



The Role of Restorative Justice and Judicial Probation in the Process of Social Rehabilitation in Open Environments: Opportunities and Limitations

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Abstract

The article presents restorative justice and judicial probation as alternative approaches to supporting the process of rehabilitation in non-custodial settings. Restorative justice is portrayed as a practice grounded in dialogue among the offender, the person who has suffered harm, and the community, with the aim of achieving reparation and rebuilding relationships. Judicial probation is described as a form of supervision and support for the offender while remaining in the community. The article highlights the need for public education, a shift in institutional attitudes, and the elimination of systemic barriers, such as the shortage of qualified mediators and low public awareness. The authors conclude that combining these two alternatives may contribute to a reduction in recidivism and a more effective process of social reintegration.

1. Introduction

Resocialization practice demonstrates that social rehabilitation is, by nature, a long-term and challenging process, in which both minor and major goals are established, and their implementation requires only one essential factor: time (Żeromska-Charlińska, 2022). Today, we observe an

intense discourse regarding the directions in which the rehabilitation of offenders is evolving. Both academic and practical environments continuously confront theoretical assumptions and exchange professional experiences. The effectiveness of practitioners, namely, rehabilitation personnel—has become the key measure of their work. Society, in a certain persistent way, demands an appropriate response to the dysfunctional behavior of maladjusted individuals. On the other hand, families and the individuals undergoing rehabilitation themselves, as Kwadrans (2013) aptly notes, often display high expectations regarding the outcomes of resocialization efforts.

Modern rehabilitation continually seeks new and more effective interventions. Among these are judicial probation and restorative justice. Increasing emphasis is placed on the need to depart from formal criminal procedures, especially in cases involving minors (Zalewski, 2017). Youth accused of criminal acts are frequently stigmatized, marginalized, and treated as social outcasts. In recent years, transformations in Poland have revealed the absence of a coherent system for crime prevention, particularly in relation to juvenile delinquency. Public opinion has been dominated by negative perceptions of the effectiveness of institutional care and educational systems. This situation led to initiatives aligned with international trends, supporting the use of non-custodial measures (Baładynowicz, 2006).

Probation measures represent a form of criminal response in which the offender is subjected to control, supervision, or assistance within the community for a specified period. Their purpose is to allow the offender to rehabilitate and reintegrate into society without serving a custodial sentence. These measures may include, among others, conditional suspension of sentence execution, supervision by a probation officer, obligation to follow certain behaviors, mediation, or the performance of unpaid community service. According to Articles 67-76 of the Penal Code (Ministerstwo Sprawiedliwości, 1997), probation measures fulfill educational, preventive, and rehabilitative functions. They serve as an alternative to custodial sentences, particularly for offenders whose actions and degree of culpability do not warrant a harsh penal response.

Probation measures, especially those involving mediation, have become increasingly popular in the United States as a response to harm caused within school environments and as an alternative to the „zero tolerance” policy. They are an attempt to reduce the phenomenon commonly referred to as the school-to-prison pipeline (Kimbrell, 2022).

2. Definitions of Restorative Justice

Restorative justice is a concept that has been gaining importance in recent years, offering an alternative approach to the traditional criminal justice system. It is a process focused on repairing the harm caused by an offense, involving all parties affected by the conflict in its resolution. Numerous definitions of restorative justice emphasize different dimensions of the concept from reparative procedures to broader philosophical understandings of the community's role in restoring justice.

One of the most frequently cited definitions describes restorative justice as a process in which both parties connected to the offense meet to jointly determine how to repair the harm and prevent further consequences in the future (Czarnecka, 2001). This definition emphasizes, above all, the importance of dialogue and cooperation between the offender and the victim, aiming to resolve the problems arising from the committed offense. A key element here is the development of a mutual agreement regarding the reparation of the harm done.

Another important contribution to this discourse comes from Martin Wright, who defines restorative justice as “a process aimed at repairing the harm caused by crime”. According to his definition, the essence of this approach is to allow the offender to undertake reparative actions and to offer the victim (if they consent) the opportunity to participate in a discussion about the form of redress. In this process, the local community also plays a vital role, as it should be involved in implementing restorative actions (Czarnecka, 2001, p. 14). Wright thus emphasizes the role of both the offender and the victim, but also the wider community in rebuilding justice.

