

European Forum for Restorative Justice

Editorial

As the end of the year draws near, we are happy to bring you the last issue of the newsletter this year and update you on the Forum's news and changes.

First of all, three new Board members were elected during the Annual General Meeting in Verona - Marta Ferrer (Spain), Eleonore Lind (Sweden) and Aarne Kinnunen (Finland). They replaced João Lázaro (Portugal), Jaime Martin (Spain) and Frauke Petzold (Germany) who have put lots of energy and efforts into the Forum's development during the last six years.

Secondly, new reports of the European Forum as well as information on the state of affairs of restorative justice in several European countries are available on the website.

Thirdly, Jolien Willemsens - a driving force in the European Forum for Restorative Justice - has decided to leave for work at the European Commission in Brussels and from the 1st of January she will no longer be found at the Secretariat of the Forum in Leuven. We wish her all the best and good luck in her new job!

Next year the Annual General Meeting will take place in Leuven (Belgium) on 3 June 2009. Do not forget to put the date in your diary. In addition, there will be a number of international restorative justice events in spring and summer where you will have a chance to share experiences with colleagues from around the world, visit interesting places and make new friends. Check our Calendar and select the most interesting event!

On behalf of the Editorial Board I would like to welcome newcomers and wish all members and friends of the European Forum a merry Christmas and happy New Year, and prosperity and success to all of you!

Vira Zemlyanska
Coordinator of the Editorial Board

Forgiveness and reconciliation in restorative justice conferences

Many proponents of restorative justice assume that the encounter will lead to a balanced process of reconciliation and forgiveness. Articulating a genuine apology will relieve the victim's distress and restore his/her worth, while expressing forgiveness will instil a sense of reacceptance in the offender. Many proponents do speak in terms of a 'regretting offender' and an 'understanding victim'. In the advocacy literature victims are supposed to be forgiving and prepared to offer offenders a second chance, while offenders are willing to change their behaviour. The question is how realistic these ideals are. Is it reasonable to expect forgiveness and reconciliation between people who do not know each other and might have very diverging views on the criminal event? Do forgiveness and reconciliation play a dominant role during the process?

I want to present some research findings which offer some insights into offender and victim peacemaking attitudes. This empirical data is mainly from Australia where youth conferencing is a high-volume activity, and as a consequence organisational routines, like preparing the participants well for the coming confrontation often trump restorative justice goals. Before examining this data it must be stressed that conferences do attract all kinds of victims and offenders with very diverse degrees of readiness to make the process work. Offenders and victims are not equally disposed to be restorative towards each other, to listen to each other, or to be willing to repair harms. Many are committed only half-heartedly to the process; others prize the opportunity to talk about the impact of the crime. 'Some come to conferences with negative orientations and

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open minds. The conference process may engage restorative orientations already present in offenders and victims, or may create openings for those orientations to emerge. However for those victims with fixed negative attitudes (e.g. those who think the offender is a 'bad person') the process is unlikely to move them in a more positive direction' (Daly, 2003).

Authoritative victims: helping young offenders

In her evaluation of the South Australian Juvenile Justice (SAJJ) project on restorative conferencing, Kathleen Daly (2003; 2004) examined the apologies offenders offered. Just over 40% of the juveniles apologised spontaneously to the victim at the conference, but for 28% the apology had to be drawn out, and in 30% there was no apology made at all. When asked why they decided to say sorry, 27% thought they would get off easier (reduced punishment). The interviews that Daly conducted reveal that most victims thought that the young person's motives for apologising were not sincere; most were unmoved by the offender's story at the conference. Only one quarter of the victims believed that the main reason that the young offender apologised was because they were really sorry. By contrast, 61% of the offenders said that they were really sorry. Daly points out that this mismatch of perception is always present when apologies are made and received.

Many offenders were not really prepared to apologise. Just under half of the young offenders hadn't at all thought about what they would say to the victim at the conference. They didn't take an active role in speaking to the victim. They were not there to repair the harm but rather to answer questions and hope that they didn't get too many hours of community service.

Another Australian criminologist, Heather Strang (2002) - analysing victim effects in the Rise project in Canberra - found more positive results. For instance, over three quarters of the victims believed the apology was sincere. About 40% of the victims later said that they forgave their offenders. Strang adds: 'A forgiving disposition may be indicated by the 36% of all conference victims who said that wanting to help the offender was an important reason for their attending the conference at all' (Strang, 2002: 111-112).

