

Institutionalization of the Restorative Justice Principles in Conflict Resolution Council

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Abstract: Recently, the restorative justice has been considered as a novel method in the legal and criminal system. Attending the restorative justice is directly related to victims' rights and interests that is often considered as a supplementary way. However, in various legal systems, special attention has been paid to restorative justice and its principles has been recognized in many legal systems, including common law legal system. In Iran, attention and emphasize on the subject of restorative justice do not have a long history. However, currently, in some of the Iranian judicial and legal entities, these principles have been approved. The important subject is to what extent has these principles been institutionalized and approved in these two legal systems. In this paper, an attempt has been made to investigate the position and acceptance and institutionalization amount of the principles of the restorative justice in the conflict resolution council in Iran and similar entities in common law regulations. The findings obtained from the investigations conducted in this context illustrate that in conflict resolution council and their structures, attending the restorative justice has been highlighted. In the theoretical context, too, the principles of restorative justice are adapted to conflict resolution council objectives and tasks.

Keywords: Common law rules, conflict resolution council, mediatory, restorative justice, victim.

INTRODUCTION

Judicial system had been a dynamic and evolving system. This system has undergone many evolutions and variations both in the theoretical context and legal, judicial and criminal concepts and in the practical context, namely the execution of laws and within the organizations and entities executing the legal, judicial and criminal laws. These evolutions and variations have taken place both in the macro legal and criminal systems and in minor laws and within domestic system and the international legal system (Kazem Pourfard *et al.* 2018). For instance, the extensive evolutions in the criminal policy of the countries that led to the division and multiplicity in the criminal policy and created a new concept of criminal policy called contributive criminal policy with the intervention and role-playing of civic and popular entities in the judicial and legal contexts. In addition, in practical context, they took the burden of the tasks of its execution by forming civic entities and various forums with special legal and criminal function (Miller Midura and Bleakley 2020).

However, in the criminal system, too, some concepts and theories have been grown and developed. With regard to importance and necessity, many of them have found a way in practice and have become operationalized. One of these concepts is restorative justice. As one of the important concepts in the criminal system, this concept has been attended by

many of the legal and judicial thinkers. In the last several decades, much emphasize and attention have been made to make this concept theorized and to implement it in the legal and criminal systems inside the countries, as well as the international law (Beige *et al.* 2016). Today, the restorative justice acts as a supplement beside the criminal justice. Even though many thinkers consider restorative justice against the criminal justice due to the fact that it highlights the situation of the victim more than aggressor, currently, the restorative justice and criminal justice are considered in parallel. In many of the legal and judicial systems, these two concepts are important and possess a special function and special task (Neill *et al.* 2016).

However, the principles of restorative justice have not been approved and institutionalized identically and symmetrically and the institutionalization of these principles vary from one legal system to another one (Meadow 2007). With respect to this, an attempt has been made in this survey to investigate the position and the approval and institutionalization of restorative justice principles in the conflict resolution council in Iran and similar entities in common law regulations. The findings obtained from the investigations conducted in this context illustrate that in the conflict resolution law and its structure, attending the restorative justice has been highlighted and in theoretical context, too, the principles of restorative justice are adapted to the principles and tasks of conflict resolution council (Qolami 2004). This is even though this consistency does not exist in the practical context and the real-world to the same extent as observable in theoretical

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context. However, this institutionalization and the approval of principles are negligible as compared with common law legal system and can be said to have been taken place in a deficient manner (Mark *et al.* 2005)

In order to investigate the present subject, initially, the concepts and bases related to restorative justice and its principles and implementation methods will be investigated and examined (Tony 2014; Pavelka 2016) Then, the position of restorative justice in the conflict resolution council and comparison with its position in common law legal system will be investigated. Finally, the result of this comparison and its similarities and differences will be presented.

Overall, the primary aim of the study is to analyze the position and acceptance and institutionalization amount of the principles of the restorative justice in the conflict resolution council in Iran and similar entities in common law regulations. Furthermore, the study seeks to figure out what extent has these principles been institutionalized and approved in these two legal systems.

To conduct this survey some concepts such as restorative justice, its principles and its differing facets with criminal justice, and conflict resolution council have been investigated for awareness and familiarity with some notions and terms in the restorative justice. After that, the situation and position of restorative justice in the conflict resolution council and common law legal system have been investigated and described.

