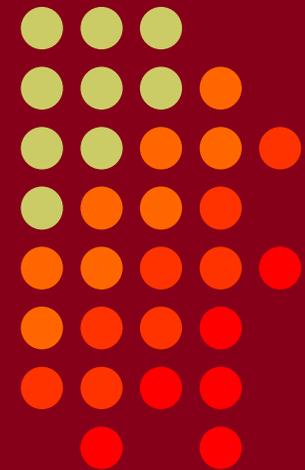


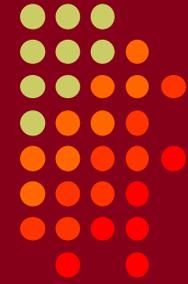
The restorative approach in practice: models in Europe and in Hungary

Borbála Fellegi, PhD.

Conference of the
European Crime Prevention Network
28 April 2009, Budapest



Restorative justice (RJ) – an *objective* framework based on *subjective* elements?



RJ is a concept of justice in which

- the primary aim is to repair the harm caused by an offence
- emphasis is put on directly involving all the affected parties (victim, offender, and their supporters) into the sanctioning process so that they try to agree on how to respond to the offence committed
- the response given to the crime preferably reflects to both the material and the symbolic needs of the victims, the offenders and their communities

Traditional sanctioning principles

the offence was committed against the State

„the just response”

is a sanction provided by the State

Goals:

The offender

1. **Gets** what he deserves
2. **Taught** not to do it anymore
3. Is **taken out** of the society |
4. **Gets** therapy in order to reintegrate

PASSIVE OFFENDER

3 main questions:

1. What rule has been broken?
2. Who did it?
3. What does he deserve?

Restorative principles

the offence is considered as a conflict between the affected parties

„the just response”

is provided by the affected parties and is based on their agreement on how to repair the harm

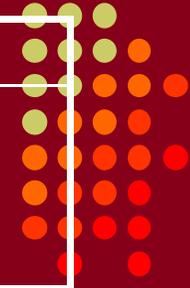
Goals:

Satisfy the (material and symbolic) needs of victims and encouraging the offender in **actively taking responsibility** in repairing the harm

ACTIVE OFFENDER

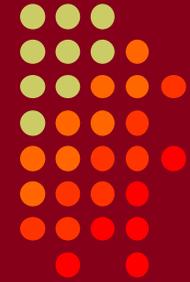
3 main questions:

1. Who was harmed?
2. What are their needs?
3. Who and how should satisfy these needs?



Based
on
Zehr,
2002:
21

The restorative 'attitude'

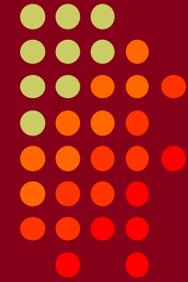


How do we respond to a harm-causing?



O'Connor - Wachtel (1999)

