Editorial

The articles in this newsletter focus on the interactions that take place during restorative justice (RJ) schemes. They stress the significance of the process itself and its surroundings in order for victims to move beyond the offender and for offenders to break off their offending behaviour. In Belgium, a relatively new project of group counselling helps victims deal with their victimisation more efficiently. The article by Leen Muylkens and Katrien Smeets shows that victims feel safer in a group setting where they can share their story with other victims. In England and Wales, according to Jo O’Mahoney’s article, age and continuity of panel members affect relationship building between these members and young people undertaking a referral order. Minors prefer younger panel members because they can more easily relate to them. Following young people through their order and showing a continuing commitment to them is also of vital importance for the reintegration process. It is all about expressing feelings and engaging in a dialogue within a setting that promotes a sense of acceptance and trust. Even in cases of terrorism, according to a project promoted by the European Forum for Restorative Justice and co-financed by the European Commission, RJ has a potential; as mentioned in Ines Staiger’s article, at least some victims need to meet and talk with the offender in order to deal with the aftermath of the terrorist act.

If RJ programmes are committed to empowering the individual, aiming both at personal growth and social transformation, issues like the above should be seriously taken into consideration. Recipients’ satisfaction is central when examining mediated forms of settlement. In-depth research, therefore, concerning participants’ opinions on RJ schemes is considered essential. One can never stress enough how important it is to open a ‘dialogue’ between research and practice.

Panagiota Papadopoulou
Member of the Editorial Board

Restorative justice and victims of terrorism

About the project

In the context of the project “Developing standards for assistance to victims of terrorism”, promoted by the European Forum for Restorative Justice, and co-financed by the European Commission, the question of the potential of restorative justice (RJ) in cases of terrorism was assessed amongst others. The project ran from March 2007 until June 2008 in partnership with the International Victimology Institute Tilburg, the Catholic University of Leuven, the Centre for the Study of Terrorism and Political Violence at the University of St. Andrews and Victim Support the Netherlands. The project focused particularly on developing standards in the fields of continuing assistance, access to justice, administration of justice, compensation and RJ, explored from the victim’s perspective. The final results of the project were a proposal for an EU Recommendation for Assistance to Victims of Acts of Terrorism and a literature report. The proposal was discussed in two seminars attended by policy makers, practitioners and academics. Moreover, it was commented upon by participants at a final conference in March 2008. Further information is available at http://www.eu-forumrj.org/Projects/projects.terrorism.htm.

Controversy: RJ for victims of terrorism?

RJ for victims of terrorism is a controversial topic that is mainly grounded in the idea that terrorism is the wrong context for such a ‘soft’ approach. This raises the following questions: (1) is terrorism a special category of crime? (2) is RJ a ‘soft’ approach to crime? (3) what is the viewpoint of victims of terrorism in this context? Since the 9/11 attacks, the aspect of mass terrorist victimisation is the focus of public attention. However, most acts of terrorism are similar to ‘ordinary’ crime. Under the EU Council Framework Decision of 13 June 2002 on combating terrorism, terrorism is defined as a crime. According to Schmid (2006), terrorist victimisation can be categorised into focused and indiscriminate ter-
torist victimisation. Focused terrorist victimisation means that victims are specifically chosen and are usually part of the target group. In indiscriminate terrorist victimisation the victim is randomly chosen and is not specifically selected for his/her individual characteristics. This latter point creates the so-called vicarious dimension of terrorism that creates a sense of vulnerability with indirect/vicarious victims identifying with direct victims through the randomness of the terrorist attack. In this context, the question arises what role restorative justice can play for vicarious victims. Before addressing this question, comparable cases to terrorism can be discussed, namely hate crime and other forms of serious violent crime, and large-scale conflict situations. A common characteristic between terrorism and hate crime is that victims are targeted in accordance with what they represent, their individual characteristics being irrelevant. Besides the particular dimension of terrorism, research findings suggest that the impact of terrorism acts on victims is comparable to that of other serious crime. Moreover, according to Albrecht (2006), terrorism may be linked to conflict regions, insofar as terrorist violence continues from such a conflict.