Jim Consedine presents restorative justice as “a philosophy that incorporates various human emotions and values such as healing, reflection, empathy, forgiveness, compassion, and the pursuit of reconciliation, as well as, where necessary, the application of appropriate sanctions”. For Consedine, restorative justice is primarily an approach that acknowledges the interconnectedness of individuals and the mutual influence they have on one another. The reparative process involves not only victims and offenders but also their families and the broader community (Consedine, 2004, p. 206). In this way, restorative justice becomes a method for rebuilding social bonds and understanding the consequences of crime on both interpersonal and community levels.

The definition provided by the European Forum for Restorative Justice (EFRJ) goes even further, describing the approach to harm or the potential for harm as one that involves “engaging all interested parties in a process of joint decision-making and mutual understanding.” In this context, restorative justice is not merely about individual reparations, but also a process that involves the entire community, aiming to find a solution that allows justice to be achieved in a balanced and holistic way (Chapman, 2021, p. 11). According to these definitions, restorative justice is not simply about punishing the offender but rather about restoring balance and rebuilding trust between the parties in conflict. The aim of this process is not only to repair the harm caused but also to prevent further negative consequences such as recidivism or social exclusion.

3. Overview of the Issue of Restorative Justice

Restorative justice is a concept of criminal responsibility that began gaining popularity in the 1970s, primarily in Canada, Norway, and England. Its development emerged as a response to growing dissatisfaction with traditional models of justice, namely the retributive (punishment-based) and social rehabilitation models. The ineffectiveness of social rehabilitation and its associated high costs were especially criticized. In contrast, a new approach was proposed that involved returning the conflict to the parties directly involved. It is worth noting that methods such as mediation and negotiation are among the oldest forms of conflict resolution, they were employed both in primitive communities and in ancient and modern civilizations (Różyńska, 2005, pp. 1–3).

Modern approaches to crime have demonstrated that the victim’s suffering stems not only from the harm inflicted but also from additional psychological trauma, stress, and the experience of participating in formal criminal procedures. This has highlighted the need to give victims an active role in the proceedings enabling them to have a real influence on the course and outcome of the process, and protecting them from secondary stigmatization (Kujan, 2009, pp. 23–24). The roots of restorative justice are also linked to victimology a discipline that focuses on the situation of the victim and emphasizes the need for protection and access to justice. The primary goal of this approach is to provide reparation to

the victim for the harm suffered (Łukawska-Malicka, 2022, p. 45).

Restorative justice also draws on the ideas of abolitionism, which, instead of focusing on the crime itself, emphasizes the conflict between the parties and seeks to resolve it through reconciliation. In this process, the involvement and attitudes of both the offender and the victim are of great significance. Abolitionists criticize the institution of punishment, arguing that it hinders the offender's return to normal life. Instead, they propose that the primary aim of criminal proceedings should be the alleviation of tension resulting from the offense something that can be achieved through mediation (Łukawska-Malicka, 2022, pp. 46-47). In the context of restorative justice, the possibility of direct dialogue between participants in the criminal process plays a particularly important role. The most prominent form of such dialogue in the Polish legal system is mediation, which was formally introduced into the Code of Criminal Procedure through the amendment of January 10, 2003 (Łukawska-Malicka, 2022, p. 47).

Table 1. Criminal Justice versus Restorative Justice

Criminal Justice	Restorative Justice
Determining who is guilty	Solving the problem
Emphasis on the past	Emphasis on the future
The needs of the parties are marginalized	The needs of the parties are prioritized
Differences are emphasized	Common ground is emphasized
Harm is balanced by punishing the offender	Harm is repaired by the offender
Focus is on the offender	Focus is on the victim's needs
Main roles: judge, prosecutor, defense attorney	Main roles: victim and offender
Victim lacks access to information	Victim is fully informed
Reparation is rare	Reparation is the norm
Victim's suffering and truth are ignored	Victim's suffering and truth are valued
The state is active, the offender is passive	The offender participates in solving the problem
The judge determines the punishment	The parties jointly resolve the conflict
The offender's link to the community is weakened	The offender's link to the community is strengthened

Table 1. (cont.)