The Australian findings show that the parties do not meet on equal terms. Young offenders often remain silent, victims (and other adult participants) challenge them or want to teach them a (shaming) lesson. Some American studies in which these power imbalances were observed in detail, confirm that most offenders only play a marginal role during the process of victim-offender mediation (Arrigo and Schehr, 1998; Presser and Hamilton, 2006). The 'discourse of reconciliation' speaks for (and over) them. They do not pick up the language of peacemaking, are unable to articulate remorse feelings or even acknowledge its appropriateness; many speak as a 'divided subject' and cannot deal with the underlying alienation. The young offenders (unconsciously) resist this marginalisa-

tion. Some 'play the system' and feign cooperation.

Victims and other adults, including the parents of the offender, take over authority. Some quotes may illustrate how the motives of 'shaming' and 'helping' coexist. An adult burglary victim establishes himself as both manly and good and was like a father to the offender: 'A lot of people think I would bust your head wide open. No, that's not the answer. The answer is what we are doing today'. Another victim: 'I don't want to see you in lock-up [jail]. I got you outa that. But with your permission, you screw over your Mom and Dad and I'm gonna beat your ass. You understand me?' (Presser and Hamilton, 2006: 329, 332).

Highly distressed victims: keeping distance

In the bulk of Australian conference cases victims weren't harmed much. Many wanted to help the young offenders, be it in a crude or annoyed way. However, this helping attitude changes when victims are deeply touched by the aftermath of victimisation, for instance after a violent offence. These highly distressed victims are far less engaged in restorative behaviour during the encounter and remain frightened of the offender after the encounter (Daly, 2004). Most of these distressed victims take the view that it is more important to be treated fairly, than to find common ground with offenders. Non-distressed victims, who are only 'lightly touched' by a crime, tend to reason the other way around. For this group it is easier to be other-regarding and be empathetic towards offenders. They orient themselves more readily to peacemaking. A striking result from Daly's data was that, after the conference ended, the highly distressed victims were far more likely to remain angry and fearful of offenders. They were inclined to see the offender as a 'bad person'. Listening to the offender caused renewed revenge feelings, rather than personal recognition or emotional recovery from the injury.

Thus, serious victimisation inhibits seeking mutual understanding with offenders. This finding also prevails in a Dutch research on victim-offender mediation (Leest, 2007). Victims of violence generally are not able to articulate what happened exactly to them. For many the event is still beyond one's comprehension. These victims show their resistance by articulating haphazardly, or being silent. In a context of violence words such as 'restoration' and 'understanding' seem to be out of place.

The conferences Leest studied generally do not bring about efforts to seek common ground or a shared horizon. In the context of crime and violence communication does have primarily the meaning of perplexity, aversion and incomprehension, being confronted with aspects of human existence that the participants believed to be impossible. Nevertheless, Leest adds, victims need the offender to confront themselves. When facing the other, personal views begin to slide, not in the direction of sympathy, but as an opening up of the 'fractured self', which may lead to a readjusted victim-status or regained self-respect.





Some interpretations

These research findings indicate that victims are not really willing to grant forgiveness and offenders not really willing to repent. Many victims are not ready to see the truth from the others' standpoint. Even when offenders apologise and promise to repair the damage, highly distressed victims are withholding sympathy. Re-envisioning the wrongdoer is beyond their reach, often because their anger and resentment have not been moderated.

Most youngsters do not show much sympathetic understanding of how their deeds affected the victim. They apologise but do not seem to engage in the victim's point of view. Daly (2003) concludes that young people appear to be more interested in repairing their own reputations than in repairing the harm to victims. Many youngsters may not yet have the capacity to think empathetically. Presser and Hamilton (2006) suggest that most young persons lack the moral wisdom to participate in a reconciliation discourse. At the same time their moral competence seems to be overshadowed by distrust and defiance. The language of peacemaking contradicts their sub-cultural reputations.