LITERATURE REVIEW

Generally, justice is a topic on criminal laws and criminology schools of thought that is designated in both criminal justice and restorative justice. One of the most important causes for highlighting the restorative justice had been the inability of the criminal justice over punishment and correction and treatment of propensity that has caused the tendency towards the restorative justice (Abbasi 2003:25). In addition to this, the lawyers and thinkers of the criminology context, too, have exhibited much tendency to approach rotation from criminal laws, crime-orientation, and criminal justice and punishment practices towards the criminal justice (Padfield 2011:39).

The restorative justice is a notion established since some decades ago and highlights that following the

occurrence of the crime, repairing and compensating for the damages and impacts resulted from crime is highlighted and considered instead of pursuing and punishing the criminal and invader and the criminal and informal entities take some measures to compensate for the victim's damage. In some points, the criminal justice is placed contrary to the restorative justice highlighting the damages and impacts on victim, the reasons for the propensity of the criminal to actions against the law, as well as the role of civic entities in the judicial and criminal contexts more compared to criminal justice not paying attention to victim's emotions and the impacts of criminal and the crime on them, the reasons for the propensity of criminal to crime, their requirements and most importantly, the role of civil and informal entities. Restorative justice is usually recognized as a popular movement that is practice-oriented rather than theory-oriented whose main focus is on varying the manner of justice implementation within communities rather than codifying a consistent theory and a set of norms to drive the response to the crime (Ward *et al.* 2014).

The restorative justice is a theory of criminal justice that has grown without being experienced. Awareness has been acquired through the native and conventional responses to the crime having existed both in the past and in the present. However, the progression and development of the restorative justice in the new form has probably started since the first intervention initiatives among the victim and criminal boomed in the mid-1970s in Canada. These programs had been used as an alternation to the caring suspension of the young criminals and it has become prevalent in the form of pre-trial plans allowing the victim and criminal to propose a special order to the judge to be investigated. The restorative justice is a philosophical structure that presents another type of thought towards the criminal crime and justice (Rea 2007).

The restorative justice is a policy seeking to mobilize the community facilities and talents, the victim and criminal, as well as criminal justice to repair the gaps in human relations and treating the damages incurred by the criminal, victim, their families, as well as the community, enjoying a peaceful method to handle the criminal. In restorative justice, the justice process itself has humanistic aspects and is itself a propaganda of the culture and civilization. It is a justice that wishes to address the criminal more directly, making peace between him and the community, the victim, victim's family and the criminal justice system authorities (Kazem Pour Fard and RangchiTehrani, 2018:156).

The restorative justice is an attempt to re-conceptualize the the manner of the treatment and reaction of a community towards a criminal act and it is hence a process used to tackle it (Maloney, 2006:9). Meanwhile, it is an original model of justice in criminal affairs along with being a new pattern of justice (Qolami 2004:714).

As it is evident from the topical aspects and frameworks of restorative justice described, various definitions have been made by thinkers and authors of restorative justice. From Howard Zehr's point of view, called the father of restorative justice: "restorative justice is a process to involve those who have a contribution to a specific crime to take a collective measure to characterize and attend the damages and losses, requirements and commitments to heal and improve the affairs as much as possible (Beigi *et al.* 2016:1). Restorative justice is a type of attitude towards the crime, whose axis is to resolve resulting from the crime in a way involving the parties involved in the crime and the civic and local community for its resolution, the contribution is in coordination with legal entities (Right 2005:93). The restorative justice is a philosophical structure that presents another type of thought over the criminal justice and crime. The restorative justice is a new method of thinking both over the crime and over how to respond to it. The emergence of the restorative justice is the result of one of the evolutions created in the attitude towards the criminal justice in the criminological approach and the overall evolution in the thinking supervising the crime (Qolami 2006:21).

However, with the development and evolution of the regulations, as well as the notions and theories in the context of criminal laws and justice, the notion of restorative justice emerged and developed. Today, the term is very much used in the legal regulations of various countries, as well as within the legal and judicial organizations and organs, having found a special position in the legal system of the countries, as well as the international system.