It remains the question what RJ can offer in this context. Common RJ practices like victim-offender mediation, conferencing, circles and victim impact panels are applied in cases of minor crime but also in cases of serious violence, including murder and homicide. The RJ-oriented practice of truth commissions is used for cases of gross human rights violations, as for instance the South African Truth and Reconciliation Commission (TRC). Although the TRC involved victims in the process with the goal of their healing, the main focus was on addressing the conflict at the macro-level. In this respect, Weitekamp et al. (2006) suggest stressing the importance of encounter in such a model in order to be fully restorative. In the context of RJ in cases of serious violent crime, Umbreit et al. (2001) undertook a multi-site, multi-year study of programmes in the USA to examine the impact of victim-offender mediation and dialogue in crimes of severe violence. Their findings revealed that the telling and hearing of each other’s stories, and the opportunity for direct communication were beneficial to the involved parties. In the context of hate crime, Umbreit et al. (2003) presented a case study that has been resolved by conferencing. In this context it is suggested that RJ practices can force the offender of hate crime to see the victim as a ‘real’ person, not as a stereotype. These studies and findings by Aertsen (2004) stress that offender participation in a RJ process is not at all a soft option, not even for minor crimes.

If the application of restorative justice to cases of serious violent crime is possible, what does this mean for terrorist cases? As regards the vicarious dimension of terrorism, vicarious victims could be involved in the RJ process, e.g. in circles or conferencing. Moreover, RJ principles could be applied to mechanisms for reducing vicarious retribution in inter-group conflict situations. RJ in the context of terrorism is not something that has to be re-invented. At the macro-level, there are examples of victims having engaged in direct, indirect or surrogate encounters with the terrorist or a member of the terrorist group, as for instance Jo Berry, Laura Blumenfeld, Michael Buback and Patrick von Braunmühl. Jo Berry and Michael Buback (besides John Tulloch) were invited to the final conference of this project, where they informed the participants about their experiences of victimisation. Moreover, in the context of the Northern Ireland conflict, Archbishop Tutu facilitated an encounter in 2006, which was broadcast by the BBC. At the mess-level, the LIV-Programme of the Glencree Centre in Ireland can be mentioned, which brought together victims from the different regions affected by the Northern Ireland conflict with the opportunity of a facilitated encounter with former combatants. In Israel/Palestine, several peace and reconciliation programmes have been organised, e.g. the Parents Circle - Families Forum, the work of which was recently broadcast in the form of a documentary (Encounter Point). An approach at the macro-level could be based on the TRC model or include strategies involving RJ principles and values between the negotiating parties of such conflicts.

The examples show that RJ has a potential in cases of terrorism, because at least some victims of terrorism need to engage in a dialogue with the offender or ‘the other side’ in order to deal with the aftermath of the terrorist act. Further, it aims to rebuild trust and restore the dignity of the parties involved in the conflict. The findings of this project suggest that RJ can offer a framework for developing policies for assistance to victims of terrorism at the micro, meso and macro level. Thereby, RJ as a problem-solving approach to crime has the potential to offer an alternative way of combating terrorism by taking victims’ needs into account.

Ines Staiger, project manager and researcher at the K.U.Leuven/the European Forum for Restorative Justice


