

Abstract

The purpose of the thesis is to confirm or disprove the hypothesis whether alternative methods of crime resolution and restorative programs bring advantages and benefits to the victims of crime. For that reason I perceive the victims of crime from the Restorative justice's point of view trying to identify their interests, needs and expectations arising from the criminal event and trying to get to know whether the criminal procedure, as well as its alternatives, is able to fulfill them. Therefore the thesis is composed of four chapters, each of them dealing with different aspects of the victim from the restorative perspective. The first chapter of the thesis is dedicated to the theoretical analysis of the concept of Restorative justice. It deals with the principles of restorative and retributive paradigms and their relation, it briefly discusses the theory of conflict and describes the restorative process, its principles and the stakeholders – the victim, the offender, their communities of care or their social circles and, last but not least, the facilitator. The stakeholders are a crucial part of the process, as the Restorative justice considers the crime as a social event with negative impact not only on the victim and the offender but also on the society and a social peace, so for that reason the stakeholders should be involved in the conflict resolution. Furthermore, the thesis emphasizes the benefits of the restorative process, especially for the victim of crime, but also deals with the critiques of the restorative approach trying to rebut them with rational arguments. It investigates the suitability of the restorative process, its advantages and disadvantages for the victim of crime summarizing that the restorative justice programs are highly recommended to deal with criminal cases characterized as a personal conflict between the victim and the offender with the lack of a public interest, and for the minor and negligent offences, in general. The thesis also opens up a new issue of restorative approach to the serious crimes highlighting that not the type or seriousness of the crime, but the personality of the offender and the circumstances of the criminal event, as well as the voluntariness of participation in a constructive and collaborative dialog, should be the relevant points to considerate if the restorative program is suitable or not. In the following passage the thesis focuses on the restorative programs such as conferences, circles and the victim–offender mediation and their practical application. Regarding the application of the restorative theory in practice, the thesis looks at the indigenous ways of dispute resolutions based on my own research of indigenous legal systems realized in Southern America, especially in Peru and Colombia, as their traditional dispute-oriented practices comes from the restorative philosophy. The following chapters of the thesis

are dedicated to more legal issues focused on the criminal proceeding in the Czech Republic. The chapter two examines, after a brief historical review, the victim's position in the Czech criminal procedure, with emphasis on the most important procedural rights established by the Criminal Procedure Code and afterwards the victims' rights according to the Act on Victims of Crimes. The following part focuses on the legislative progresses regarding the position of the victim in criminal proceeding, pointing out the most important amendments of the Criminal Procedural Code concluding that the legislative tendency is to strengthen the victims' rights and to improve the victims' position in the procedure, which should be evaluated very positively. In the final part the Spanish criminal procedure (focused on the victims' position) is introduced to the Czech reader, stressing the victim's role as a plaintiff, which is related to the institute of a private criminal action and a category of private crimes which is proposed to be implemented into the Czech penal legislation. The third chapter of the thesis deals with the diversions from prosecution as the alternatives to the traditional criminal procedure and related aspects such as the principle of opportunity, the principle of subsidiarity of criminal law or the purpose of the criminal procedure and the punishment. Afterwards the thesis examines the concrete types of diversions from the victims' point of view and their restorativeness. There is a special focus on those which are not just another type of procedure, but are based on the restorative principles emphasizing, besides other things, the victim's interests, needs and rights, especially the victim's satisfaction both material and moral, avoiding the perpetrator's stigmatization, supporting his resocialization and preventing recidivism, and in general emphasizing the conflict reconciliation. The final part of the chapter focuses on the activities of Probation and Mediation Service, obviously from the victim's perspective, and the practical application of restorative justice in Czech criminal system with a brief mention of the Colombian legal situation in this field. The final, fourth, chapter summarizes the victims' needs and expectations arising from the commission of the crime and points out the importance of the restorative paradigm for the victim of crime concluding that the restorative approach is highly victimologically oriented philosophy searching for an improvement of the victims' position in the criminal procedure, guaranteeing their rights and leading to their total satisfaction, and for that reasons confirming the initial hypothesis of the research. The thesis shows a really positive evaluation of the crime resolution based on the restorative philosophy due to the active role and participation of the victim and the offender in conflict resolution process and due to the mutual dialog which is considered as a crucial aspect of the restorative process. The thesis supports the restorative

justice and promotes not only higher application of the diversions from prosecution, but also the implementation of the restorative components to the criminal procedure.