Restorative justice conferences do not seem to offer an interpersonal scene of apology and forgiveness, in which moral relations between the parties are balanced. There seems to be no moral reciprocity between injurer and injured. In fact the victim and other adult participants hold the offender in their power: the offender is blamed and is 'overrun' with moral superiority. However, this lecturing is often counterbalanced by the urge to care for the young offender. Many victims show compassion: a willingness to promote the welfare of the offender, to give them a last chance and to prevent the option of being sent to prison. Many tend to see the wrongdoing of the young offender as attributable to lack of maturity rather than to actual malevolence. They pity his privations, bad influences, and emotional wounds that led him to the crime.

Thus, spontaneous compassion for the young offender may become the dominant energetic force during the encounter. Because many victims want to help the offender, it would be tempting to suggest that these victims are prone to forgive. But that would be too hasty a conclusion. To be sure, when forgiveness shows up in this context, it is often an expression that the youngster deserves a new start and should be released from the threat of punishment. But in fact the victim only wants to be generous. The 'I forgive you' phrase does mean a kind of fellow-feeling, not a reconsideration of the injury that the offender caused. When 'real' forgiveness would be at stake, the victim would require good reasons in order to give up her judgment that the wrongdoer warrants continued resentment. Being young and being pitiful are no good reasons. Nor is the desire to comfort the offender. A good reason would be that the offender commits himself to becoming the sort of person who does not inflict injury. Or

providing an account that he is not just a wrongdoer and that the wrongdoing did not express his 'total person'. But in the big majority of cases offenders do not seem to put in much effort to reframe themselves, nor are they seeking to persuade the victim of its credibility.

Yet within restorative justice conferences the aim of reframing each other's identity would be far too ambitious. A two-hour conference cannot instigate this re-envisioning process, although it may offer a beginning.

Conclusion

The empirical basis of the research findings presented in this paper is rather small, so solid and clear-cut conclusions are not warranted. But the findings suggest among other things that young offenders do not show much sympathetic understanding of how their wrongdoing affected the victim. They apologise but often in a half-heartedly or defiant way. Many are not willing to take up the language of peacemaking and think they are subjected to a meaningless ceremony. A considerable group of victims - having faced not much harm - wants to help young offenders out and give them a second chance. Other victims are too distressed to sympathise or find common ground. For these reasons the restorative justice conference cannot be conceived as a ritual of reconciliation properly speaking. The conference is rather a ritual of truth telling, although chiefly unilateral with the victim (and other adults) in a dominant position.

This discussion makes clear that notions as 'forgiveness', 'reconciliation' and 'restoration' are often too 'big' and ill suited to function as moral guides for restorative justice conferences. It seems inappropriate to burden the process of coping past injuries with these concepts. The process of moral learning within restorative justice conferences might better be conceived in terms of opening up the self and developing (beginnings of) understanding.

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Arrigo, B.A. and R.C. Schehr 1998. "Restoring Justice for Juveniles: A Critical Analysis of Victim-Offender Mediation" *Justice Quarterly*, 14 (4): 629-666.

Daly, K. 2003. "Mind the Gap: Restorative Justice in Theory and Practice" In: *Restorative and criminal justice: competing or reconcilable paradigms?* Edited by A. Von Hirsch, J.V. Roberts et. al. Oxford UK: Hart Publishing, 219-236.

Daly, K. 2004. "A Tale of Two Studies: Restorative Justice from a Victim's Perspective" In: *Restorative Justice: Emerging Issues in Practice and Evaluation*, edited by E. Elliott and R. Gordon. Cullompton UK: Willan.

Leest, J. 2007. *Een redelijk ritueel. Bemiddelen tussen strafrecht en leefwereld*, Den Haag: Boom Juridische Uitgevers.

Presser, L. and C.A. Hamilton 2006. "The Micropolitics of Victim-Offender Mediation" *Sociological Inquiry*, 76 (3): 316-342.

Strang, H. 2002. *Repair or revenge: Victims and restorative justice*. Oxford: Oxford University Press.



Jolien is leaving the European Forum

The unbelievable has happened. Jolien Willemsens - a cornerstone in the European Forum for Restorative Justice - has decided to leave. From the 1st of January she will no longer be found at the Secretariat of the Forum at the University in Leuven. It feels as if a gable wall is falling! The Forum will definitely face a critical time before it hopefully finds another way to cope. I want to outline Jolien's contribution to the history and development of the Forum and to thank her publicly for her enormous work.

