

Restorative Justice in cases of Intimate Partner Violence

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CEP conference

*Restorative Justice in probation practice: strategic steps,
making the footprint*

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www.verwey-jonker.nl

www.euforumrj.org

Behind the front door



Structure presentation

1. The European project: why & how?
2. Outcomes 1th comparative report
3. Interviews phase & results
4. Towards a guide
5. Tasks for probation
6. Conclusions & discussion



1. The European project: why?

- *Restorative Justice in Cases of Domestic Violence, Best practice examples between increasing mutual understanding and awareness of specific protection needs (JUST/2013/JPEN/AG/5487)*



- Aims:
 - to generate relevant knowledge on RJ practices
 - to identify criteria for offering RJ to victims of IPV so that they can benefit to the max extent and in accordance with the EU Victims Dir 2012
 - to set standards to guarantee quality of the implementation of RJ practices



1. *The team*



1. Partners & Research methods

Partners:

Austria - Institute of Conflict Research (IKF) & Institute for the Sociology of Law and Criminology (IRKS)

Denmark - Nat Organisation of Women's Shelters (LOKK)

Finland - Department of Criminal Policy of the Ministry of Justice (MJF)

Greece - Eur Public Law Organization (EPLO)

Netherlands - Verwey-Jonker Institute (VJI)

UK: Independent Academic Research Studies (IARS)

Fin. support: EC, D-G Justice, Directorate B: Criminal Justice & national Ministries of Denmark, Austria & NL

Methods: Document study, Literature research, Interviews, Focus groups, Expert meetings, Local pilots, Final conf

Outcomes: comparative reports, Practical Guide, Network

1. Questions

1. What are the relevant RJ practices and policies concerning IPV in different European countries?
2. Can RJ be useful in case of IPV, and if so under what circumstances? What do victims of IPV need in RJ?
3. Can RJ in cases of IPV be offered in every stage of the criminal procedure (before, during and/or after) and/or should VOM be carried out by using a different (community) approach outside the crim justice system?
4. Can networking with regard to IPV be stimulated between practitioners of RJ/mediation both at national and European level in order to support sustainable implementation of RJ in IPV cases?



2. *Current status*

- International rules & regulations
Not consistent: some open, some reluctant, some restrictive (CEDAW Handbook 2006, Victim Dir 2012, Istanbul Convention)
- National legislations
Differ, but most countries allow it
in Spain law prohibits RJ in DV cases
- Practice
Differs too, examples in report on Austria, Finland, Greece, UK, Denmark & NL



2. Definitions

- Coercive control (intimate terrorism); refers to recurrent, escalating violent acts in combination with the exercise of power and control: the victim is isolated and lives in permanent fear
- Situational couple violence is more often incidental and is related to situational problems like alcohol, unemployment, or a serious life event as foundations of the violence (Johnson, 2006)
- Restorative Justice; VOM, conferencing



2. Critique and opportunities

- Critique: Feminist & safety arguments
- Safety issues, power imbalances
- Double pressure (not only by partner, but also by the VOM procedure)
- Counterproductive, risk of revictimization
- Opportunities : VOM as opportunity to change violent relationships
- Empowerment
- Voice can be heard
- Offender responsibility



2. *Where do they meet?*

- Discussion feminists against RJ and its advocates
- In common: aim at empowering / restoring victims of IPV & preventing offenders from reoffending
- RJ practitioners can learn from feminist critics about the consequences of victimization and the dangers of a 'one size fits all' RJ process
- Feminists – who well understand the limits of a criminal procedure – can learn from RJ practitioners how to expand options for victims of IPV (Ptacek, 2010)
- The question: What are conditions of using VOM in cases of IPV?



2. Needs

- Important conditions: voluntariness and safety
- intimate terrorism RJ more of a risk to sustain the coercive relationship
- Situational couple violence: practitioners should still be aware of the risks. Controlling behaviour seems more of a risk that mediation will not succeed than the violence in itself
- Important to assess controlling behaviour (Newman, 2010). Question if safety measures like protection orders should be part of the outcome of VOM or part of the criminal procedure. RJ as intervention should not be isolated from the victims context (Stubbs, 2008)
- Proper screening crucial in deciding whether or when it might be safe to facilitate a dialogue (Edwards & Sharpe, 2004)
- Training and education of mediators & referers in IPV



2. Expert meetings



2. Country info

- In all 6 countries: Legal & social measures to tackle intimate partner violence
- VOM has taken a role in this area too
- Practice & regulations in the countries differ
- Austria and Finland: well-established status of RJ practice, started in the 1980ies
- Austria: RJ implemented in the Criminal Procedure Code in 2000, Finland in 2006
- Austria: mirror model, Finland: lay mediators
- Both thousands of VOM cases each year & one fifth (Austria) or one sixth (Finland) are IPV cases

2. Other experiences

- Denmark & NL: initiatives 1990ies or 2000s; law on mediation implemented few years ago (2010 and 2011): RJ is still under development
- Denmark police level 700 VOM cases in 2013, 51 IPV
- NL thousand each year, figures RJ in case of IPV missing
- Greece: mediation especially for cases of DV introduced by law in 2006 (actualised in 2010), although many organisational, operational & financial obstacles prevented that RJ flourished all over the country - limited numbers, only in Athens and a few other places
- UK: gvt interest RJ since 2002, but implementation in cases of IPV not successfull, highly contested. New phase Crime & Court Act 2013. RJ partly organised bottom-up by communities, also top-down by courts.

