

Guidance for developing restorative justice processes supporting desistance

Promising practices

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Based on the research report „Desistance and restorative justice. Mechanisms for desisting from crime within restorative justice practices“ written by Veronika Hofinger, Katrien Lauwaert and Brendan Marsh

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1. Introduction

The attitude of the restorative justice community towards the question how restorative justice processes (RJ) impact on recidivism has been ambivalent.

Theoretical research has argued for the potential of RJ to influence recidivism, based on the dynamics of, for example, reintegrative shaming, procedural justice or the development of human and social capital. Some programmes, often those working with conferencing, have adopted the prevention of re-offending as an explicit goal.

Often however, RJ services and researchers do not consider the reduction of re-offending as a priority. Putting too much emphasis on this typical criminal justice goal could draw attention away from the core goals RJ is associated with, such as restoration and healing through respectful dialogue and active participation of the persons directly concerned. Moreover, it might be an unrealistic expectation that an RJ process would have a dominant impact on reoffending. Going straight is a process which is influenced by many different factors and events in people's lives. RJ is just one of these event, and it is limited in time and intensity.

Studies measuring the impact of RJ on recidivism rates are not conclusive. Some results show a positive effect, others do not. Many of these studies suffer methodological difficulties. Recent robust research, such as developed by Shapland and colleagues in the UK confirms however the potential of RJ to support desistance.

The question remains, however, what exactly it is in restorative justice processes that helps desisters. That is what we have tried to find out in our research, using the narrative accounts of 90 juvenile and adult ex-offenders who had taken part in victim-offender mediation or conferencing in Austria, Belgium or Northern Ireland. The key goal was not to measure the impact of RJ on reoffending. Rather the research tried to uncover which factors and dynamics in the restorative justice process were helpful and in which way they contributed to the desistance process.

2. Desistance

Desistance, „going straight“, or „making good“, is an active process which includes not only the avoidance of crime, but also the pursuit of a positive life. This is particularly relevant for ex-persistent offenders. They often have a public spoiled identity as society labels and stigmatises those who live in the margins of conventional law abiding society. Therefore it is easier to remain embedded in deviant subcultures than to negotiate the obstacles offenders face when they try to enter conventional society. Changing successfully one's life in such circumstances requires a considerable amount of self-belief.

Desistance requires changes in many aspects of life: social changes and subjective changes such as employment, intimate relations, cognitions and identity, peer relationships, financial and marital status and relationship to substances. The desisting individual has to learn how to initiate these changes, to take advantage of opportunities of change, to discover a sense of productive personal agency and above all to overcome obstacles and navigate safely through the minefield of early desistance. Even with sincere intentions, this is an immense task as it is not easy to alter patterns of behaviour. Opportunities for leading a law-abiding life are reduced through events earlier in life that break structural bonds such as relationships to family, friends and community. Criminal offenders have very little social capital.

Social changes, such as marriage, cohabiting, parenthood, job stability and military service can be opportunities for change, as they can lead to

- a knifing off the past from the present,
- opportunities for investment in new relationships that offer social support, growth, and new social networks,
- forms of direct and indirect supervision and monitoring of behaviour,
- structured routines that centre more on family life and less unstructured time with peers, and
- situations that provide an opportunity for identity transformation and that allow for the emergence of a new script. (Maruna et al, 2007)

Research suggests that going through a process of desistance involves also a cognitive transformation which occurs in four stages (Giordano et al, 2002):

- openness to change;
- exposure to a hook or multiple hooks for change; if people accept and engage with these hooks of change, they can come to a stage in which they can make a next step;
- being able to envision and craft a new self, a replacement self to take the place of the old „criminal“ self; the new self will have a different set of values based on conventional role models and the old criminal identity will be marginalised;
- transformation of personal views on deviant behaviour and past lifestyle; at this stage the people will have invested a lot in their new life and they will not want to suffer the consequences of a return to criminal offending.

All these dynamic processes lead to more internal control. (Giordano et al, 2002)

Research has identified that negative side effects of an offending life style, such as incarceration, health problems, being unable to fulfil family or parental obligations „push“ people from crime towards desistance. The positive sides of a crime-free life, such as getting a job or creating a new life, „pull“ towards desistance.