Principles, Objectives and Ways of Implementing the Restorative Justice

Restorative justice, which has made the tendency towards the realization of the rights of victims one of its most important principles and considers the situation and conditions of the offender at the time of the crime as well as civil institutions, is based on the principles and criteria that underlie it. And by emphasizing and

implementing these principles, it will be able to achieve the desired goals mentioned in the judicial and criminal laws. Restorative justice focuses on resuscitation and seeks to resuscitate the victim, resuscitate the offender, and recover damages from crime in the community (Marshall 1999:7).

An important approach to restorative justice is to pay attention to the fact that delinquent individuals, victims or communities have the ability to resolve and address their problems, disputes and concerns in an effective and sustainable manner, thereby bringing peace and order back to community where all three issues of crime, victimization and delinquency are targeted (Miller Midura and Bleakley 2020:2). Restorative justice is based on the principle that the duty of a "society" is to maintain peace and order. The one making a mistake is more established as breaking the healthy norms of social behavior rather than a formal interpretation of written law.

Some of the most important cases of such principles and targets are as follows:

- A. Creating responsibility for delinquent at the time of the occurrence of the crime towards the victim, community or the environment the crime has taken place.

Restorative justice seeks to remedy what has been violated, and the most important goal in the restorative approach is to pay attention to the needs and concerns of the victim. The restorative approach seeks to treat the victim and the offender as two dignified human beings and to remove fear and apprehension from the victim in order to prevent his or her secondary victimization. Another goal of restorative justice for victims is to compensate them. The type of crime committed determines what help the victim needs (Beigi *et al.* 2016:2). In addition, restorative justice also pays attention to the fact that the offender has also committed a crime under the influence of circumstances and factors, and this action may have been done to meet the need or due to problems or disorders that are important to pay attention to.

- B. Emphasis on participation and mediation and its promotion: One of the pillars of restorative justice is the emphasis on popular participation, the representative of popular institutions and mediators to resolve disputes and disputes. Using the mediation approach to administer justice in a tripartite way, victim, delinquent and

civil and local society is one of the principles of restorative justice.

- C. Paying attention to the destructive effects, losses and negative effects created following the crime and its reduction. Unlike criminal justice, which merely seeks to prosecute and punish criminals and criminals, and does not take into account the effects of crime on the offender, the victim and society, restorative justice on the destructive effects and losses caused by crime. It also considers the society, the environment and the space in which the crime took place, and the effects that the offender, the victim, and the offender himself have on it. Therefore, one of the most important goals of restorative justice is to heal the anxieties and worries caused by the crime in the victim (Van Ness 2005:19).

Restorative policy, although it is a different approach and attitude towards the concepts of the penal system and criminal justice, has been able to influence many ways of administering justice as well as penal methods of the criminal justice system. In order to implement restorative justice and in order to achieve the intended goals, various methods have been proposed for the implementation of justice. However, there is no consensus on the methods of administering restorative justice, and many also believe that where the criminal system and criminal justice prevail, there is no need for restorative justice, and given that criminal justice and restorative justice are two opposite points. They therefore do not believe in the unity of restorative justice and criminal justice. Although restorative justice has its own goals, principles, and standards, the methods by which restorative justice is administered vary from country to country and from system to system. Of course, there are common methods in this area that are usually emphasized in most legal systems. However, some methods have been proposed in relation to restorative justice.

With regard to the variation and extension of the methods to implement the restorative justice, some have classified them into seven classes:

1. Intermediary between victim and delinquent
2. Forum or conference
3. Circles or forums
4. Retardation
5. Social services
6. Restorative boards of local community
7. Victim's statements over the impacts of crime on him/her

These methods are considered as ways to implement restorative justice and mediation methods, circles, meetings and restorative boards of the local community are mentioned as common methods (QOLAMI, 2006:114). What is important is that restorative justice is more important in civil institutions and institutions in which there is public participation, and more restorative justice will be possible at higher levels and petty crimes.

CONFLICT RESOLUTION COUNCIL

The Iranian legislature approved Article 189 of the Law on the Third Economic, Social and Cultural Development Plan of the Islamic Republic of Iran issued in April the 5th, 2000, called conflict resolution council in the order of judicial development policies. In addition, the executive guideline of this article was issued in August of 2002 by judicial power and conflict resolution council's law was issued following the inefficiency required of the article and the above guideline dated may 18th, 2008 in the parliament caused by principle 85 of the constitution by the judicial and legal commission of the parliament and issued for trial execution for 5 years (Maqsd pour and RezaeiMoqadam 2017:52). The initial mission of the councils, which appears to have a popular but well-appointed composition, is to negotiate "for the purpose of resolving disputes and peace and reconciliation between natural and legal persons, non-governmental organizations"; which is done under the supervision of the judiciary. The Law on Settlement and Dispute Councils in 1394 was approved by the Islamic Consultative Assembly again with 54 articles after the end of the first 5-year probationary period and due to its defects and shortcomings.

