

PROTECT

Exchanging good practices on restorative justice
and promoting the victims' rights protection



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Key-guiding principles for protecting victims engaging in restorative justice

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Notes on the authors

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Laura and Hilde attended the 2nd training session of the Erasmus+ project "PROTECT- Exchanging Good Practices on Restorative Justice and Promoting Victims' Rights Protection" (Viterbo 27-30 September 2022) on behalf of the European Forum for Restorative Justice. They facilitated an interactive workshop on Key guiding principles for protecting victims engaging in restorative justice. The guideline below is a result of this workshop. To get in touch with Laura or Hilde, please contact them via: info@euforumrj.org

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Introduction

Building on the [guidelines](#) – on assessing victims' needs from a trauma-informed framework – developed by Olga Kiseleva and Claudia Christen-Schneider, this paper approaches needs from a universal needs framework within non-violent communication; assuming that, in order to protect victims engaging in restorative justice, practitioners have to help them identify and express their needs. In order to explore the value of this framework for restorative justice, this paper briefly explains how the universal needs framework is a valuable tool to identify the needs of victims (and offenders). After identifying some of the key universal needs of victims, it will explore which of these needs are in common with those of offenders and which needs can be fulfilled by the other party participating in a restorative justice process. Finally, the paper addresses the question of what, in addition to addressing their needs, is needed to protect victims within restorative justice. Indeed, restorative justice cannot cover the full spectrum of victims' needs; cooperation and coordination with other social services, in general, and victim support services, in particular, is therefore recommended.

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Approaching victims' needs from a universal needs framework

The universal needs framework is embedded in the theory of non-violent communication developed by Marshall Rosenberg. What is interesting about this collection of needs is their universality. Normally, all people from all countries, races, genders, (and other individual and social differences) will recognise these needs. Thus, if people express their needs on this universal level, others will easily understand them because they too experience these same needs, from time to time.

So, to help people understand each other, a professional can encourage a client to express his needs on a universal level. For example, if the client expresses the need to visit a therapist every Friday, the underlying universal needs might be: empathy, communication, to learn, self-confidence. It is easier to connect with the universal needs than with the specific need 'to visit a therapist'.

Some universal needs are very closely connected to victimhood and perpetration, for example: safety, responsibility, honesty, recognition, empathy, respect, understanding, to be heard, to mourn, (self-)confidence; this list is neither exhaustive nor conclusive. For example: in a judicial context, the following needs are often expressed: justice, emotional wellbeing, to let go, authenticity, restoration. These words are not included in the above scheme, but they can be easily understood as universal needs.

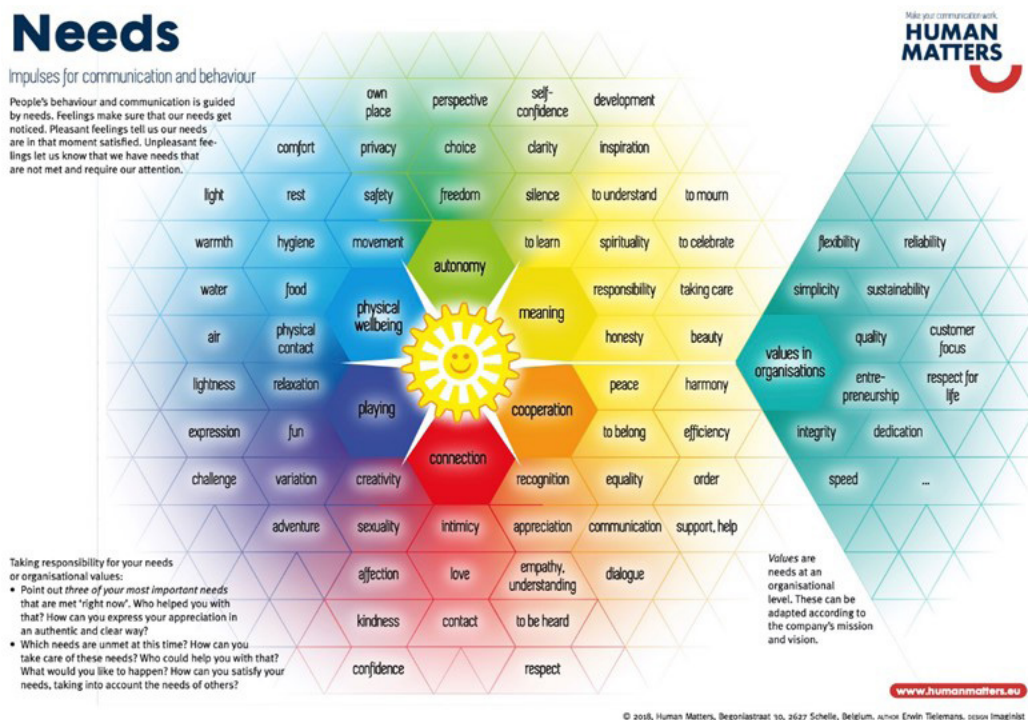


Figure 1. Universal Needs Scheme developed by the Belgian organisation Human Matters: <https://www.humanmatters.eu/en>