In 1998 Professor emeritus Tony Peters and Ivo Aertsen (now professor) from the Catholic University in Leuven, Belgium, worked on the idea of establishing a Forum to bring together people in European countries working with, or having an interest in, restorative justice (victim-offender mediation). The purpose was to establish a network to exchange experiences and to support each other's efforts in the development, implementation and research of restorative justice. Peters and Aertsen were successful in receiving a grant from the Grotius programme of the European Commission, and brought together a small group of people from eight countries to "create a forum for the exchange of information, knowledge and experience and for consultation and discussion concerning victim-offender mediation in the framework of a restorative approach of criminal justice".

This coincided with Jolien - after a field practice in Canada - finishing her Master in criminology, with a thesis dealing with restorative justice. Together with Katrien Lauwaert, another young Flemish criminologist, she offered to take on the secretarial work for this group. In December 2000 the European Forum for Restorative Justice was formally established.

I first met Jolien in 1998, a young woman in her early 20s, fresh from the university, with practically no formal work experience, but dedicated and eager to contribute to bring forward restorative justice in Europe. When the Forum was established, Katrien Lauwaert left, but Jolien stayed on as a full time secretary.

Together with Ivo they became "the winning team". There were of course other dedicated and active people in the Forum, but let it be said: Ivo Aertsen and Jolien Willemsens formed the backbone of the Forum based at the University of Leuven. Under Ivo's mentorship, Jolien progressed from secretary to executive officer and researcher. Together they contributed substantially both to the high aspirations and noteworthy achievements of the European Forum.

I have had the pleasure of working with Jolien both in the preparatory phase before the Forum was established, and in more recent times as the Chair of the Forum. I can assure you that Jolien has advanced admirably along one of

the steepest learning curves I have ever seen. She started from scratch, at the bottom, and had to create her own job from the very beginning. She has been a real pioneer and solution-finder; she has brought order to many a creative idea, devising project applications into manageable formats that assured her of a job for another year or two and added further weight to the Forum's credibility. Jolien's daily work comprised elements of the mundane and the marvellous; she would effortlessly switch from licking stamps to writing voluminous research reports or fighting for the continued existence of the Forum by writing project applications to the European Commission.

During the ten years Jolien has been working for the Forum, she has established an extensive network all over Europe and the rest of the world. She has become a real internationalist. No wonder that she has chosen another international working arena. From January the 5th she will be found at one of the many sections of the European Commission in Brussels.

Jolien's departure from the Forum will leave a void. A new era will undoubtedly begin: but from now on we will talk of before and after Jolien left, a sure sign of her stature and invaluable contribution. I am very confident, however, that the good foundation she has put down during all those years, laying stone upon stone, will leave us a solid house that will survive the difficult times we will have to go through.

The European Commission has won the golden bird; they will get a highly qualified, reliable and effective employee and a good colleague. Our loss is their gain; I envy them. On behalf of the Board I thank you, Jolien, for the hard and dedicated work, far and frequently above the call of duty that you have invested in Forum activities. Now the time has come to move on and to benefit from all you have learnt during those ten years with the Forum. I wish you all the best and good luck in your new job!

