Restorative Justice and Domestic Violence: Challenges for Implementation in Greece

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Restorative Justice in Greece

• Restorative Justice (RJ) has developed in Greece during the last decade, with particular progress in the last five years.

• The introduction of provisions for the implementation of RJ measures and practices in the Greek Justice System concern the application of RJ measures through complementary or alternative procedures within the limits of the traditional Greek Justice System, – the Criminal law and the Civil and Commercial Law.
In Civil and Commercial Law, mediation in civil and commercial matters was introduced in 2010 (Law 3898/2010).

Especially for juvenile offenders, a range of educational measures are included in the legislation on juveniles.
A very important restorative provision in the Greek CJS has been the introduction of mediation (Victim Offender Mediation – VOM, “penal mediation”), which was first introduced by the Law 3500/2006 "On Confronting Domestic Violence and other provisions"
The Greek Law about Domestic Violence

• Law 3500/2006 on ‘The Confrontation of Domestic Violence and other provisions’ provides Victim Offender Mediation (VOM) of “penal mediation” for DV cases (Article 11).
• In cases of DV, the mediation could be applied only when a misdemeanor is committed, namely crimes of simple bodily harm, threat, insult, or coercion.
• All the crimes of DV formulated by the Law No 3500/2006 are prosecuted ex officio (Article 17).
The Greek Law about Domestic Violence

Three conditions are attached, i.e. that the offender has agreed:

• not to commit any further DV and give his “word of honor”,
• to participate in a special counseling /therapy program, and
• to undertake reparation to the victim, where possible.

• The Prosecutor of DV (where he/she exists) or the General Prosecutor is responsible for investigating the possibility of mediation, as the Law orders.

• The conduction of the VOM was undertaken by the National Center for Social Solidarity (E.K.K.A.)
A. INTERVIEWS
1. Description of the respondents (victims)

- 8 interviewees, 5 women, victims of DV and three 3 men, offenders of the same crime (2 women, 3 couples).
- 4 women between 30-39 years old and 1 to the range of 40-49 years old

Greek and Albanian

Married, victims of DV

Prosecutor referred all the cases to VOM
Description of the respondents (victims)

• Two (2) of the victims have graduated from primary school and three (3) from secondary school and they are mostly housewives and financially dependent from their husbands. Only one (1) woman victim of DV has a full time job.

• All of them have been married for 10-15 years, only one (1) have been married for 30 years and four (4) of them have children.

• All of them are women victims of DV.
Description of the respondents (offenders)

- Concerning their ex partners, three (3) of them belong to the range of ages between 40-49 years old, one (1) of them is between 30-39 years old, and one (1) is older than 50 years old. They have graduated from elementary and secondary school and all of them have a job.

- Three out of five offenders consisted the sample of our interviewees (two of the were at the range of 40-49 years old and one of the between 30-39 years old.
Analyses of the topics
Coercive control

Victims suffered from psychological, verbal and physical violence

Total Coercive Control from the side of offenders to the victims

Offenders→ addiction problem with alcohol (2 cases), psychological problems (1 case), financial problems (4 cases)

MOST SERIOUS PROBLEM: “..threatening with a gun”
“..he broke my arm”, “..I miscarried my baby”, “he threatened our child with a gun”
**Why joining VOM**

**VICTIMS’ goals for attending the VOM Programme:** → Two (2) aimed at getting financial support from the perpetrators, one (1) of them wanted to be sure whether the offender could change, one (1) wanted to be sure that she could be safe from the offender, and only 1 wanted to make the offender come to his senses.

**OFFENDERS’ goals for attending the VOM Programme:** → They wanted to persuade the victims to return to their home and their relationship and to stop the legal procedures.
Victims’ experience of VOM and their idea about the role of the mediator

Victims were scared at first and some of them even had psychosomatic symptoms.

The role of Mediators was very specific, tried to be neutral and they helped a lot in all cases.

They all felt safe throughout the process.
Results of VOM

From the side of offenders:
• Two (2) of them didn’t take over responsibility for the DV and blamed the victims and three (3) realized their responsibility of their actions and behaviors.

• In all cases, victims and offenders did not reach an agreement, neither during the VOM procedure, nor after VOM.

• Generally, offenders showed a kind of remorse and they promised to change their behavior (again).
Results of VOM

• Victims said that VOM didn’t play an important role in the situation of violence, but this was mainly because when VOM started they weren’t living with their husbands anymore. IPV has already stopped before VOM, because the victims had not been living together with the offenders anymore.
Conclusion of the interviews

• The role of VOM in the cases of DV is not absolutely clear, either to the victims or the offenders.

• Victims and offenders have different motives for using VOM.