The use of the universal needs framework in a restorative justice process

As explained before, to talk to others on a universal needs level can be helpful to understanding each other. However, in daily life, most people talk in concrete ways about their opinions, solutions, etc. Offering concrete solutions for a problem easily creates a conflict, because there are many solutions for a specific problem and each person tends to stick with their own 'best' solution. If the conflicting parties are helped to identify the universal needs within specific solutions, then it is more likely that they will find a shared solution which takes the needs of the different conflicting persons into account.

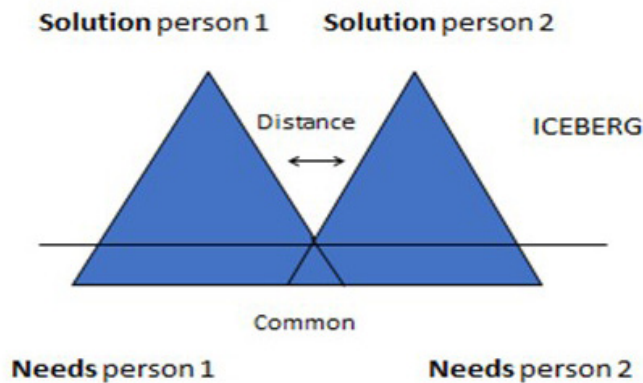


Figure 2. 'Based on the Harvard Negotiation Method'

Here is an example of a possible everyday argument: after a busy day at work, you don't have the energy to cook but are in the mood to buy French fries, cheap and easy to get. Your partner instead wants sushi, as it's more healthy. If you start a discussion on the solution-level (i.e. sushi vs. French fries) then this minor difference of opinion can turn into a family argument. You will be more successful in resolving this disagreement by expressing your universal needs: you both need rest and food, your partner needs healthy food and you need a cheap solution. Reflecting these needs, the shared solution might be a Hawaiian poke bowl (cheap and healthy at the same time), which takes into account the needs of both you and your partner. By thus sharing universal needs, people have a wider choice of concrete solutions.

The benefits of talking with each other on a universal needs level can be extremely useful in a restorative process between victim and offender. If a victim of a violent robbery says to the offender: "I want you to be in jail for 20 years, because that's what you deserve", it is likely that the offender will react to this potential solution by defending himself, saying: "Are you crazy? They don't even use this penalty for more severe crimes". If the facilitator can help the victim to express their underlying universal needs, for example: need of safety, need of recognition, need for the offender to take responsibility, then it is more likely that the offender will understand these needs and will react in a more understanding way. Victim and offender might start to talk about the consequences of the crime and the victim's anxiety and what the offender can do to restore their feeling of safety, for example: by participating in an intensive therapeutic programme or a behaviour course focussing on aggression, in combination with a prison sentence.



Needs which are common to both victims and offenders

Expressing underlying universal needs can be very useful during a restorative process, it helps participants to understand and recognize the needs of the other party as well as to discover possible common needs. Facilitators work with the parties in identifying and expressing these needs, in finding concrete feasible solutions and possible agreement.

Several universal needs were identified in a case of rape by a male perpetrator, whose victim was his girlfriend. The following reflections and conclusions are based on the discussions around this particular case.

By underlining that, every victim (and offender) – depending on their individual situation – can feel any of the universal needs listed in the framework, the following core universal needs have been identified (hypothetically) for the victim in the above case: the need for safety, protection (and self-protection), support and taking care, as well as love, affection, emotional wellbeing and psychological integrity. Additionally, we identified the need to be heard, the need for recognition, for the offender to take responsibility, respect and understanding; needs that most victims express together with, and linked to, the need for empowerment, self-confidence, gaining control, perspective, choice and freedom.

As for the offender in this case, he may have the need for understanding and making sense of his life in order to find new perspectives. They may be linked to the need to find self-respect and (self-)confidence. Other common needs that are often mentioned by offenders entering a restorative justice process are the need for love and affection and the need to (re)connect with their family, friends and society, to feel that they belong again. The same can be said with regard to the need for recognition and to take responsibility for what happened.

By identifying some key universal needs of the offender, we can recognise that some of these needs are common to those of the victim. Interestingly, consideration should be given to identify which of the universal needs of each of the parties involved in a restorative process can be specifically fulfilled by the other party. Indeed, understanding, recognition, perspective and accepting responsibility are probably the most common needs that can be addressed in a specific and meaningful way by the other party involved in a restorative process.