Siri Kemény
Chair

Readers' Corner

- Special issue of the British Journal of Community Justice, *Brian Williams Memorial Volume: Social Justice*, Vol. 6, No 2, Summer 2008. This issue gathers a number of papers resulting from COST Action A21 on restorative justice developments in Europe.
- *Herstelrecht en procedurele waarborgen*, by Katrien Lauwaert (2008). This book is the result of the author's doctoral research project in which she tried to establish a bridge between the juridical, restorative justice and practice-oriented approach of the issue of procedural guarantees in restorative processes. Indeed the issue of whether restorative practices respect procedural safeguards in a sufficient and adequate way is an important question. Is there enough attention for classical criminal justice safeguards, such as the presumption of innocence, legal aid and proportionality, in restorative processes? But also, is it possible to - within the criminal justice context - safeguard the fundamental working principles of restorative processes, such as voluntary participation, the neutrality of the mediator and the confidentiality of the dialogue?
- *Probation in Europe*, by Anton van Kalmthout and Ioan Durnescu (2008). This book is the most comprehensive survey of probation systems and services in Europe today. Probation systems and services in 32 countries have extensively been described by esteemed scholars and experts in the field. Treated topics are the historical development, legislative basis, organisation of probation services, new developments, and more. Recent figures and statistics illustrate the facts. By using one format to describe the different national probation service systems, comparison between the countries is made easy. In addition, for every country there is a list of books and articles which have (had) a profound influence on the national service or which are indispensable to understand the probation organisation. A glossary has been inserted of all the legal terms in the field of probation that are used in the book. Purchasable from the publisher at: www.wolfpublishers.nl.
- *Rights-based Restorative Practice: Evaluation Toolkit*, by Shannon Moore (2008). This publication articulates the intersection between children's rights and restorative justice principles both in theory and application by introducing the Rights Based Restorative Practice Evaluation Toolkit. The legal framework underpinning the Rights Based Restorative Justice (RBRJ) was first developed and presented by the authors within the context of Canadian social policy and youth justice practices. Conceptualized through the lenses of the United Nations Convention on the Rights of the Child and international standards relevant to restorative justice, the authors argue that RBRJ contributes to ethical practice with young people in conflict with the law, within schools, and the broader community within many states. The publication can be downloaded from <http://www1.umn.edu/humanrts/links/RBRJ%20toolkit.pdf>.
- *Informal Reckonings: Conflict Resolution in Mediation, Restorative Justice and Reparations*, by Andrew Woolford and R.S. Ratner (2007). The 'reparational turn' in the field of law has resulted in the increased use of so-called 'informal' approaches to conflict resolution, including primarily the three mechanisms considered in this book: mediation, restorative justice and reparations. While proponents of these mechanisms have acclaimed their communicative and democratic promise, critics have charged that they all potentially serve as means for encouraging citizens to internalise and mimic the rationalities of governance. Indeed, the critics suggest that informal justice's supposed oppositional relationship to formal justice is, at base, a mutually reinforcing one, in which each system relies on the other for its effective operation, rather than the two being locked in a struggle for dominance. This book contributes to the discussion of the confluence of informal and formal justice by providing a clearer picture of the justice 'field' through the notion of the 'informal/formal justice complex'. This term, adapted from Garland and Sparks (2000), describes a cultural formation in which adversarial/punitive and conciliatory/restorative justice forms coexist in relative harmony despite their apparent contradictions. Situating this complex within the context of neoliberalism, this book identifies the points of rupture in the informal/formal justice complex to pinpoint how and where a truly alternative and 'transformative' justice (i.e. a justice that challenges and counters the hegemony of formal legal practices, opening the field of law to a broader array of actors and ideas) might be established through the tools of mediation, restorative justice and restorations. For more information: www.routledgecriminology.com.



Calendar

- 3 June 2009, Leuven (Belgium), *Annual General Meeting of the European Forum for Restorative Justice*. The AGM will be preceded by a seminar dealing with "Restorative justice or restorative practice?" in the morning. More information will be posted soon on www.euforumrj.org.
- 3-5 June 2009, Leuven (Belgium), *Seminar "Building Social Support for Restorative Justice" and Workshop "Conferencing"*. More information will be posted soon on www.euforumrj.org.
- 8-19 June 2009, Budapest (Hungary), *Summer course on "Mediation and Other Methods to Foster Democratic Dialogue"*. Application deadline: 16 February 2009. For more information, eligibility criteria and funding options please visit <http://www.sun.ceu.hu/mediation>.
- 14-18 June 2009, Oslo (Norway), *11th European Conference on Traumatic Stress (ECOTS) "Trauma in Lives and Communities - Victims, Violators, Prevention and Recovery"*, organised by the European Society for Traumatic Stress Studies. See <http://www.ecots2009.com> for more information.
- 22 June - 26 June 2009, National University of Ireland, Maynooth (Ireland), *Training Programme "Justice Sector Reform: Applying Human Rights Based Approaches"*. The aim of this training is to enhance skills of participants in applying Human Rights Based Approaches to Justice Sector Reform. For application form (deadline 1 May 2009), scholarship form and more information, see <http://www.ihrnetwork.org/2007-08-programmes.htm>.
- 23-28 August 2009, Tokiwa University (Japan), *13th International Symposium on Victimology*, organised by the World Society of Victimology (WSV), <http://www.isv2009.com>.