The Law on Dispute Resolution Council and the formation of these councils was initially enacted and approved to achieve the defined objectives. According to Article 189 of the Law on the Third Economic, Social and Cultural Development Plan, the Dispute Resolution Council was formed to achieve two important goals: People to the courts b) Development of public participation. In explaining the first goal, it should be said that one of the most important basic problems of the judiciary is the high volume of court cases, which

causes delays in the trial and overcrowding of the judiciary, resulting in public dissatisfaction. Regarding the second goal, which is the development of public participation, it should be said that today governments try to reduce their activities by leaving part of their work to the private sector. This has been reflected not only in economic and educational affairs but also in the judiciary. In the judiciary today, the development of public participation, especially in criminal matters and under the influence of participatory criminal policy, has found special effects, the most prominent of which is the establishment of criminal mediation. Of course, the development of public participation in the judiciary is not only aimed at reducing government activities, but also has other goals (Fathi, 2005:92-93).

Judging and resolving disputes in the Iranian legal system, according to Articles 34 and 156 of the Constitution, is primarily the duty of the judiciary and judges, but the concentration of judicial cases in the judiciary has led to inefficiency, inaccuracy and delays. Therefore, in order to reduce the number of people referring to the judiciary and in order to develop public participation, the resolution of matters that are not judicial in nature or have less judicial nature was left to the dispute resolution councils, which are under the supervision of the judiciary. However, the exact duties of the Dispute Resolution Council in Article 189 of the Third Economic, Social and Cultural Development Plan Law are: a) Resolving local disputes b) Resolving matters that are not of a judicial nature. c) Resolving cases whose judicial nature is less complex (Fathi, 2005:92-93).

In addition, in the regulation of mediation in criminal matters, it can be possible to state the objective of the legislature from forming the conflict resolution council in 2005 as following scrutinizing the above regulations:

1. Providing the grounds for higher trust of people to criminal justice system and the governance of the country by enjoying the participatory criminal policy
2. Better implementation of the justice by applying popular contribution and its development
3. Prevention from the accumulation of lawsuits in judicial references and speeding up the conflicts resolution in the order of enforcing the clients' rights (Abbasi 2003).

With the formation of the Dispute Resolution Council and its establishment as an institution that is

somewhat compared to the formal judicial and criminal institutions as a civil or quasi-civil institution, many legal thinkers formed this institution in order to form a participatory criminal policy and an institution for They know the implementation of restorative justice and the realization of the rights of victims and, to some extent, criminals. On the other hand, there are many other legal and judicial thinkers who have the opposite view and consider the Dispute Resolution Council as neither an institution in the field of participatory criminal policy nor an institution capable of implementing restorative justice. The first category of argument is that in the laws of compiling and establishing the Dispute Resolution Council, this council has been interpreted and established in order to realize the development of civil and popular participation in the judicial and criminal field. Opponents argue that although this issue is explained in the laws, but the structural status of this institution and its laws and standards have prevented the realization of restorative justice in this institution and this institution will not be able to implement restorative justice with the current situation (Mir Naqizade and Safari 2017).

However, with regard to the fact that one of the most important specific tasks of conflict resolution council is to resolve the conflicts by peaceful ways as well as the compatible of the parties to the conflict and proceeding the crimes with an intermediary manner, the response to the question about to what extent has the principles and regulations of the restorative justice been institutionalized in the conflict resolution council and to what extent can the restorative justice be satisfied in this entity, is always considered. However, with regard to this difference of opinion and theoretical conflicts in this context, we will investigate the position of the restorative justice in the conflict resolution council and its principles and regulations in this entity.

As was addressed, the restorative justice is based on a series of principles and regulations and seeks to reach specific targets. With a scientific look at these two concepts and the legal and criminal entity, it is possible to observe a wide convergence in many of the principles and bases of these two. Some of them will be addressed.