Readers’ Corner

- Restorative Justice Theory and Practice: Addressing the Discrepancy, HEUNI Report #52, by Theo Gavrielides (2007), examines the harmful gap between the theory of restorative justice and its application in programmes in Europe, the US and elsewhere. Data were obtained from four surveys of restorative justice practitioners, using a combination of qualitative methodologies, including questionnaire responses, interviews and focus groups. Restorative justice programmes strive to ‘restore’ peace after a crime has been committed by engaging victims, offenders and community representatives in dialogue and mediation. Compared with the criminal justice system, previous studies reviewed by Dr. Gavrielides have credited restorative justice programmes with such benefits as lower recidivism, and higher levels of satisfaction with outcomes among victims, offenders and community representatives. However, the author’s seven-year research programme uncovered evidence of a pervasive gap between restorative justice principles and current restorative justice programme operations. This ‘gap’ is blamed for widespread difficulties such as insufficient funding for restorative justice programmes, inadequate training and accreditation of restorative justice practitioners, lack of faith and commitment among staff, and a tendency for restorative justice programmes over time to become increasingly similar to the standard criminal justice system. Dr. Gavrielides warns that these problems are not corrected, restorative justice’s original values and benefits may never be realised. Available from: www.criminaljusticepress.com/120.html.

- Doing Justice Better. The Politics of Restorative Justice, by David Cornwell (2007), is an uncompromising appraisal of the unique penal crisis affecting Britain and other Western-style democracies. Escalating resort to prisons, longer sentences, overcrowded and ineffective regimes, high rates of re-offending and eclectic penal policy all combine to fuel this crisis, whilst failing to reduce offending. In this book, the author argues that the symptoms of this penal malaise are grounded in media sensationalism of crime and the need of politicians and their advisers to retain electoral credibility. Change is long overdue, but it requires a fresh, contemporary penology based on restorative justice. The book challenges the status quo, asks ‘different questions’ and places victims of crime at the centre of the criminal justice process. Available from www.watersidepress.co.uk/acatalog/Criminal_Justice.html.

- Law, Justice and Mediation. The Legend of St Yves, by Bryan Gibson (2008). The Legend of St Yves is not widely known in Britain, even though he is the patron saint of lawyers (among other things). In this informative account, Bryan Gibson places St Yves - born Erwan Helouri - on a par with Robin Hood, Jessie James and Ned Kelly in terms of their appeal to various national psyches - and up there alongside Joan of Arc and Bernadette of Lourdes as regards his native France. But whilst conventional outlaws used bows, arrows, six-guns and bullets to ‘rob the rich to help the poor’, St Yves challenged the poverty and social inequality which he saw as the root of many a prosecution or claim via argument, debate, reason and consensus. At a time when bribery and corruption was rife, St Yves waged an historic struggle to enhance the fairness of court and other proceedings and their outcomes. Hailing St Yves as an icon of justice, counselling, mediation and reform, Bryan Gibson explains why Erwan Helouri deserves to be better known, among other things for the values of decency, integrity and ethics that his approach to resolving conflict conveys. The result is not just a fascinating portrayal of the man but a work that will serve as an encouragement to anyone who believes that there are better ways of doing justice. Available from www.watersidepress.co.uk/acatalog/Criminal_Justice.html.

Beyond the offender

Group counselling for victims of crime

Working with a group of victims on the situation of the offender and more specifically on the image they have of their offender? Is this realistic? Do victims have the need to think about offenders and crimes in general and about their offender and victim experience in particular? The project ‘Slachtoffer in Beeld’ (Victim in Focus) has been
working with offenders for the past 12 years. Like most initiatives which follow the idea of restorative justice, the focus is often unilaterally on offenders. To restore the balance, ‘Slachtoffer in Beeld’, in cooperation with the restorative justice consultants in the prisons, who work for the Federal Department of Justice, came up with the idea of organising group counselling for victims to create a place where they can think about the crime, the offender and how to cope with all this. The first programme of group counselling of ‘Uit de schaduw van de dader’ (Beyond the offender) took place in February 2008 and originated from the cooperation between ‘Slachtoffer in Beeld’, the Federal Department of Justice, the Flemish Government, Victim Support and ‘Vormingplus’ (a training service). This cooperation proved to be very fruitful because all the partners, who all have their own area of expertise, believe in the principles of restorative justice and are willing to put them into practice.