Criminal Justice	Restorative Justice
The offender's personality is viewed only through the crime	The offender's personality is considered holistically
Social, economic, and moral context is irrelevant	Social, economic, and moral context is important
One side wins, the other loses	Both parties achieve a win-win outcome

Source: Waluk, 2008, pp. 873–874.

Criminal justice focuses on the past, guilt, and punishment. It is dominated by state institutions (such as judges and prosecutors), while the needs of the victim are often overlooked. The offender tends to remain passive, and the process is adversarial in nature, one side wins, the other loses. Restorative justice, on the other hand, emphasizes the future and repair of harm done. The victim's needs and the offender's active involvement in the process are of key importance. Solutions are developed collaboratively, with a focus on rebuilding relationships and promoting social reintegration. Both parties can emerge from the process as "winners". This comparison demonstrates that restorative justice prioritizes

4. Goals and Principles of Restorative Justice

Referring to the main assumptions of restorative justice, Paweł Szczepaniak following a literature review presented a framework largely consistent with the concept developed by P. McCold. According to him, the goals of restorative justice include:

- meeting the diverse needs of victims material, financial, emotional, and social;
- enabling offenders to take moral responsibility for the consequences of their actions;
- supporting the reintegration of both victims and offenders into the local community;
- engaging the community not only in supporting the parties involved in the conflict but also in preventing future offenses (Kuliński, 2023, p. 5).

The most important principles that guide restorative justice are:

- Meeting. A safe environment is provided in which the victim and offender can talk about the incident, express their perspectives, release emotions, and begin the healing process.
- Reparation. The offender accepts responsibility for their actions and takes concrete steps to make amends, which may involve a sincere apology and a change in attitude.
- Reintegration. All parties are given an opportunity to rejoin community life without being stigmatized as either an offender or a victim.
- Inclusiveness. Everyone affected by the offense in any way is offered the opportunity to participate actively in the restorative process (Ness & Strong, 2010, pp. 63–138).

5. Characteristics of Restorative Justice

Key features of restorative justice include:

- The assumption that the offender is not punished by the court but voluntarily distances themselves from the act and undertakes actions to repair the harm, for example, through voluntary compensation to the victim or a third-party institution (such as a charity), community service, or a personal apology (Wdzięczna, 2010, p. 48).
- The use of practices such as negotiation mediation, and specially organized restorative conferences as the most common tools for implementing restorative justice (Wdzięczna, 2010, pp. 85–106).
- Recognition of the important role of the local community in the restorative justice process, such as providing mediators, negotiators, and lay judges, as well as organizing socially useful work (Consedine, 2004, p. 207).
- A comprehensive view of the problem of crime, one that considers not only the act itself but also its causes, promotes public participation in justice, enables reparation of harm, and supports the offender's reintegration into society (Piątek, 2015, p. 23).

Analyzing the concept of restorative justice, it is commonly stated that it rests on three core assumptions: First, the victim has the right to receive compensation, since crime is seen not only as a violation of legal norms but primarily as harm done to a specific person and a disturbance of social balance. Second, the offender has the obligation to repair

the harm, which encourages personal reflection and awareness of the consequences. Third, not only the victim and the offender but also the local community should be involved in the restorative process, as this facilitates dialogue and the search for a joint resolution of the conflict (Urbanowicz, 2016, p. 172).

6. Main Forms of Restorative Justice in Poland

In Poland, restorative justice is gradually developing as a complement to the traditional criminal justice system, emphasizing dialogue, offender accountability, and reparation for harm done to the victim. Although it still operates on the margins of the mainstream justice system, its significance and application are steadily growing.

The most important forms used in Polish practice include mediation, negotiation, and restorative justice conferences. Each of these methods assumes active participation by the parties in the process of seeking solutions that not only address the interests of the victim and the offender but also contribute to restoring social balance.