- A) One of the most important and most axial principles of the restorative justice is to attend the popular contribution and civil entities in conflicts' resolution. It means that restorative justice attempts to provide the grounds for compensating the damages and pains incurred

on the victim by involving the civil and local entities in the order of conflicts' resolution, along with preventing from the extensiveness of the impacts of the crime occurred and the conflicts happened. On the contrary, one of the most important objectives of the conflicts resolution council is to consider the role of civil and popular entities and involvement of the local entities in the process of crime and conflicts. Therefore, in the theoretical context, these two are in line in terms of the principles and objectives and both of them are in the order of empowering the role of the civil and local entities in the conflict and resolving it and preventing from the referral of the case and the conflict to the formal and the reference judicial and criminal organs.

In other words, one of the joint axes in the principles and regulations of restorative justice and the conflicts resolution council approach is to attend the contribution of the social entities in the first stage and to refer the conflicts to the formal forums and the reference judicial and criminal organizations in case of not attaining the desirable result. Consequently, the role of the government and the formal entities is located in the second priority. In other words, unlike the criminal justice in which the government is in the main charge of supplying the criminal justice, in restorative justice, the delinquent, victim, and civil and local communities are in charge of supplying the justice. It is them who have suffered losses due to the crime (Qolami 2004:725).

B) Another principle and regulation of the restorative justice that is convergent to the objectives of the conflicts resolution council, is to attend the destructive impacts, loss and negative impacts created following the occurrence of the crime and its reduction. The restorative justice seeks to take steps to resolve the conflicts by bringing about the subject of the destructive impacts affecting the lost individual and by highlighting the compensation of these impacts, damages and harms. In addition, it seeks to reduce the criminal and security aspects of the crime along with reducing the negative impacts and consequences of the crime through reducing the criminal aspect and highlighting the restorative aspect of the crime generated and to reduce the involvement of the formal and reference criminal entities and the judicial forums in proceeding the conflicts (Pavelka 2016). On the other hand, too, resolving the conflicts through intermediacy, peace and exploiting the

peaceful ways to put an end to the conflicts by attracting the satisfaction of the parties are other objectives of the conflicts resolution council. It means that this entity acts by intermediacy and presenting the solution proper to the conditions and the situation of the occurrence of the crime, through adaption and satisfaction of the parties, such that it leads to the reduction of the impacts of the crime or attraction of the victim's satisfaction and the relieving of the damaged emotions of the victim. In addition to this, by resolving the conflicts through the local references and councils and the adaption and satisfaction of the parties, the conflicts resolution council will reduce the intervention of the judicial and criminal references.

C) Creation of the responsibility to the criminal at the time of the occurrence of the crime towards the victim and community or the environment the crime has taken place therein. In this subject, the restorative justice is located against the criminal justice. It means that in criminal justice, the punishment of the criminal is highlighted and it seeks to punish the criminals and invaders and to characterize and execute the punishment proper to the crime committed by them. However, in restorative justice, the principle is on compensating the loss and on resolving the impacts generated as a result of the crime and the compensation of the destructive impacts and the spiritual losses of the victim are considered (Towhidi, 2009:43) along with the fact that the delinquent states his/her regret towards the victim and attempts to attract the satisfaction of the victim by the criminal and to reduce some of the destructive impacts of the crime taken place. This principle also exists within the framework of the objectives and the approach of the conflicts resolution council. It is such that this council seeks to generate responsibility to the delinquent individual, their family, along with getting them involved in compensating some of the damages and impacts of the crime by getting the delinquent, their family and their surroundings.

D) One of the other axes where the principles and the regulations of the restorative justice converge to the objectives and tasks of the conflicts resolution council is the usage of the arbitration approach to execute the justice as the triple of delinquent, criminal and the civil, local community. According to this approach, by using

an adaptive-oriented approach and the peaceful resolution to reduce the impacts and damages of the crime on the delinquent and the criminal and by involving the representative of the civil and popular communities in the resolution of the conflicts, the restorative justice provides the grounds for the generation of an arbitrary approach. However, Article 28 of the Code of Criminal Procedure states that the judicial authority may, at the request of the accused and with the consent of the victim or a private plaintiff, give the accused a period of time not exceeding 2 months to obtain the plaintiff's pardon or compensation for the damage caused by the crime. The judicial authority may also refer the matter to the Dispute Resolution Council or to a person or institution for mediation in order to reach a compromise between the parties (article 28 of criminal justice custom). Therefore, as one of the bases and intermediary references, the conflicts resolution council could contribute to the conflicts resolution and the arbitration and intermediacy solution has also been inserted in the conflicts resolution council framework.