Victims are often left with a lot of questions about the offender. The way they cope with these questions and the mental image they have of the offender influences the progress in dealing with their victimization. Supporting victims in this process is the focus of this unique programme that is intended for direct victims of crime and their relatives.

The first time the project organised such group counselling, we worked with a group of seven people who had been victims of several crimes. Two of them were sexually abused in their childhood and two had a family member who was sexually abused. One participant had been the victim of a violent breaking and entering and two had lost a family member by assassination. The sessions were spread over a six week period (six weekday evenings and one Saturday) and had a structured programme. During the sessions we worked on several themes: making acquaintance, sharing one’s story, how each person has dealt with their experience in the past and how they can deal with it in the future. We took time to think about the things in their lives that have helped them to cope and the things that made it more difficult to cope. The main theme of the sessions was working with the image these victims have of their offender and what they can do to give the offender the place they want to give him/her in their lives, so they can get ‘beyond the offender’.

Next to the group sessions, the project also contained a guided tour through the prison of Hasselt and a possibility for the victims to speak with two prisoners who were convicted of murder. In this way we created a bridge between victims and offenders. We wanted to give the victims as well as the offenders the opportunity to exchange their experiences and feelings. What happened at this meeting was healing, for both victims and offenders. Although they were not facing their own offender or victim, it seemed both parties experienced this encounter as restoring.

For the victims it was very surprising to find that these offenders experience very similar emotions to themselves: shame, anger, sorrow, ... The conversation with these two prisoners changed their view of prison life and of offenders to a more realistic one and it helped them to deal with their own victim experience. Also for the offenders it was a very special moment. They received respect, were able to tell their story, to show regret and to ask questions about the ways the victims cope with all of this. For both parties, it was a difficult, moving, but also very beneficial experience.

Because of its success, we hope that this way of working with victims can be continued. The project is, for the victims, a very beneficial process because it unites three important goals. First of all it offers counselling; it helps victims to work through their experience better. Secondly, we work on their image of offenders in general and on the image they have of their offender in particular. And thirdly, the project is a kind of symbolic mediation between victims and offenders. They are confronted with him/her in a symbolic way. So, for some of the victims this project could be a stepping stone towards real mediation with their offender. For others it could facilitate the way towards further counselling. Some of the victims, who are already in therapy, could find new input for their therapeutic process. Others could find satisfaction in this group counselling as it is, and continue with their lives. The fact that this counselling takes place in group, reinforces the process for the participants and increases their chances of progression.

During the preparation, execution and evaluation of the project, we came to the conclusion that there is a clear need for victims to work on the situation of the offender and more specifically on the mental image of their offender. This needs to be done in a safe environment, such as a group of victims. Sharing their story with others, learning from each other, finding recognition and realising that one is not the only person in the world with these problems, helps victims deal with their experiences. After the group counselling the participants said that they were more at peace.

We hope to influence policy making to pay more attention to this aspect of restorative justice, working with victims in groups on the subject of their offender. We hope to create a new way of working with victims and to make a contribution to the spectrum of possibilities within the world of restorative justice.

Leen Muylkens and Katrien Smeets, Slachtoffer in Beeld (Steunpunt Algemeen Welzijnswerk), Belgium e-mail: leen.muylkens@steunpunt.be
Relationship building between Panel Members and Young People in the Referral Order

The most explicitly restorative of youth justice reforms in England and Wales is the referral order, introduced into legislation by the Youth Justice and Criminal Evidence Act 1999. Presser and Van Voorhis (2002) point to relationship building as a key part of the process if restorative programmes are to achieve the outcomes of restoration and social well being. If positive relationships are to be achieved, McCold and Wachtel (2002) stress how important it is in restorative conferencing for panel members and supporters to include those people from the local community whom young people feel they can respect, and by whom they feel they are respected. With this in mind and drawing on data gathered from observations and semi-structured interviews with youth justice professionals, voluntary community panel members and young people who were undertaking a referral order, I explored the interaction between voluntary community panel members and young people in referral order panels. In particular I explored how the age and gender of panel members and the process of following through contract agreements might affect relationship building between these stakeholders. In this article I also describe how the youth justice professionals with whom I had built a research relationship received my findings.

