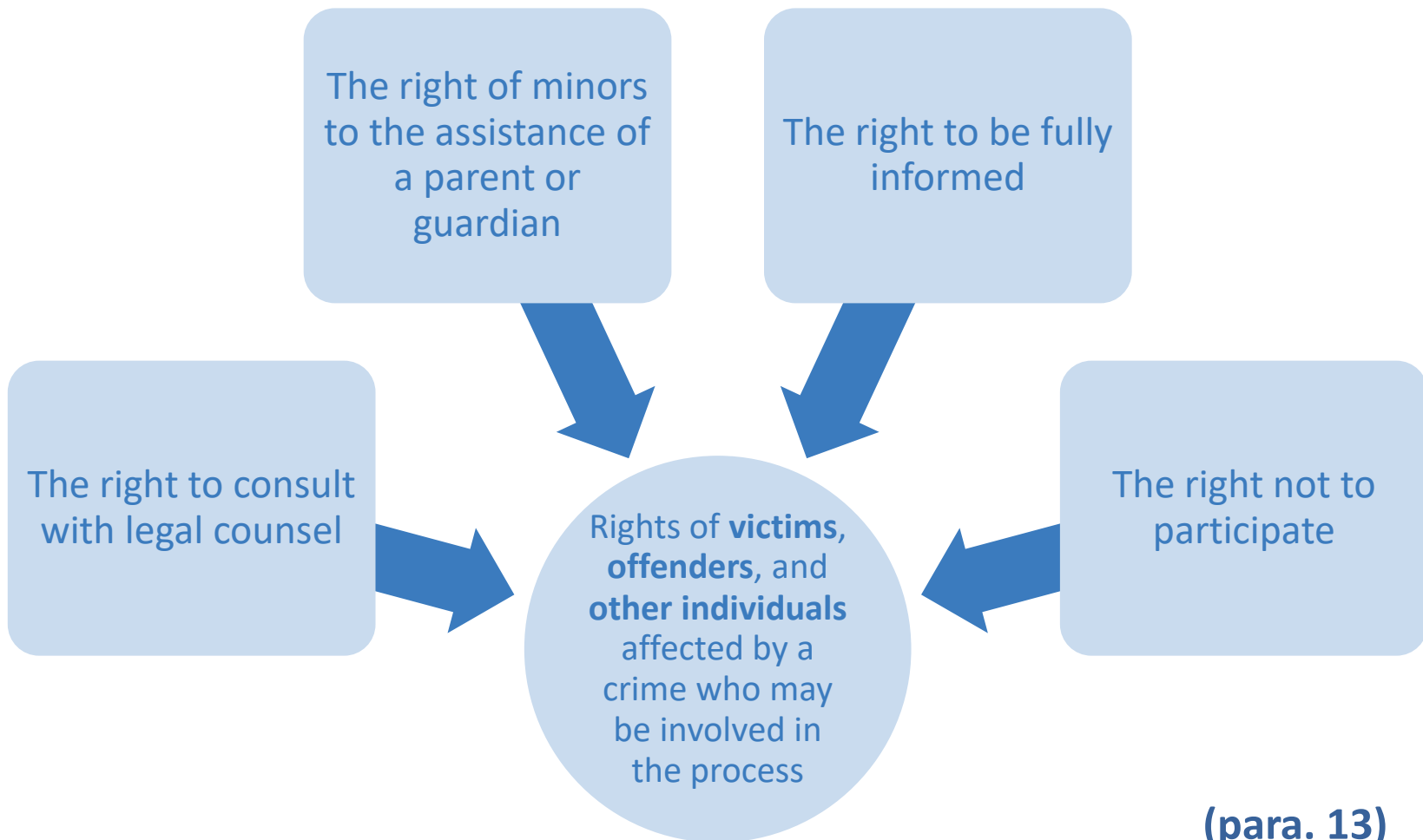
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Basic Principles on the Use of Restorative Justice Programmes (2002)

- Adopted by the Economic and Social Council in 2002 in response to the growing use of restorative justice by Member States
- Provide guidance in developing restorative justice at any stage of the criminal justice system
- Encourage Member States to adopt and standardize restorative justice, with legislative authority if necessary
- Articulate fundamental procedural safeguards to guarantee fairness to the offenders and victims



Rights of parties to ensure fairness of process



(para. 13)



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Legal and policy safeguards

**Participation of an
offender is not evidence
of guilt**

(para. 8)

**Agreements should be
voluntary and be
reasonable**

(para. 7)

**Confidentiality of
proceedings**

(para. 14)

Judicial supervision

(para. 15)

**Failure to reach an
agreement**

(para. 16)

**No increased
punishment for failure to
implement an agreement**

(para. 17)



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Other relevant international standards and norms

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1989)

United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules, 1990)

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules, 2015)

United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules, 2010)



Other relevant international standards and norms (Cont.)

The Convention of the Rights of the Child (CRC)

United Nations Standard Minimum Rules for the
Administration of Juvenile Justice (the Beijing Rules, 1985)

United Nations Guidelines for the Prevention of Juvenile
Delinquency (the Riyadh Guidelines, 1990)

United Nations Model Strategies and Practical Measures
on the Elimination of Violence against Children in the Field
of Crime Prevention and Criminal Justice (2014)



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Regional Instruments

The
Council of
Europe

*Recommendation
(2018) 8 concerning
restorative justice in
criminal matters*

The
European
Union

*Victims' Rights
Directive
(2012)*



Restorative justice processes in the context of violence against women

The Committee on the Elimination of Discrimination against Women

- The rights to use mediation, conciliation, arbitration and collaborative dispute resolution
- These procedures should not restrict women's access to judicial or other remedies and not lead to further violations of rights
- Free and informed consent of victims, no indicators of further risks

The Commission on the Status of Women

- Prohibit compulsory and forced alternative dispute resolution processes, including forced mediation and conciliation, in relation to all forms of violence against women and girls

The Council of Europe Convention on preventing and combating violence against women and domestic violence

- Also prohibit the mandatory use of alternative dispute resolution processes

Thank You

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