The Position of the Restorative Justice in the Common Law Legal System

Common law legal system is a type of legal system followed currently by many countries such as the United States of America, Malaysia, Singapore, Bangladesh, Pakistan, Sri Lanka, India, Cameroon, Canada, Ireland, New Zealand, South Africa, Zimbabwe, Hong Kong and Australia. The preliminary principles and regulations of this legal system are originated from the monarchical British courts since 1066. During its evolutionary process, this legal system has undergone many evolutions and variations. One of the most important areas undergone the evolution is its judicial and criminal systems. With respect to the fact that many countries follow this legal system and each of these countries had a separate legal system themselves, the prevalence of the existing regulations in each of these countries had been one of the reasons for the evolution and variation in this legal system (Van Ness 2005). However, in relation to the judicial, criminal systems, especially the criminal and restorative justice, too, this legal system had been established as the pioneer of the global legal systems. As was stated earlier, the concept of restorative justice was coined by western philosophers and the preliminary steps had also been taken in western

countries following common-law laws in terms of executing the restorative justice. However, the restorative justice is considered an approved and important subject in the common-law legal system. This concept and the process of proceeding the conflicts had been highlighted at all the judicial levels of the common-law system, especially as this regulation and approach is very much attended in the local, legal systems and the judicial and criminal-civil entities.

Although various and differing judicial and civil entities existed and exist in countries following common-law legal system, what is important is that these judicial referents and entities act on the basis of the joint laws and regulations within the framework of the common-law system and the observation and following of these laws have caused the structure and subject of the judicial and criminal entities to have less importance than the laws and regulations in which they are being implemented. This rule also governs in relation to civil and popular entities, as well as the organizations established in the form of the contributive criminal policy in the judicial area as the references proceeding the conflicts. Currently, many of the global countries attend and highlight the principles and doctrines of the restorative justice. In addition, the common-law legal system, has approved and highlighted the principles and regulations of the restorative justice as one of the important legal systems. In this legal system, many attempts have been made to apply and prevalent the restorative justice approach, leading to the formation of the ways to apply this practice. This practice is being implemented in many countries following this legal system. America, Canada, Australia, and some other countries are among those countries where these principles and regulations have been rapidly institutionalized and developed (Mark Umbreit *et al.*, 2005:256-257).

Local courts, arbitration, and arbitrator entities, jury and meeting are among the practices and entities that act more in the form of civil and popular and in the form of the contributive criminal policy. This process and the way of proceeding the crimes exists at all the countries following the common-law legal system. The United States of America, Britain and Canada are among the countries where the arbitration method is common and many conflicts are resolved under this method. Arbitration is a tripe process that is started based on the previous agreement of the delinquent, the victim, with the presence of a third party called arbitrator to resolve the conflicts and various problems caused by

committing the crime, regardless of the usual formalities in the criminal process. In the arbitration process, the arbitrator does not impose his/her vote or opinion on the parties. The meeting is also like arbitration. The difference is that in these meetings, a larger number of the delinquent and victim parties contribute and increase the restorative contribution to the delinquent and the victim's relatives. The creation of the compatibility and treatment rings is also a restorative practice that is generated by contributing all the members involved in the crime, that is, the delinquent and his/her relatives, victim and his/her relatives, judge, pursue authority, advocate and the members of the local or civil community (Kazem Pour Fard and Rangchi Tehran, 2018:157-158).

In the common-law law, three methods of negotiation, arbitration and compatibility exist as the most important methods for proceeding the conflicts outside the formal judicial and court entities and act in the form of contributive and civil entities in the resolution of the conflicts (Cohen, 2003:2). In addition to the similar cases of the civil and populous entities that exist in the judicial system of the countries following the common-law legal systems, each of these countries have also specific civil and populous systems. For instance, in the America, the Ford foundation in 1964 established the national center for conflicts resolution and arbitration and conflicts resolution institute to study the conflict resolution mechanisms. For this purpose, hence, three methods of negotiation, arbitration and intermediacy were considered (Nosyрева, 2001:8). In addition, in this country, the criminal and civil councils, arbitration, jury and small courts also exist (legal system of the United States 2004:130). These entities have been recognized as the competent entities in the resolution of the conflicts.