A. Mediation

The most effective tool for implementing restorative justice in Poland is mediation, which represents its model form. This method of conflict resolution is based on the principles of voluntariness and confidentiality, where the parties assisted by a neutral mediator independently reach an agreement. It can be applied in any case where the law permits a settlement (Ministry of Justice, n.d.).

Transferring the conflict into the hands of the directly involved parties allows them to actively participate in the resolution process, enhancing their sense of agency and counteracting feelings of neglect by the justice system particularly in the case of victims, who are at risk of so-called secondary victimization. The amendment to the Code of Criminal Procedure of September 27, 2013 (Act of September 27, 2013 – Code of Criminal Procedure and certain other acts, 2013) solidified the mediation model by establishing it in law as a voluntary, confidential, and im-

partial procedure. The parties may withdraw their consent to mediation up until the verdict is announced, thereby strengthening their procedural guarantees.

„Voluntariness means that neither party can be forced to participate in mediation. The obligation to inform the parties has also been extended both the accused and the victim must be informed by law enforcement agencies about the possibility of resolving the case through mediation and about its rules and objectives. As a result, they can make an informed decision about participating in the mediation process at an early stage. Authorities should ensure that the victim fully understands the purpose of mediation and does not perceive encouragement to participate as a minimization of the offense” (Matejuk, 2011, pp. 18, 21). One of the key guarantees of confidentiality is the prohibition against interrogating the mediator about information obtained during the mediation (Urbanowicz, 2016).

„The neutrality of the mediator is an obvious requirement, ensured by the necessity of appropriate qualifications” (Urbanowicz, 2016, p. 174). Access to case files also allows the mediator to prepare more thoroughly for their role, thereby supporting the parties more effectively in reaching an agreement. Mediation eases the burden on courts in cases where the parties are capable of resolving the conflict themselves, which benefits not only the participants but also society at large (Zalewski, 2006). It may also positively influence citizens’ trust in the justice system (Waluk, 1998). Through the active involvement of both the victim and the accused, it is possible to reach a resolution that is beneficial and satisfactory for both parties. Importantly, mediation enables the conflict to be resolved in a dignified and constructive manner. For the offender, it may be a moment of realization of the harm caused and the acceptance of responsibility, which supports the repair of the losses suffered by the victim.

Mediation proceedings should be completed within one month, which aligns with the principle of expeditious criminal proceedings (Art. 2§1(4) CCP). A settlement reached through mediation can fulfill society’s expectations for an appropriate response to crime (Urbanowicz, 2016, p. 176). This offers a chance to show that the justice system is effective meeting the needs of victims on the one hand, and enabling punishment and social resocialization of offenders on the other—which may encourage similar solutions in the future.

Mediation brings several benefits to the justice system, such as:

- Reducing the burden on prosecutors and courts in less serious cases,
- Simplifying the functioning of the entire judicial system,

- Lowering the costs of court proceedings,
- Rebuilding public trust in the justice system,
- Reducing the number of inmates in penal institutions,
- More effective resolution of cases involving suspended sentences,
- Saving time, financial resources, and organizational capacity (Waluk, 2008, pp. 882–883).

Despite the many advantages of mediation, its practical effectiveness still encounters significant obstacles. These challenges result from both systemic conditions and practical difficulties in implementing this method of dispute resolution:

„Lack of adequately qualified mediators – a shortage of specialists knowledgeable in the essence of mediation, with skills in drafting settlements and understanding legal regulations;

High costs of mediation – mediation can be expensive even for those legally exempt from court fees, making it a less attractive alternative to court proceedings;

Court reluctance due to potential delays – courts are hesitant to refer cases to mediation because failure of mediation may negatively impact case processing statistics (e.g., number of adjournments);

Lack of separate mediation statistics – referrals to mediation are not rewarded or properly reflected in court department performance assessments, which discourages judges from using it;

Low success rate of court-ordered mediation without party initiative – mediation is much less effective if not requested by the parties themselves;

Difficulties in selecting suitable cases – absence of clear criteria or evaluation skills to identify which cases have a realistic chance of reaching a settlement;

Low effectiveness in disputes lacking cooperation – for example, in business or employment cases, where parties are unwilling to collaborate, mediation becomes ineffective” (Brol, 2010, p. 71).