• From the side of the victims, they are involved in the mediation, depending on the information they get and in order to “earn” something from this process and not because they believe that mediation will stop the violence.

• Victims seem to use the mediators as “witnesses”.
Conclusion of the interviews

• When children are involved, victims want to secure themselves and their children financially.

• The offenders wanted to stop the legal procedures.
Focus Group was constituted of 5 persons:
• a Prosecutor of DV in Athens
• a police officer
• a psychologist
• a social worker
• and a lawyer-mediator

They are all experienced in DV situations as mediators and/or counselors.
They have been working in Athens, except our mediator who is working in the island of Samos.
About the process

• The participants were informed about the project.
• They were also informed about the results of the interviews with the victims and the offenders, who consisted our sample.
• They were experienced in cases of DV and they all agreed that it is a social phenomenon and a serious crime that has flourished especially the last 5-6 years.
About the process

• Neither of the professionals has received any training about mediation, except the lawyer

• They all agreed that mediation has many advantages, such as the handling of DV with confidentiality and privateness, without sending couples to court.

• They all focused also on the importance of the guide

They pointed out the fact that mediation works for the decongestion of the courts and cases could be more easily and quickly solved.
Issues about Mediation...

- They all shared the certainty that even mediation works, the law needs improvement.

- Another concern is the waiting list of couples.

- Another important issue is the protection of the victims in the whole process.

- They all agreed that there are no specific measures to protect the victims, either during the process of the mediation or after it.
Issues about Mediation..

- They agreed that victims and offenders in mediation participate for different reasons each and that this is a problem during the process.

- All of them agreed that the existence of a law about DV is important even if it needs improvement.

- They pointed out the lack of a national registry to cases of DV.

- They all agreed that DV is a crime.

- They focused on the lack of personnel in every Organization.
Critical Issues For Mediation

- Issues of power and control in cases of domestic violence
- The victims' safety
- The role of the victim and the offender's role.
- Victim-offender mediation as part of the criminal proceedings
- The competency of mediators (education and disciplines especially for issues of DV)
Promising Practices

- Allow Victims to Decide Whether to Mediate
- Train Mediators and Screen Couples for Abuse
- Mediators must recognize that victims are typically fearful so they may not fully inform mediators of their exact situation.
- Mediation is a multi-disciplinary process.
- Mediators should be trained specifically as such, as an addition to their discipline, specially skilled and educated.
Promising Practices

• Collaboration between Judges, Psychologists, and Mediators.

• Victims should be provided a greater bargaining power.
Promising Practices

- Redefining of the legal framework to fix the inequalities between victims and offenders.
- Improvement of the law.
- There should be also a new cooperation framework between the Prosecutors and the mediation agencies.
- The creation of Family Courts in Greece
What we learnt from the project

Practices

• Most countries have a different approach or method for IPV cases compared to “standard” cases.
• Practice and regulations in the countries differ though.
• It is obvious that practice and regulations in the countries differ (and partially even within the countries), and that the countries can learn from each other.
What we learnt from the project

Legal system

• In most legal systems, the main access to VOM is via referral by the public prosecutors or the police.

• Many legal systems provide no special mechanism for complaints about the access to VOM, the procedure or the outcome.
What we learnt from the project

VOM

• The most common model is the offer of VOM in an early stage of the criminal proceedings, usually at the stage of the public prosecutor who has a kind of gate-keeping function.
• In some countries mediation services have their own additional rules for the selection of appropriate IPV cases.
• In general, VOM can be offered before trial, during trial or after the court decision.
• In most countries mediators are not specially trained how to mediate in cases of IPV.
• There are also big differences between the countries concerning the mediators’ professional background and status as well as their training.
• In all countries but in Greece there is no obligatory observation period after the mediation has been successfully completed.
What we learnt from the project

Victims

- The victim’s consent is a precondition for VOM in all legal systems and withdrawing is possible at all times.
- Victims want protection and a life without fear.
- In all six countries the protection and safety of the victim of IPV in the RJ process is a topic of debate or concern.
Open-ended Questions

• In the case of Greece, is the RJ appropriate for the confrontation of the DV?

• On which conditions a similar measure should be applied?

• What are the needs of the victims that the victims themselves expect and identify as important if and when they engage in RJ processes?

• What needs do the key professionals identify as important in order to deliver victim support and RJ services to victims of DV?
Open-ended Questions

• What obstacles do the key professionals identify as important when providing RJ services?

• To what extend will practitioners of DV cases in different institutions be interested in participating in workshops and training programs on RJ?

• To what extent will the training materials, protocols, guidelines and best practice guidance be considered by the key professionals as practicable in the different contexts, services and agencies?
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