ROOTS & REASONS



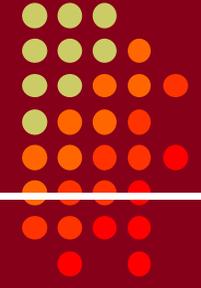
RECOGNITION OF THE

- **COMMUNITIES**
- **VICTIMS**
- **INEFFICIENCIES OF THE CRIMINAL JUSTICE SYSTEM**

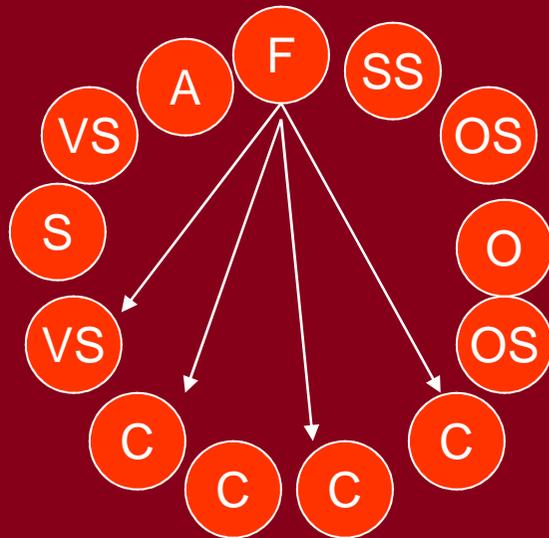
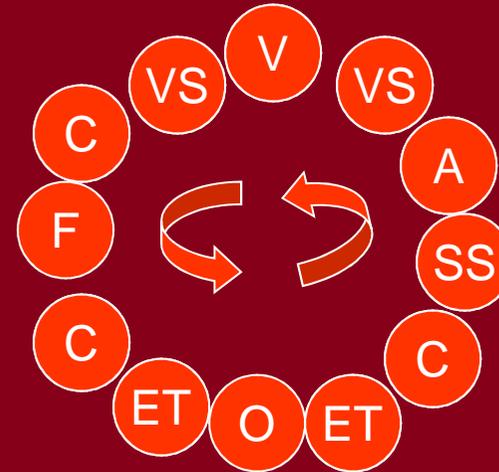
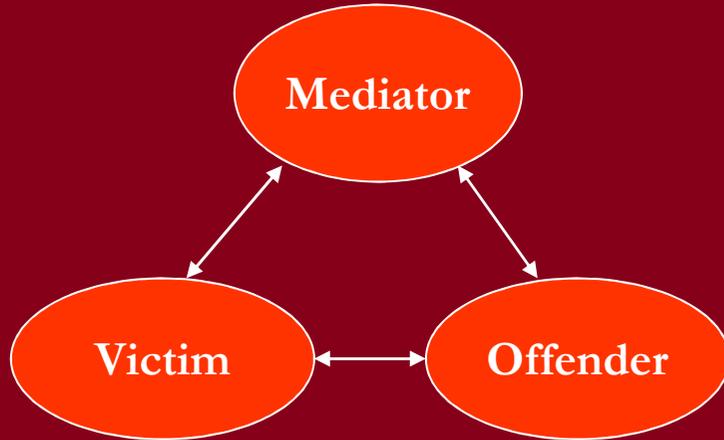


- **International documents (CoE, EU, UN)**
 - Victim support, cost-efficiency, humane criminal justice, protection of child- and juvenile off-s, multi-disciplinary criminal justice system, etc.

Main models of RJ



Victim-offender mediation Circle (sentencing, peace)



Conferencing

● RJ conference

● Family Group Conference (private time!)

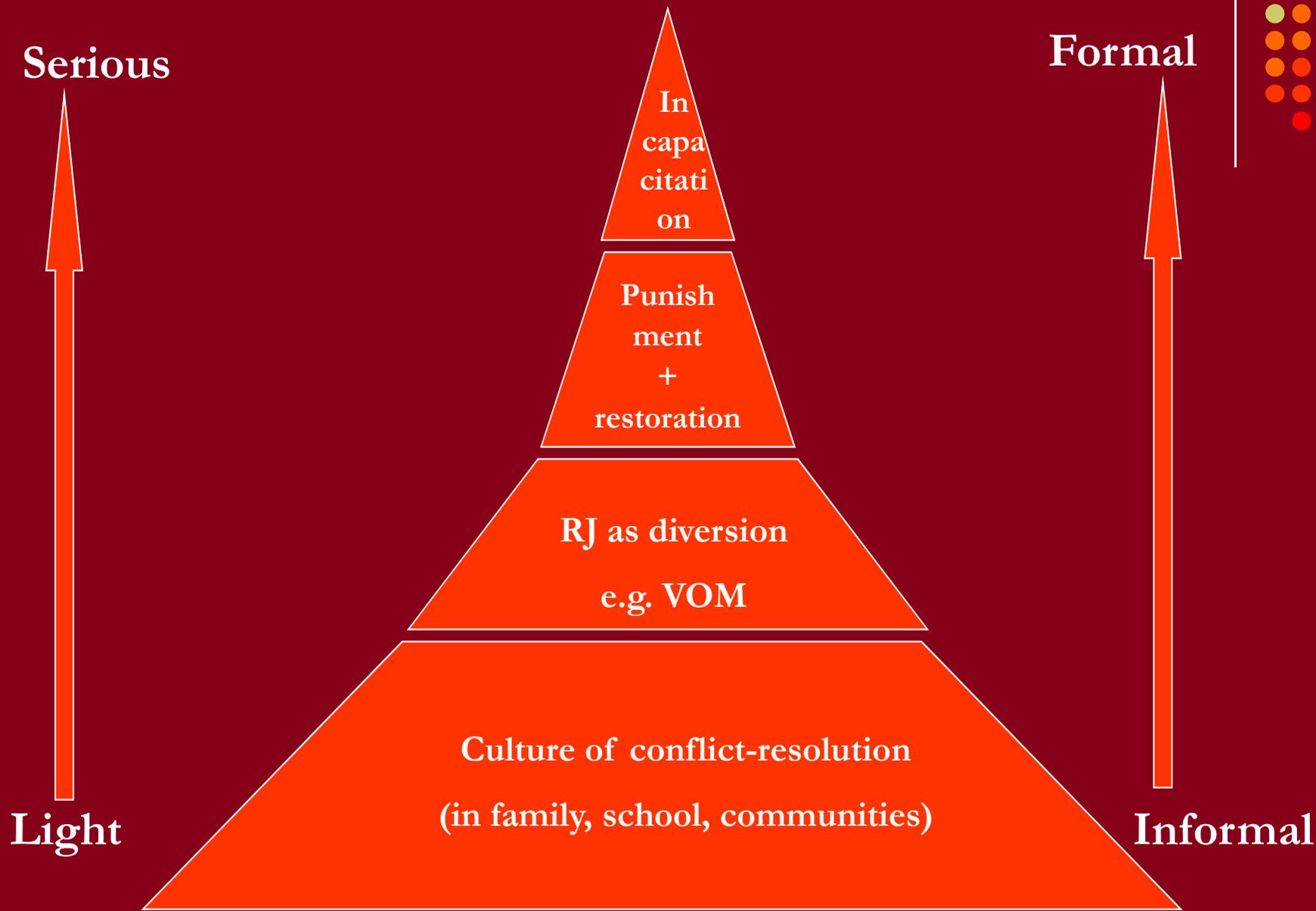
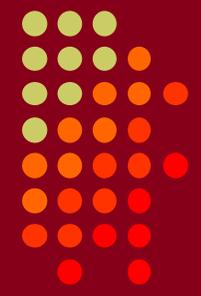
- F: Facilitator
- V: Victim
- O: Offender
- OS: O. supporter
- VS: V. Supporter
- A: authority
- SS: social service
- C: community