Mediation is an important form of restorative justice in Poland, based on voluntary and confidential agreement between parties, facilitated by a neutral mediator. It enables active involvement of both victims and offenders, promoting harm reparation and relationship rebuilding. It benefits all participants and alleviates the burden on the justice system. However, its effectiveness is often limited by systemic and practical barriers, such as the lack of sufficient qualified mediators or organizational obstacles.

B. Negotiations

„Negotiations are an essential element of dispute resolution and joint decision-making, both in private and professional relationships. They are a tool that allows parties with differing positions to reach a compromise and develop a solution acceptable to all those involved” (Karczewska, 2022, p. 55).

Negotiations can be understood as a process of exchanging proposals in which parties make concessions and reach compromises to achieve the most favorable outcome possible (Lewicki & Litterer, 1985, pp. 43-44). They are regarded not only as a method of resolving disputes but also as a tool for regulating social relations. They constitute an inherent part of any community’s functioning (Groszyk & Korybski, 1990, p. 101).

Jabłońska-Bonca describes negotiations as “a complex form of communication that we engage in when we want something from others, usually not only a change in their beliefs but also specific actions” (Jabłońska-Bonca, 2002, p. 54). Fowler, on the other hand, defines them as “a process of exchange in which the parties to a conflict, despite initial divergences, undertake a joint effort toward agreement using argumentation and persuasion” (Fowler, 1997, p. 12).

Negotiations assume the presence of at least two parties individuals, groups, or institutions between whom there is a conflict of interests resulting from divergent goals or needs. The parties are thus placed in a situation that requires finding a resolution to the dispute. Additionally, a degree of interdependence exists between participants they are united by a shared interest that motivates dialogue. Equally important is that participation in negotiations is voluntary, and the objective is to reach an agreement that is better than continued confrontation. During the course of the conversation, the initial positions are gradually adjusted until a compromise is reached that is as satisfactory as possible for both parties (Karczewska, 2022, pp. 55–56).

Negotiations serve as a mechanism for cooperation between individuals and groups, used to resolve disputes. They may take the form of bargaining based on previously agreed-upon rules, or they may resemble auctions, where the rules are determined spontaneously without reference to a fixed normative system. They are characterized by flexibility and openness, as the parties can freely shape the course of negotiations as long as they remain within the bounds of the law (Zienkiewicz, 2007).

The aim of negotiations is to eliminate barriers that hinder effective communication between participants. Today, negotiations are used in a wide variety of contexts from joint project implementation and conflict resolution to consensus-building (Łukawska-Malicka, 2022, p. 49).

C. Restorative Justice Conferences

An alternative to traditional court proceedings is restorative justice conferences, which are based on direct dialogue between the parties involved in the conflict. The process begins when the offender agrees to accept responsibility, expresses genuine remorse, and declares a willingness to repair the harm done. In addition to the offender and the victim, family members and selected members of the local community also participate in the discussion, ensuring that the resulting agreement is deeply rooted in the actual needs and expectations of the broader environment.

The person leading the conference often referred to as a facilitator or convenor differs from a mediator in that they take an active role in the discussion and may propose their own solutions. Their role is not only to maintain order and ensure that everyone has the opportunity to speak, but also to support the group in reaching a consensus that addresses not only individual harm but also strengthens social bonds. As a result, the final agreement goes beyond the immediate needs of the victim and the offender; it also considers the wider context of the community, aiming to rebuild mutual trust and prevent similar conflicts in the future.

Ernestine Consedine, analyzing the experience of New Zealand, emphasizes that it is the community group conferences as opposed to one-time panels or other restorative forms that produce the most lasting and satisfying results in the restorative justice process (Łukawska-Malicka, 2022, p. 52).