In many of these methods of proceeding the conflicts, the subject and approach of the restorative justice play an important role. The variation of the paradigm and the trend of using the restorative methods as restorative justice is still extending in the entities proceeding the conflicts in the United States. The restorative justice is still established in the American communities and states as an alternative pattern for the traditional form of the justice and the restorative expression and language are found in the majority of the state regulations and codes. In addition, these restorative methods have increasingly been characterized in laws as well (Pavelka, 2016:13).

In the United Kingdom, tribunals or lower courts, district courts and justices of the peace are cases and institutions that deal with civil and participatory institutions. The district courts are mostly active in civil matters, and their judges are composed of defense attorneys with more than 7 years of experience. These courts usually deal with crimes and cases that are not at the level of the Supreme Court. The important point is that the litigants are free to choose the district courts and can refer to these courts if they agree. Peace judges, also known as courts of first instance, also hear legal and criminal cases, as well as lower-level cases. These courts make up the largest number of courts and usually deal with very minor crimes. The UK department of justice said in a report that restorative justice would provide significant benefits to victims and delinquents with regard to focusing on victims and delinquents and supporting them. In addition, the restorative justice has also affected the violators and has supported them in reducing the delinquency against them and filing lawsuits against them again (Neill *et al.*, 2016:8).

In fact, the crimes and courts law in Britain explicitly stated in 2013 that the verdicts can delay the cases to be able to conduct the restorative justice prior to punishments. Gary Stephenson, the executive director and the manager of restoring solutions of CIC, stated that at all sectors of the criminal justice system, the restorative justice prevents from the tensions existing in the policies of the government (Neill *et al.*, 2016:13).

In Canada, the first restorative justice program was implemented in 1974 in the form of adaption plans between the delinquent and the victim (Mir NaqiZadeh and Safari, 2017:213). In Canada, the justice has been approved formally for native people by Canadian ministry of justice in the form of self-indigenous justice strategy. Aboriginal justice strategy was set in 1996 by the federal ministry of justice that led to the development of the restorative justice in the judicial system of the country (Maloney, 2006:11).

The Canadian judicial system consists of a general or federal court, state courts, or provincial high courts that hear serious criminal cases and trials, and courts that exist under different headings in each state and are more commonly known as civil courts. For example, juvenile courts, family courts, and junior courts that hear lawsuits and crimes that occur at low and low levels. For example, juvenile courts hear cases involving 12- to 17-year-olds accused of crimes, and family courts hear cases and crimes that occur in families (the judicial structure, 2020:1).

In this country, in the processes of restorative justice, criminal behaviors are considered as a sign of the failure of the relations between the offender and the victim, and to some extent the society. Therefore, a crime or criminal behavior is not considered a crime against the country that requires government intervention to punish the perpetrator, but the role of the government in this plan is minor. In this level of crime, delinquent acts are seen as a gap in the relationship in which the perpetrator, the victim and the community play a role in these crimes, because they are those who are involved in fragile relationships but on the other hand collective tools to improve relationships. Have. In this country, the principles governing restorative justice are related to reciprocal, respectful and responsible relations and based on a comprehensive view of health. This comprehensive approach constitutes healing and balance in all areas of physical, spiritual, emotional, and mental well-being (Maloney, 2006:9).

In this country, restorative justice systems are diverse in process and practice. They are also at different stages of development. Some have been around for decades, playing a role in litigation, while others are just starting out. Clearly, restorative justice systems employ a wide variety of processes to help resolve disputes and help improve communities. Mediation is one of the methods of restorative justice. Where mediation takes place, the offender and the victim (if both agree) will be accompanied by an impartial and skilled third party, a mediator who helps the parties to talk to each other until a compromise is reached (Maloney 2006:12).

In addition to mediation, peace circles, circular convictions, home meetings, tribal meetings, family group conferences, mediation, sacred circles, and victim-offender reconciliation processes are the most common forms of restorative justice processes in the country. Restorative justice processes may take place at any time during the criminal justice system process. All dispute resolution systems are based on a restorative justice philosophy focused on the need for reconciliation between the victim and the perpetrator and the improvement of the relationship between the perpetrator and the victim and society. The three most common types of restorative justice are mediation, family group conference, and the process of reconciling the offender with the victim (Maloney 2006:12).