Common elements & standards



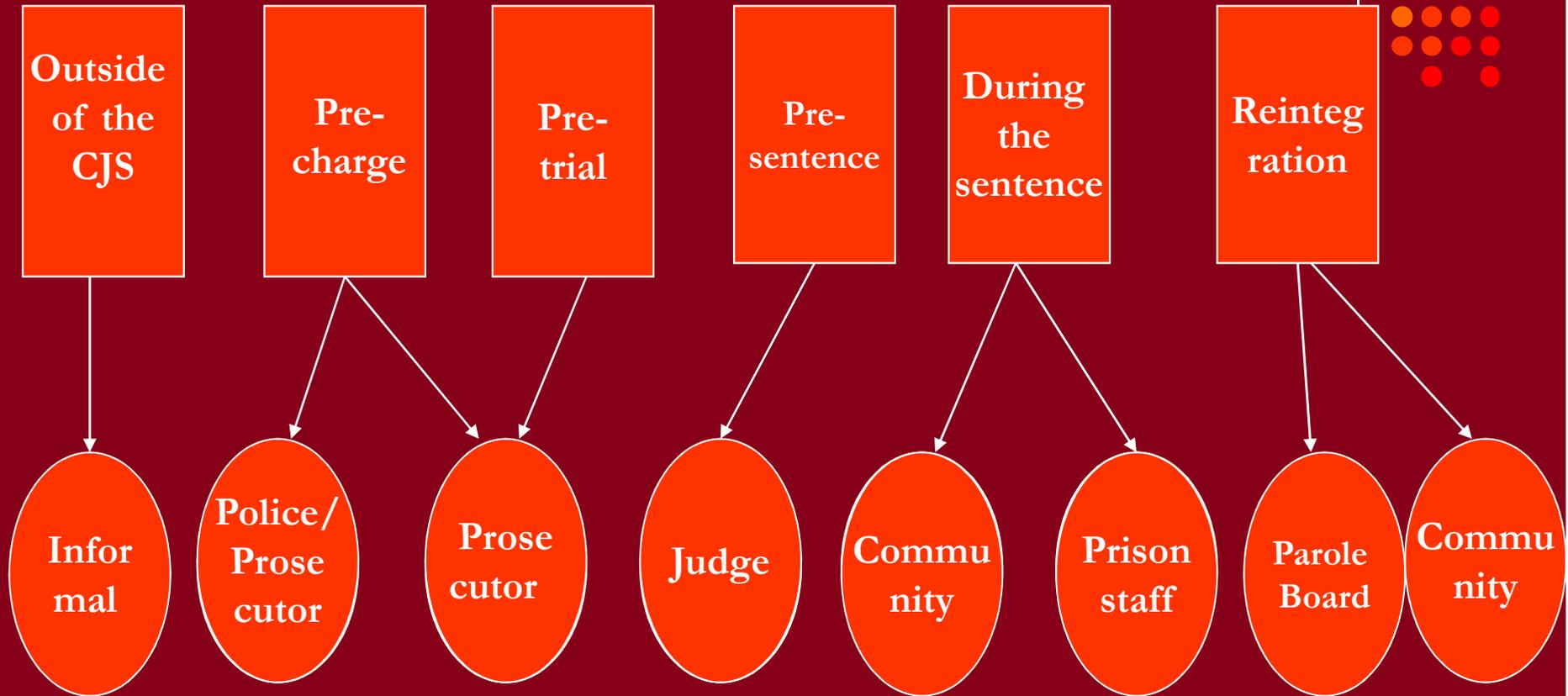
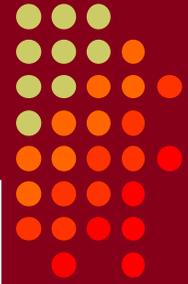
- **Voluntariness** (free choice after being thoroughly informed about the process)
- **Confidentiality**
- **Impartial** and adequately **trained** mediator/facilitator
- **Risk** assessment (a victim cannot be re-victimised due to an RJ intervention!)
- Equal emphasis on the needs of **victims**, **offenders** and the **community**
- **Direct** participation and confrontation in the meeting discussing:
 - 1.) What were the circumstances that led to the offence;
 - 2.) Who has been affected and how?
 - 3.) How to repair the harm and move on?
- Possibility for **active responsibility-taking**: voluntary offers from offenders
- Involving **supporters**