Slow motion: Restorative Justice Developments for Juveniles in the Netherlands

Introduction

Though there are some promising restorative justice (RJ) developments for juveniles in the Netherlands, the pace is rather slow and the impact limited, especially in comparison with countries like Belgium and Germany, but also from a global perspective. The EU Framework Decision and project evaluations led to a decision in 2007 to offer victim-offender mediation (VOM) to all victims of a criminal offence, but many other RJ initiatives have ceased or need to obtain financial support. The government is reluctant to make longer term decisions on the continuation of, for example, the successful experiments in youth custodial institutions (YCI).

What kind of juvenile justice system?

With the development of the concept of children's rights, children are increasingly and clearly being seen as possessing their own rights. The Dutch penal code has sections on juveniles (age 12-18) and the age of criminal responsibility is 12. Important changes were made in 1995 when alternative sanctions such as Halt (see below) were formalised within the law. At the same time the maximum period of imprisonment was increased to 12 months for those between 12 and 16, and 24 months for those between 16 and 18. Yet, prevention and developmental objectives are key features of the juvenile justice system.

Some figures

Contrary to media reports, youth crime overall has not increased over the last decade though there is more violence and group delinquency. In 2006, 1.404 children were sentenced to a fine, 11.756 to a sanction such as community service, 4.726 to a YCI and 252 to a placement where they could receive treatment

(PIJ). In 62 cases adult penal law was applied. At 2.753 places the capacity of the YCIs is around twice as high as in 1997 (1.410 places) and over four times higher than in the 1980s (650 places). Despite these increases, major cuts were made in budgets and staffing (DCI Violence against children in conflict with the law report 2008, Detrick *et al.*, www.dji.nl).

Political climate

The current political climate can be described as punitive. Politicians have unrealistic expectations and over-estimate the effectiveness of juvenile criminal law. They overlook the negative consequences on children and young people while public prosecution is a major concern. An individualistic rather than a community based approach results in a focus on repression rather than prevention. The media gives greater attention to serious incidents and almost none to effective projects with young people. The increase in the number of children locked up raises questions about commitment to the developmental objectives of the juvenile justice system. From being a pioneer in alternatives to custody, the Netherlands is now one of the most repressive countries in Europe.

Effectiveness

Sentencing policy in the last ten years has focused on effective methods, or 'what works'. While this suggests that the focus should be more on the offender and less on the offence, interventions are based on the factors that led to the criminal behaviour. One side effect of this focus is that victim perspectives may be undervalued. Another is a focus on recidivism, rather than on the extent to which the ex-offender has learnt from their mistakes or has developed empathy.

Newsflash

- The European Forum for Restorative Justice has been awarded the project “Conferencing: a way forward for restorative justice in Europe” and an operating grant for 2008 by the European Commission. The Forum is also a partner in a project entitled “Mediation and Restorative Justice in Prison Settings”, which was introduced by Foresee Research Group (Borbala Fellegi) and in a project entitled “Restorative Justice and Crime Prevention”, introduced by the Italian Juvenile Justice Department. Work on all these projects should start soon, after the contracts with the Commission have been concluded. More information will be made available on www.euforumrj.org, where you can also find reports of the finished projects.
- Prof. em. Tony Peters will receive an honorary Doctorate from the Universidad del Pais Vasco in San Sebastian, amongst others for his work in the field of restorative justice. His former colleague, Prof. em. Lode Walgrave received the lifetime achievement award of the European Society of Criminology in September 2009, also - amongst other things - for his work on restorative justice.

RJ developments

As victims gained more rights, RJ practices such as VOM slowly became more visible, but predominantly as a result of bottom up approaches. Real Justice, whose work is based on American experience with Australian roots, has been active since the nineties and has been especially successful in youth care.

While mediation has grown in neighbourhoods, schools, workplaces and family work, it lags behind in the criminal justice system. The recent VOM initiative organised by a partner of Victim Care is in principle outside the criminal justice system. RJ initiatives in custodial institutions operate locally, but as a result of early evaluations some projects have already ceased even though they showed positive satisfaction rates.

Current projects and experiments

Halt: a restorative alternative

Halt is a diversionary programme with restorative elements offering an alternative to civil or penal law disposal for petty offenders between 12 and 18. It seems that Halt makes young offenders aware of their behaviour and offers them an opportunity to remedy the harm they have inflicted by, for example, an apology or repairing the damage. Discussions with the young person and their parents, community service or learning assignments may be part of the programme. Halt is also involved in Real Justice conferences and in introducing and facilitating peer mediation in schools.