Family group conferencing is the most desirable form of restorative justice in Canada and some other

countries. It is similar to mediation but is much broader in scope. During this process, the advice and wisdom of the elderly will also be sought. In more serious cases, many members of the community may be present. Members of the community or others present may also talk about the behavior and its impact on the community to share their thoughts and feelings (Maloney, 2006:13). In Australia, the Supreme Court is the highest court in Australia. Then there are state and district courts. There are specialized courts in the Australian states and territories. For example, in the regions, there are courts called district courts, courts of first instance, family courts, state administrative courts, juvenile courts, and some other judicial and criminal institutions (court system in Australia, 2019:1).

In this country in the twentieth century, restorative justice was considered to a limited extent and in some crimes, and restorative justice did not exist as a worthy procedure in the judicial institutions of this country. But in the last few decades, special attention has been paid to restorative justice and its role in the country's judicial and criminal system. Across the country, restorative justice processes are now available alongside criminal justice responses. In 2011, the Group of the Chief Justice of the Republic of Australia considered the need to develop national guidelines to emphasize restorative justice procedures for criminal justice in Australia. The Permanent Council of Law and Justice (SCLJ) in 2013 approved the National Guidelines on Restorative Justice. These guidelines are intended to promote adaptation to the use of restorative justice across Australia (restorative justice in Australia, 2020:3).

In some other countries, such as New Zealand, restorative justice is one of the litigation strategies. Restorative justice as a social practice has been considered in its modern embodiment as a response to what the criminal justice system seemed too harsh (Meadow 2007:3). The New Zealand Ministry of Justice has published the findings of an evaluation of a pilot project carried out from 2001 to 2004 on the impact and role of restorative justice and its implementation, with the results of reducing the impact of crime on victims and increasing It showed the victims' satisfaction with the criminal justice system and the reduction of the re-offending rate for the offenders (Rea 2007:58).

In general, within the framework of the common law system, the issue and approach of restorative justice is considered as one of the most important and

fundamental methods in dealing with crimes and lawsuits. The countries subject to this legal system have always tried to take steps in line with the defined goals of this system. Restorative justice has been accepted in the Kamnala legal system and its principles and foundations have been emphasized. In order to unify the procedure in implementing the restorative justice approach, different countries have adopted uniform methods such as negotiation, compromise and mediation as the main methods of implementing restorative justice.

CONCLUSION

Over the course of the study, through analyzing and interpreting the duties and objectives of the Dispute Resolution Council and the philosophy of its establishment and its conformity with the principles and standards of restorative justice, it can be well understood that the principles and standards of restorative justice in many cases correspond to the tasks, goals and approach of the Dispute Resolution Council. However, studies show that due to the structure of the Dispute Resolution Council and the way of handling lawsuits and its complete independence from the criminal justice system, this correspondence is more in the field of theory and in the field of practice and in the process of implementing lawsuits. That, in addition to the way litigation is handled, the structure and nature of the council are also influential in litigation is not as obvious as it is in the theoretical realm (Miller Midura and Bleakley 2020).

Understanding this issue when the restorative justice approach and the degree of acceptance of its principles and foundations in the Dispute Resolution Council has been facilitated by adapting this issue to the legal system of the Commonwealth. In the legal system of common-law, the issue of restorative justice and the methods of applying this approach have been clearly stated and its principles and foundations have been accepted by the subjects of this legal system. In the common law system, the three methods of negotiation, mediation and compromise are recognized as the main methods of restorative justice and these methods are used in the judicial system of the subjects of this legal system. It is important to note that the principles and standards of restorative justice are clearly accepted and used in practice in the dispute resolution bodies of the subjects of the common law system, and this method has important implications for the handling of criminal cases instead of has laid.

The institutionalization of the principles and rules of restorative justice standards in the legal and criminal systems and its implementation along with criminal justice and attention to it in the field of practice can create dramatic changes in the judicial and criminal field. The use of restorative justice in Iran's judicial and criminal institutions, as well as in the form of the Dispute Resolution Council, can reduce the litigation process, have a greater impact on offenders and victims, as well as beneficial effects on society and the social environment.

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