Where can RJ practices integrate into the social and criminal policy?



Based on Braithwaite (2002) and Walgrave (2008)

RJ programmes in the criminal justice system

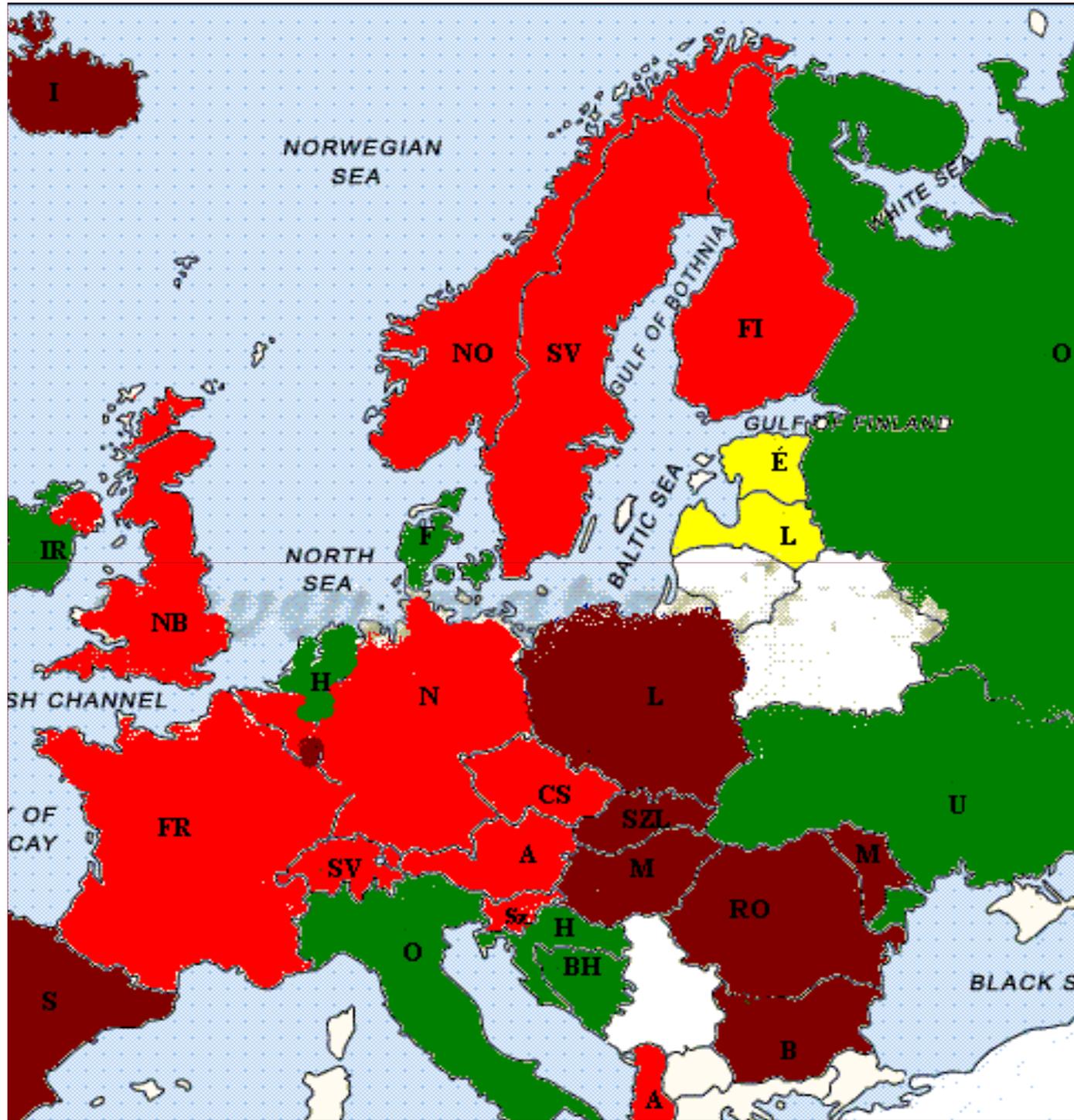