The Referral Order

Young people are sentenced to a referral order through the youth court (see figure 1). A referral order can be given for a minimum of three months to a maximum of 12 months. A contract for future action is agreed at the first panel meeting of the order, and review panels are held at least every three months of the order. A panel can also be requested by any party at other times or in the event of a breach of the contract. A Final Review panel is held at the end of successful completion of the contract to sign the young offender off the order and offer ongoing support. Young people on a referral order therefore attend a panel at least twice.

Over the period of the research, I observed sixteen different panel members interacting with thirty young people (22 boys and 8 girls) at panel meetings in three locations within the jurisdiction of one youth court. There were always two panel members sitting together (in addition to the youth offending team facilitator). At the initial panel attended by the young person, it was a matter of chance (organised by availability) which two panel members were encountered.

Gender

Fourteen of the panel members were female. However, some of the panel members sat more frequently than others. One of the male panel members sat very frequently so that, although the majority of the panel members were female there was a good chance that young people would encounter a male panel member at their first panel meeting. On one occasion the two male panel members sat together.

Almost all young people I interviewed said that the gender of the panel member made no difference at all. They said that the way the panel spoke to them was the most important factor. This point was summed up by Amy (aged 15 years): Whether they are male or female don’t make no (sic) difference at all. At the end of the day they should treat you as any other would treat you. (Amy)

Age

The majority of the panel members were middle-aged. Ten panel members were aged 40-59, with four over 60 and two of them under the age of 40.

In contrast to their responses on the question of gender most young people said that they would have preferred the panel members to be younger. Most gave the reason that young people might be more comfortable with younger panel members.

As Katie (aged 16 years) said: I would have liked them to be younger because young people might be able to get on with them better ... be less scared ... relate to them ... if you know what I mean ... because they’re younger. (Katie)

Ryan (aged 17 years) felt that younger panel members might be more likely to understand young offenders better: I think that if they were younger people they would understand because they walk around like we do every day. I don’t think it matters if they are young. (Ryan)
The importance of continuity for the reintegration process:

Organise in practice

Panel members should follow a case through but it is difficult to.

Were told at their initial training that “... can push you around but we’re the same as them only younger.”

And young people saw different panel members at each review.

Administrative problems frequently meant that young people were among those who thought that it did.

Owen (aged 14 years) said: I think it would be better to see the same people because when you see the first people they know what you’ve done wrong but if you see another two people in the second one they might not know what your full condition is. I know they might read it before you go into the room but you don’t know if they think something completely different so I think it’s best to stick with the same people. (Owen)

And Jason (aged 15 years) said: Yeah they could see how you are getting along I think that would help. You would feel more comfortable with them as well and they could see how you are going. (Jason)

Important then, for relationship building between community panel members and young people in the referral order, was a sense of continuity; following through the process and demonstrating an ongoing commitment.

Relationship Building: Research Informing Practice

As part of the process of negotiating and maintaining access to referral order panel meetings, I agreed to make my findings available to the managers of the Youth Offending Team in the area in which I was conducting the research. I argued that recruiting younger people to sit with older people as community panel members may help to increase the mutual respect felt by young offenders attending a penal meeting. I also suggested that this approach might be one way in which a wider group of younger people could have a stake in the justice system.

Youth Offending Team professionals admitted that they had been most concerned about the gender imbalance on panel composition, possibly at the expense of considering the importance of age. However the University proved to be a good resource for recruiting younger panel members of both sexes so we began a process of posters and leaflets and information sessions for students. Within a year four students had undertaken training and were sitting on panels.

This recruitment process is continuing.