2. *Some questions*

- **Victims' safety.** Victims want protection & a life without fear
- In what way can VOM help to create a safe world for the victims (and their children) - not only before and during the VOM process, but also after the VOM meeting?
- In what way is the outcome of VOM in line with other criminal measures, civil protection orders, counselling programs for offenders and/or support?
- Is there a lack of victim protection during VOM?
- **Role of victim and offender** Situational partner violence may lead to the result that both partners have used violence, and sometimes both are treated as victim and offender in the criminal justice procedure.
- How does VOM handle such cases of mutual violence? And if in the criminal procedure just one is treated as the victim and the other as the offender, how are their double roles addressed during VOM?

2. And:

- VOM as part of the criminal process. In general, VOM can be offered before trial, during trial or after the court decision. In what sense influences the VOM outcome the decision of the prosecutor or judge? What happens in the context of the criminal proceedings when the VOM procedure is not finished or stopped? And are there possibilities (legally and in practice) within (or outside) the criminal procedure to monitor the outcome of VOM (has the agreement been fulfilled)?
- Mediators' competency. In most countries mediators are not specially trained how to mediate cases of IPV. What are the qualities and competencies of a good mediator dealing with IPV?



2. Role play



3. Interviews

- Aim: to gain insight into the *needs* and *expectations* of victims and offenders
- Method: 6 victims, 6 offenders; interview guide
- Total 32 victims & 19 offenders in 5 countries
- Variety in backgrounds in age, ethnic background, education & work
- Many couples were separated during interview, but still together during VOM
- Often first report to police
- Sometimes long history of controlling behaviour & violence, only few coercive control



3. *Some outcomes*

- Victims & offenders satisfied: feel listened to, understood & taken serious. Some talked about the violence & other related problems
- In general, victims & offenders feel safe during VOM/RJ
- Preparatory meeting important to get information on VOM, also to talk about violence and related problems, and to learn about strategies to prevent violence.
- Some critical issues: small sample; not always is the violence discussed; some said the conversation was only about the future & child custody issues; not always an agreement is made, or apologizes are not genuine; follow up is missing as a period that can stimulate the offender to comply with agreement; safety of victims after VOM does not get much attention.



Open questions

- If safety was an issue during VOM seemed to have a link with the way VOM was prepared
- Need to discuss more clearly what is meant by safety at this stage
- And if VOM can be useful in cases of coercive control
- Still more research needed on selection criteria
- Follow up need expressed, but by whom? Should that be a task of mediators? Integrated network for support



4. Towards a guide

- Guiding principles, minimum standards
- Concerning: safety, training, the process
- Like: *“Restorative justice services should have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm.”*
- *Offenders*
- Process: the offer, the preparation, the exchange, the follow-up
- Victim Directive & human rights as a basis
- Pilot phase



5. Probation

- RJ in general/ RJ in IPV cases:
- Role as referrer or provider
- Under one roof?
- Qualifications
- Tasks
- Training
- cooperation



Research NL 2009 on mediation pilots of the Dutch probation organisation

- Probation changed from a (only) offender oriented focus to a more community/society approach with focus on security.
- Interventions are focused on changes of attitudes and behaviour
- Changes are possible when assisting in making choices, self reflection and motivation
- VOM can help, because the offender is confronted with the consequences of his behaviour and can take responsibility



Pilots mediation in Dutch probation

- Different parts of the NL (2009)
- Different forms: mediators within and mediators from outside
- Amsterdam project particularly focused on the use in IPV cases - just few cases
- After that not much
- Now again with Victim Directive, more space
- How to integrate RJ in probation work, part of working group



Probation tasks NL in relation to IPV

- Question of neutrality, linked to the offender
- Same with Victim Support
- Answers from an ex probation worker, now fulltime mediator:
- If to include it in daily work, importance to become more victim aware, confront & question the offender more with/about the victim
- Check if a cliënt is suitable for mediation; taking partial responsibility & verify if he or she is capable of confronting the victim
- Neutrality important & good preparation
- Maybe co-mediation with one from within and an external one

6. Conclusions

- 6 countries with very different systems
- All do work with RJ in DV/IPV cases
- Different practices & roles probation, police, judicial authorities
- Longest experiences: Austria and Finland, but also Waage Inst Hannover
- Research: information, preparation & cooperation crucial; need for more guidance
- Role of probation & other professionals crucial
- Work in progress
- Input welcome!



Discussion

- What is your main point when talking about RJ in IPV cases?
- What would you want to be in the Guide?
- What should be the role of probation when you would have the lead in this?



Final seminar, Brussels, 26 Jan 2016

- Restorative justice in Intimate Partner Violence, European research and guidance for practitioners
 - Institute for the equality of women and men, 1 Rue Ernest Blerot, 1070 Bruxelles
 - Project results, international experts, discussion & interactive sessions
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- And: the 9th European Conference of EFRJ 22-24 June 2016 in Leiden on human rights & RJ

Welcome!

Thank You

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For more info and the 1th
Comparative Report, see:

[http://www.verwey-jonker.nl/publicaties/
2015/restorative-justice-in-cases-of-domestic-
violence?term=restorative justice&p=1](http://www.verwey-jonker.nl/publicaties/2015/restorative-justice-in-cases-of-domestic-violence?term=restorative+justice&p=1)

And: [http://www.euforumrj.org/wp-
content/uploads/2015/02/150216_7388_RJ_Comparative_re
p_WS1_final_AW.pdf](http://www.euforumrj.org/wp-content/uploads/2015/02/150216_7388_RJ_Comparative_report_WS1_final_AW.pdf)