In 2006 an external evaluation of Halt after positive participation of the offender, alternative behaviour and attitudes showed that participation in the programme had the same impact on participants' recidivism after one year as on non-participants'. After six months both groups had fewer problems with emotions, behaviour, relationships and attention, suggesting that Halt has no significant influence on behaviour. However, two thirds of the participants indicated that they had learned a lot from the programme, especially from the work and the discussions. Overall Halt was more effective with offenders who are susceptible to group pressure than with individual offenders. Similar results were obtained for first offenders who were aware of the consequences of their behaviour and had few

problems at school, at home or with their peer group. Another finding was that those who apologised to their victims tended to commit fewer and/or minor offences. As a result Halt is seeking to strengthen the restorative elements of the programme and the support offered to the offender.

Victim in the picture

Following evaluations the Minister of Justice has decided to continue VOM as an offer to all victims of criminal offences and also as an offer to young offenders. The form of the VOM is however limited in scope since it is only focused on a 'victim-offender conversation' (slachtoffer-dader gesprek) outside of the criminal procedure. The conversation is not leading to a written agreement. In principle the judge will not take it into account, although in practice it is sometimes mentioned. The Minister further decided to use a single organisation in order to keep the expertise, procedures and quality assurance in one body. That organisation is SIB (Victim in the picture), an institution linked to Victim Care. When it concerns young offenders, they can get an offer on the recommendation of the Child Protection Board and following a discussion between a Judge, the public prosecutor and the police. The public prosecutor can then refer offenders to SIB for VOM. In 2007 more than 400 cases were dealt with and the target for 2008 is 1.000 cases.

Police

Police initiatives in, for example, Tilburg, Amsterdam and Friesland may be very successful, but they are often run by one or two key people and, if these people move on, the initiatives often disappear because there is no structural embedding and finances may depend on local budgets. This often means 're-inventing the wheel' to restart a project.

Public Prosecutors

The 2002 Public Prosecutors Statement gives a commitment to mediation but was not accompanied by an implementation plan; so little is happening at this level, apart from a few active prosecutors who are involved in mediation and a link with VOM for young offenders. The Office in Utrecht has had a pilot, but this stopped after only a few months due to lack of



funds and a clear policy. In the same province there was active involvement in RJ projects in YCIs.

Courts

Few juvenile court justices know anything of foreign experiences or have shown any interest in promoting mediation within the criminal justice system. This may be due to lack of knowledge about RJ theory and practice, which gives plenty of scope for information and training. Experiences in Belgium with family group conferences based on the New Zealand model for more serious cases show that visits to projects by and discussions among justices work well.

Schools

The many initiatives with peer group mediation are mainly local and not coordinated nationally.

Youth care

Family group conferencing in youth care is expanding as mentioned above.

Detention

In YCIs the focus is on addressing issues such as shame, guilt and taking responsibility. Evaluations of pilots in four closed youth facilities with a focus on talking about the offence and taking responsibility found good satisfaction results but these were not considered positive enough for continuation. The Secretary of State concluded that more research is needed before considering further projects. The problem with these evaluations is that they are focused more on recidivism than on satisfaction and ignored the possibility that development needs time and

energy. There is still a VOM pilot in JJI Teylingereind in which the actual offence, shaming and responsibility have a central place.

Impact of international standards

Existing international standards point to diversion, detention as a last resort and alternatives such as RJ. More needs to be done with mediation in the criminal justice system and with standards which have little impact on RJ in the Netherlands. Recent developments in VOM fill a gap but are not intended to function within the criminal justice system and may therefore not be in line with the EU Framework Decision (art. 10).

Opportunities

With John Blad we see the following opportunities to make RJ involvement more from 'slow to flow' in Dutch juvenile justice:

1. more VOM due to art. 10 EU Framework Decision;
2. strengthening RJ within Halt;
3. continued expansion of VOM by SIB;
4. in line with the new directive on 'victim care' developing and extending police level reparation through local mediation;
5. support for the 2002 Public Prosecutor Statement, interested police and other members of the criminal justice system;
6. looking for effective sanctions within RJ;
7. encouraging informal RJ in neighbourhoods, schools, etc.;
8. a statement of principles in penal RJ practice developed by interested professionals.

Annemieke Wolthuis and Eric Wiersma

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