PREVENTION

DIVERSION

REINTEGRATION

R E S T I T U T I O N



RJ has

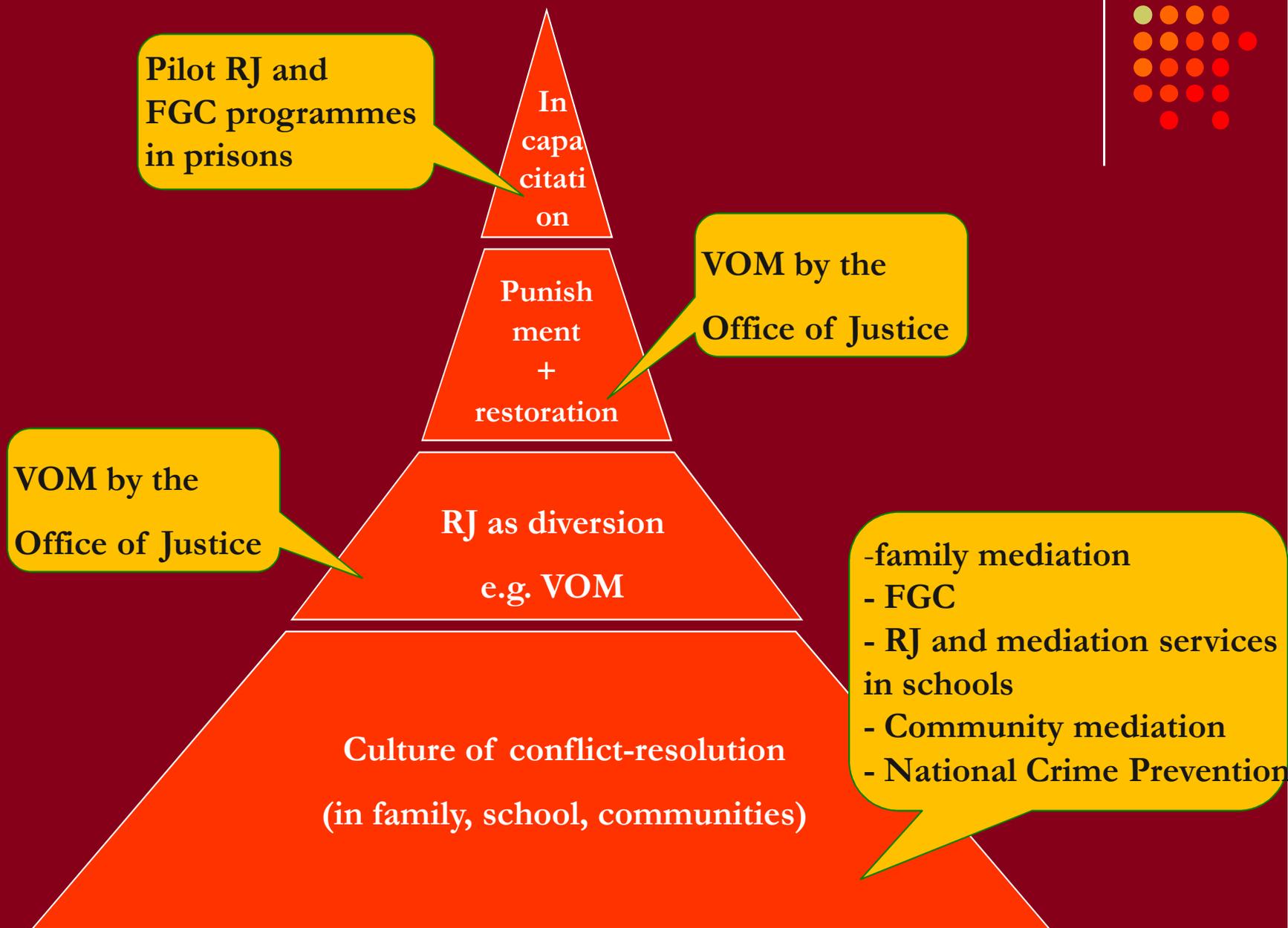
■ a specific legal framework, and intensive application