A major reason victims give for wanting to enter a restorative justice process is that they have questions which only the offender can answer. Thus, the need for the victim to understand what happened can be addressed almost solely by the offender. The dialogue with the offender can help the victim regain self-confidence; for example, when realising that what happened was not the victim's responsibility. Likewise, only the victim can address the offender's need to understand the impact of the crime committed and to take responsibility.

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The victim's need for recognition is very much related to the offender recognising what he has done. Only then can the victim and the offender find self-respect and peace. It is often stated how important empowerment is to a victim's healing process and that restorative justice can play an important role in empowering victims. Indeed, when confronting the offender, through a restorative dialogue, victims can gain control of the situation and consequently take matters back into their own hands.

How can the restorative justice practitioner protect victims by taking care of their universal needs?

In every phase of the restorative justice process the facilitator has to pay attention to the needs of both the victim and the offender, and to look at underlying needs when both parties offer concrete solutions. From the above case of rape within a relationship, the following topics have been identified:

How to take care of the victim's universal needs:

- Give information and check whether they understand your explanation
- Use communication skills, such as:
 - asking open questions
 - active listening
 - show understanding by rephrasing what they said
- Show empathy
- Give enough time and space
- Take time to build trust and connections: be transparent, reliable, non-judgemental
- Explore their needs and feelings and help the victim to express them: including negative emotions
- Explain the basic principles and values of restorative justice such as:
 - empowerment: give the victim the freedom to choose whether they wish to communicate with the other party or not, which restorative method they prefer, and which communication tools they want to use; acknowledge their strength and courage when the victim chooses to participate in a restorative justice process; inform the victim that they can decide to end the restorative process at any time.
 - confidentiality of the process
 - multi-directed partiality¹ (Boszormenyi-Nagy)
- Take time to be well prepared for the restorative justice meeting (give participants the choice about the setting, the content, safety measures, explain that they can leave and stop the process, apply restorative justice principles, etc.)
- Safeguards: Ask if the victim is already receiving support; for example, victim support, a therapist, a good friend or family member to talk to, etc. Let the victim know that they can ask for one or more support persons to join the restorative justice process
- Explore the decision to participate and expected outcomes, manage any expectations
- Create a respectful framework
- Provide good training and supervision for restorative justice practitioners

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¹“Multi-directed partiality” consists of a sequential empathic turning towards all the conflicting parties and their context. See the reference to Boszormenyi-Nagy (1986).



(Un)surprisingly, there is an overlap between the way the practitioner has to take care of the needs of the victim and those of the offender. Indeed, everything listed above should be applied to the care of offenders.

During the workshop, we concluded the following concerning the offender:

- Help to understand what responsibility means, by helping them to understand the impact the crime had on the victim and by sharing the consequences to the victim.
- Focus the offender on how they can address the needs of the victim
- Help them to find self-respect (for example by taking responsibility, by talking with the offender as a human being, with respect, etc.)

What, in addition to taking care of their needs, is required to protect victims in restorative justice?

Using the universal needs framework in a restorative process can have a significant impact on recognising and addressing victims' needs; restorative justice protects victims by taking care of their needs. However further measures are required within and beyond restorative justice to protect victims.

General safeguards for victims must be put in place since they are not always able to identify and/or express their needs. The facilitator's role is key in this regard, and during the entire restorative justice process. Restorative justice practitioners must be aware of their own needs, thoughts, feelings and values. Therefore, carrying out a self-assessment before and after the process helps facilitators to prepare themselves for the process. Facilitators should receive regular case supervision and self-care measures should be in place to prevent burn out by the facilitator.

It must be stressed that restorative justice cannot address and take care of the full spectrum of victims' needs. Needs such as psychological or medical support, legal advice, shelter and housing among others are beyond the reach of restorative justice services. Thus, in order to assure wider support for victims' needs and protection, collaboration and coordination with other social services, in general, and victim support services, in particular, is important.

These services are not only essential to the victims' recovery but also provide significant support to the restorative justice process and to the achievement of positive outcomes. The complementarity of victims' services with restorative justice services, i.e. a multi-agency and comprehensive approach, can guarantee a complete support and protection framework.

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Conclusions

This paper argues that, in order to protect victims engaging in restorative justice, practitioners/ professionals have to take care of their needs as well as those of the offender. Indeed, by caring for the needs of the offender we support the creation of a safer society which is beneficial for the victim as well as for the offender and for their communities. The universal needs framework is presented as a valuable approach in restorative justice that helps the parties to understand and recognise the needs of the other party as well as an opportunity to discover possible common universal needs. However, restorative justice is not meant to fulfil all the universal needs of the victims: a multi-agency approach with other services (i.e. victim support services) is recommended to guarantee a complete support and protection framework for victims.

Reference list:

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