7. Issues and Controversies Surrounding Restorative Justice

Despite the growing popularity and positive outcomes of restorative justice, this approach is not without criticism. In both public and academic discourse, significant controversies arise, highlighting potential limitations and risks associated with its implementation.

a) Perception of Restorative Justice as an Overly Lenient Approach

One of the most frequently raised concerns about restorative justice is the belief that it constitutes an overly lenient response to crime. Critics, including some victims, express fears that referring a case to a restorative justice program especially at an early stage of criminal proceedings might result in the offender avoiding imprisonment. However, it is important to emphasize that restorative justice does not aim to eliminate criminal accountability but rather offers an alternative where appropriate and justified. In cases of serious crimes, such as violent offenses or sexual assault, participation in a restorative justice program does not preclude the imposition of a prison sentence, especially if the offender poses a threat to society or has a significant criminal record. Notably, many participants in restorative justice processes both offenders and victims report that face-to-face confrontation, honest dialogue, and acceptance of responsibility are often psychologically more challenging than participation in traditional court proceedings.

b) Limitations Regarding Remorse, Forgiveness, and Reconciliation

Values such as remorse, apology, and reconciliation, while central to restorative justice, are not always attainable. In cases of serious violations, some victims may not be ready to forgive neither during the program nor in the future. At the same time, not all offenders express genuine remorse or a willingness to bear the consequences of their actions, which can undermine the purpose and credibility of the restorative process. For many victims, the key element of justice remains the actual punishment of the offender and their separation from society, which they perceive as essential to their sense of safety and moral satisfaction. Therefore, the implementation of restorative justice practices should always consider the emotional state and needs of the victim without exerting pressure to achieve reconciliation.

c) Risk of Pressure on Victims

A fundamental principle of restorative justice is voluntary participation. Nevertheless, in practice, some victims may feel pressured due to social expectations, the desire to close the case, or the hope of receiving an explanation from the offender. Such pressure can lead to secondary victimization, especially if the encounter with the offender turns out to be traumatic or disappointing. Additionally, in the absence of remorse on the part of the offender, the lack of explanation or the inability to reach a consensus can intensify the victim's frustration. There are also criticisms that some restorative justice programs focus more on the offender than on the victim partly due to the fact that victims rarely participate

in designing and implementing these initiatives. Mediation sessions can be long, emotionally exhausting, and sometimes difficult to access, further increasing the burden on victims and their families.

d) The Impact of Restorative Justice on Offenders

Although participation in restorative justice programs should be voluntary for offenders, in practice, they may experience pressure from law enforcement agencies or defense attorneys to participate in mediation, which is perceived as a „softer” path. This pressure may lead to relinquishing legal support or admitting guilt in situations where the offender does not feel guilty or fears the formal court process. Moreover, the consequences of participating in restorative justice such as publicly admitting guilt or accepting obligations to repair harm may prove more burdensome than those that could be imposed by a court. For this reason, it is crucial that restorative justice programs be designed with a balance between the need to repair harm and the rights of the accused, including the right to legal defense, a fair trial, and protection against self-incrimination (Canadian Resource Centre for Victims of Crime, 2022, pp. 14–16).

8. Court Probation

Article 7 of the Polish Act on the Support and Social Resocialization of Juveniles (2022) states that the supervision of a court probation officer is one of the educational measures that a court may impose on a juvenile. Court probation officers have operated in the Polish judiciary for over 100 years, and their institutional role is rooted in the country’s cultural history and constitutional developments. The system formally began in 1919 with the creation of juvenile courts and the appointment of court guardians for minors. Probation for adults was introduced much later, in 1965. The professional role of court probation officers was legally regulated only in 2001, when it was divided into two specializations: family-related and criminal justice-related (Kwadrans, 2019).

In the literature, four main models of juvenile court probation are identified:

- Control-based probation (also known as control-repressive probation),
- Casework probation,
- Activating control and care system,
- Educational probation.

The control-based probation model is the most common form in Poland. It focuses on the expected positive behavioral changes of the supervisee, indicating ways these changes can be achieved. The probation officer's role is largely limited to supervising the juvenile and attempting to stimulate positive behavior. In this model, instrumental reinforcements such as the threat of harsher penalties—can be used when the expected improvements are not observed. Officers are expected to rely on experience, knowledge, empathy, and concrete actions. However, this model does not promote building trust or a therapeutic relationship with the juvenile (Mazurek, 2014).