■ a specific legal framework, but not so intensively applied

■ no specific legal framework, but other laws provide room for RJ programmes (pilots)

■ only draft laws, minimal application

RESTORATIVE JUSTICE IN HUNGARY



SWOT ANALYSIS OF THE HUNGARIAN VOM SYSTEM



STRENGTHS

- state-based, civil and international consistency
- stable legal and inst. background
- nationally standardised methodology
- availability for both juveniles and adult offenders
- not only diversion
- confidentiality, voluntariness, impartiality
- strict training and supervising requirements
- high number of VOM cases

OPPORTUNITIES

- evaluation studies
- recognition of ADR in other ministries
- attitude change in the public and amongst the professionals
- interdisciplinary services
- high number of crimes make new solutions needed
- Increasing international relations

WEAKNESSES

- law and institutionalisation without preparation
- overregulation:
 - limitation of the participants in VOM
 - dominance of the material compensation
- exclusions: victimless crimes, serious crimes, multi-offence, admittance after the investigation
- large space for the prosecutor's discretion, guides are controversial or not supportive
- automatic closure of the case
- dominance of lawyers
- lack of information about RJ of the judiciary

THREATS

- weaknesses don't change
- unpredictive legal and inst. Changes
- lack of evaluation
- lack of information about RJ
- routinised practice
- qualitative aspects vanish (supervision, interdisciplinarity)
- loss of competence , hence professionals' resistance
- unstable financial background – power games
- punitive media generates punitive CJS

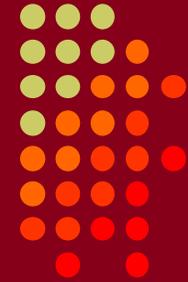
SUMMARY: What do we expect from a client?



- security
- self-esteem
- responsibility-taking;
- honesty
- articulation of own needs
- trust
- taking care of others
- recognising, listening
- understanding the other side
- cooperation, partnership
- giving and requesting feedback
- ability to self-criticism
- giving another chance
- communication skills
- win-win outcome
- trust towards an initiator
- the principles
- supporting others in making amends

Do we represent these principles in our daily work with each other?

CONCLUSIONS IN 3 POINTS



1. Restorative justice is a broad concept. The actual techniques, models, programmes applied as well as the way of their adaptation depend on the cultural/sociopolitical heritage of a certain society.
2. During the institutionalisation, RJ principles should not be 'lost in transition'. Regular checks are needed, whether our current practice still reflects on the originally defined principles. If not, make changes.
3. To become credible initiators of RJ and to make it work, we need to show the same principles in our daily work. The first step is to check if *our* activity reflects on these principles. No institutionalisation is needed for this step.



**THANK YOU
FOR YOUR ATTENTION!**

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The presentation can be downloaded from:

www.fellegi.hu/files/Fellegi_pres_EUCPN_2009apr.html