I also argued that if the referral order was to provide moral direction and ongoing support then it needed to take seriously the question of community panel members taking genuine responsibility for the young person on a referral order. An important part of this was for the same panel, as far as possible, to attend all the meetings of a young person, so that relationships could be built up over time. This would make a significant difference to the reintegrative nature of the process.
Youth Offending Teams professionals were typical ‘street-level bureaucrats’ as described by Lipsky (1980) in that they were able to exercise a high level of discretion over how the referral order was delivered and this practice effectively added up to policy. They cited administrative difficulties and resource constraints for the problem of continuity, but also recognised that the needs of the agency were in danger of superseding the needs of the participants. This was bringing them into conflict with volunteer panel members as well as undermining restorative principles and values. My research findings convinced them that overcoming bureaucratic constraints was worth the effort and subsequently they have, wherever possible, attempted to ensure that at least one of the community panel members has met the young person before.

**Concluding Remarks**

What I wanted from Youth Justice Professionals was ongoing access to the research field, in particular access to the young people undergoing a referral order. What they wanted from me was local research evidence to demonstrate doable ways in which their local practice could be improved. In this article I have focussed on relationship building between young people and volunteer community panel members and their responses to gender, age and continuity. This was just one aspect of the research, which was much more wide ranging in scope. But, using this example, I hope to have illustrated the importance of researchers building a good relationship with practitioners and conducting an ongoing dialogue with them about the research. This relationship, not only enabled me to conduct an in-depth academic study of restorative practice, but also was able to be translated into practical applications for influencing policy and practice. Consequently, the Youth Offending Team, firstly, made some significant changes to the age composition of the referral order panels using the local university as a key resource. Secondly, they recognised that efforts made to overcome administrative difficulties in allocating volunteers to panels, were likely to have positive results for relationship building between community panel members and young people.

**References**


**Newsflash**

- The Ukrainian Centre for Common Ground, in cooperation with the Academy of Prosecution of Ukraine and the Swiss Cooperation Office have published the first handbook for students on “Restorative justice in criminal proceedings in Ukraine”. This book was written by Vira Zemlyanska with a foreword by Martin Wright. The handbook considers the concept, forms and characteristics of restorative justice - a new model of responding to criminal behaviour - which aims to find a balance between the needs of the victim, the offender and the community. The book presents Ukrainian and international experience of implementing restorative justice programmes as a necessary complement and a contribution to the criminal justice system.

- According to the Hungarian Ministry of Justice, victim-offender mediation falls within the remit of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market. This directive aims to ensure the free movement of services within the EU, and contains regulation to remove barriers to the freedom of establishment for service providers in EU Member States. In Hungary, victim-offender mediation is a free service of the state for victims and offenders. Mediators are state-employed probation officers (working in the Office of Justice), who have been trained for this activity. From this year on, the law on victim-offender mediation makes it possible for lawyers to contract with the Office of Justice after finishing an appropriate training to work as mediators in criminal cases. Lawyers are paid by case by the state. The Office of Justice has limited the number of contracted lawyers to 50. The above directive considers this relationship as a service, which means that it is subject to liberalization. This means that in the future only professional requirements have to be met to become a mediator; no other limits would be accepted by the EU. For Hungary this would mean that it would not be possible to limit this activity to probation officers or lawyers, and a limit in the number of mediators would also be excluded.
**Calendar**

- 28 July-8 August 2008, Tokiwa University, Mito (Japan), *The 8th Asian Postgraduate Course on Victimology and Victim Assistance*. You can find more information at: http://www.tokiwa.ac.jp/~tivi/english/asian/
- 25-26 August 2008, Santa Barbara, California (USA), *3rd International Conference on Transformative Mediation*. The theme of the conference is 'New Waves of Transformative Practice: New Voices, New Frontiers, New Challenges' and it is organised by the Institute for the Study of Conflict Transformation at the University of Santa Barbara, California. For more information visit: http://www.transformativemediation.org/conferences.htm.

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