A more effective model is casework probation, which originated in the United States and is now also prevalent in EU countries. Its core feature is providing effective support to help the juvenile regain the ability to function properly in society. The probation officer in this model actively supports the process of social resocialization, offering guidance in resolving problems. This model has a therapeutic dimension and allows for the individualization of intervention. The officer acts as a coordinator and motivator, supporting and inspiring positive change. Crucially, it is based on the principle of nonjudgmental support. The process consists of three stages:

- Environmental diagnosis – a thorough analysis of the juvenile's situation to determine the causes of their behavior,
- Developing an action plan – a mutually acceptable strategy for resolving issues,
- Monitoring implementation – consistent follow-up on the agreed steps (Mazurek, 2014, p. 156).

Another model is the activating control and care system, developed by Czesław Czapów and Stanisław Jedlewski. Here, the probation officer acts on behalf of the court, engaging with the juvenile's environment and promoting active participation in social resocialization. According to Jedlewski, this model consists of four stages:

- Diagnostic assessment and planning of educational intervention,
- In-depth evaluation in a correctional or care facility (to determine suitability for non-institutional education),
- Implementation of tailored educational measures,
- Preventive care provided jointly by the probation officer and key figures from the juvenile's life (Mazurek, 2014, pp. 158–159).

The final model, educational probation, combines elements of casework with the activating control and care approach. It is considered the most ethically and functionally effective (Mazurek, 2014, p. 160).

Court probation officers play a vital role in the crime prevention system, navigating complex philosophical, legal, organizational, and methodological issues. Their work is grounded in humanistic and egalitarian principles, with a fundamental respect for the dignity of the individual. These principles are not only embedded in ethical codes but also reflected in international recommendations (Ostrijanska, Paszkiewicz, 2012). A crucial component of probation is individual casework, requiring mutual engagement between the officer and juvenile. While the officer must exercise control and report to the court, excessive surveillance may discourage honest communication. Therefore, clarity about the nature and purpose of supervision is essential (Ostrijanska, Paszkiewicz, 2012). Communication is another key element. Ostrijanska and Paszkiewicz (2012) distinguish between two types:

- Formal-organizational, and
- Substantive.

In the formal-organizational approach, meetings are guided by legal frameworks and mutual decisions. The juvenile must be informed about the duration and potential early termination of supervision. Frequency of meetings is determined by the officer based on the needs and goals of the process, often starting with more intensive contact. The tone of communication should be open, understanding, and supportive. Trust, empathy, and professional boundaries are essential components of effective engagement.

Finally, support is a critical function of probation. Support extends to both the juvenile and their family, helping them regain functionality and adapt to societal norms. It provides a sense of purpose for probation officers and enables more impactful interventions (Ostrijanska, Paszkiewicz, 2012, p. 52).

Probation is an integral element of Poland's justice system, serving both control and educational-social resocialization roles (Gogacz, 2015). As previously mentioned, the 2001 reforms prioritized educational and social resocialization efforts, supported by diagnosis and prevention. However, institutional constraints continue to limit the autonomy and flexibility of probation services (Gogacz, 2015). According to research by Bosker et al. (2020), the effectiveness of probation depends on several key factors:

- Use of the RNR model (Risk–Need–Responsivity),
- Building a therapeutic working alliance,
- Application of cognitive-behavioral techniques,
- Conscious modeling of prosocial attitudes.

Successful practices require both monitoring and support, giving rise to a hybrid approach that blends supervision with assistance.

Nevertheless, probation services face many challenges. Gogacz (2015) highlights issues such as excessive formalism, rigid procedures, and limited inter-institutional collaboration. The role of the probation officer is often reduced to that of a bureaucratic controller rather than an agent of social change. In response, some advocate for adopting aspects of the British model, which allows greater institutional independence and fosters creativity and efficiency.

A crucial element of modern probation is individualized intervention. The Bosker et al. (2020) report demonstrates that aligning the intensity of contact and methods to the offender's risk level, offense type, and psychosocial profile can reduce recidivism. Special attention must be paid to vulnerable groups: juveniles, women, individuals with mental health issues, and those struggling with addiction.

Given the challenges of contemporary social resocialization, the probation system must embrace new forms of educational and rehabilitative efforts. In this context, streetworking educational outreach in natural environments—emerges as a valuable complement to traditional court probation. Streetworkers, often operating outside formal institutions, build direct, informal relationships with at-risk youth, enabling rapid and flexible responses to their needs (Bielecka, 2012). As Bielecka (2012) notes, the fundamental difference between probation officers and streetworkers lies in their operational frameworks. Probation officers work within rigid, formal justice institutions, while streetworkers engage “on the streets,” guided by trust and voluntary participation. While court probation emphasizes supervision and control, streetworking focuses on support, empowerment, and social activation. Though seen as a challenge to institutional probation, streetworking can also serve as a valuable partner in collaborative efforts.

To effectively fulfill its mission, modern court probation must balance public safety duties with the need to create space for authentic personal change and reintegration. This requires not only systemic reform but also investment in professional development, cooperation with NGOs, and the promotion of best practices at both local and national levels.

Summary

The analysis of the role of restorative justice and court probation in the process of social resocialization in open environments highlights the significant importance of these institutions in shaping alternative responses to crime. Restorative justice, grounded in dialogue, participation of involved parties, and the reconstruction of social relationships, serves as a valuable complement to the traditional criminal justice system, which often focuses solely on guilt and punishment. It enables offenders to take responsibility and victims to actively participate in the process of repairing the harm, which in many cases contributes to reducing the risk of recidivism and increasing the sense of justice and safety within society.

Mediation, negotiation, and restorative justice conferences, as practical implementations of this concept, function successfully in many legal systems around the world, as evidenced by examples from Norway, New Zealand, Austria, England and Wales, and Canada. Each of the presented models demonstrates that effective social resocialization does not need to rely solely on the isolation of offenders, but can instead be based on their inclusion in reparative processes with the support of the local community. A particular strength of these approaches is their flexibility and adaptability to the cultural and social specifics of the local context.

Court probation, as a form of probation, fulfills an important supervisory and educational function, enabling the social resocialization of offenders within the community while ensuring oversight and support in achieving the set reparation goals. It facilitates the gradual reintegration of offenders into society, reducing the risk of exclusion and marginalization. However, the implementation of restorative justice and court probation also faces numerous systemic, organizational, and cultural barriers, such as the shortage of qualified mediators, insufficient legislative support, and still limited public awareness of alternative forms of justice.

In conclusion, both restorative justice and court probation should be regarded as key components of criminal and social resocialization policy, contributing to a more effective and humane approach to crime prevention and the restoration of social bonds. Their further development, however, requires comprehensive legislative, educational, and organizational measures aimed at increasing their accessibility and effectiveness in social resocialization practice.

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Rola sprawiedliwości naprawczej i kurateli sądowej w procesie resocjalizacji w środowisku otwartym – możliwości i ograniczenia

Słowa kluczowe

sprawiedliwość naprawcza, kuratela sądowa, resocjalizacja, mediacja, probacja, reintegracja społeczna

Abstrakt

Artykuł przedstawia sprawiedliwość naprawczą oraz kuratelę sądową jako alternatywne formy wspierania procesu resocjalizacji w warunkach wolnościowych. Sprawiedliwość naprawczą ukazano jako opierającą się na dialogu między sprawcą, osobą, która doświadczyła przemocy ze strony sprawcy a społecznością, gdzie dochodzi do zadośćuczynienia oraz odbudowy relacji. Kuratelę sądową opisano jako formę nadzoru i pomocy sprawcy w warunkach wolnościowych. Zwrócono uwagę na potrzebę edukacji społecznej, zmianę podejścia do instytucji oraz eliminację barier systemowych, takich jak brak wykwalifikowanych mediatorów czy niski poziom świadomości społeczeństwa. Autorzy wnioskują, że połączenie tych dwóch alternatyw może przyczynić się do zmniejszenia recydywy i skutecznego procesu readaptacji