Having a strong desire to remain crime free is essential for a successful desistance journey. Also discovering a sense of pro-social personal agency, no matter how fragile, is very important. If there is no sense of personal agency, the individual will not seek to take advantage of opportunities for change, of environmental hooks for change. Moreover hope is an essential subjective emotion as the person should strive to leave the life of offending behind.

Mentors, practitioners and significant others have an important role of support to play. They can recognise changes in behaviour and reflect this back to the person in a de-labelling process. (Maruna, 2001)

The processes described above relate to persistent offenders. Occasional offenders or youngsters with a limited offending trajectory, and who display a relatively normal adolescence with

engagement in various activities such as school, sports or youth groups, do not have to undergo such process to stop. They may simply grow out of the offending behaviour as it becomes incompatible with new stages in life. Or the reaction of significant others or official authorities, such as the police or the public prosecutor, may be enough to end their starting criminal career.

3. Restorative justice

Our research concerns the narratives of desisters who took part in victim-offender mediation and conferencing in Austria, Belgium and Northern Ireland.

Victim-offender mediation sets up a dialogue between the victim and the offender with the help of an impartial mediator. Sometimes other persons take part in the mediation, such as family members or partners, but this is not systematic. The dialogue can be direct, this is face-to-face, or indirect. In the latter case the mediator brings messages from one party to another operating a kind of shuttle diplomacy, and messages can also be conveyed through letters or video. Victim-offender mediation is still the dominant RJ practice in continental Europe.

Conferencing sets up a dialogue between a larger group of persons. Victim and offender bring support persons, such as family members or social work professionals, and the community can be represented by for example the police. Conferences tend to tackle not only the specific incident but also underlying problems and possible solutions. This brings about an orientation towards the future. Preparing a reparation plan is often a standard part of the conference, and such plan addresses needs for reparation towards the victim, the community as well as rehabilitative needs of the offender. Conferencing is most developed in Anglo-Saxon countries.

Restorative justice practices such as victim-offender mediation and conferencing are organised in different ways in relation to the criminal justice system. It is useful to keep in mind the criminal justice framework in which the practices concerned in the current research are embedded. Northern Ireland offers diversionary and court ordered conferencing to juveniles. The conference is part of the regular procedure and the agreement is normally the outcome of the case. Conferencing is available to young people from age ten until they reach adulthood at age eighteen, and can be used as a response to all offences excluding manslaughter and murder. In Austria, juvenile and adult offenders can be referred to victim-offender mediation, which takes place at the pre-trial or trial stage as a diversion measure for not so serious offences. In Belgium, restorative mediation takes place at the request of the adult parties

and parallel to the criminal proceedings. There are no limits as to the seriousness and the type of offences. If the parties decide to inform the judge of the outcome of the mediation, then the judge can take that outcome into account in the further decision making.

4. Can practitioners in restorative justice act in support of desistance?

Yes! Restorative justice organisations can tailor their practice to supporting desistance and/or practitioners can recognise and be alert for the factors and dynamics in their practice which can be supportive for desisting offenders.

Every desistance account is highly individual. Nevertheless, recurring factors and dynamics can be recognised and a number of them are outlined beneath. No generalisations should be made on the basis of this list. Such a list helps only to be aware of possible hooks for change practitioners can offer in their daily work.

5. RJ can act as a trigger or a support for change

For the participants in our research victim-offender mediation or conferencing acted more often as a support than as a trigger for change.

RJ showed clearly to have the potential to initiate changes for juveniles with a limited offending history and a relatively normal life. Together with other factors, such as the incident itself (out of normal range, victim badly hurt), and the reaction of the police, the public prosecution and their parents, the mediation allowed these youngsters to end their beginning criminal career.

'I wanted to get to know his (the victim's) point of view. (...) And then I thought, oh shit, you really made a mistake. This guy is really nice, he's fully okay. Why the hell have you done this? (When the victim gave an account of the incident), I thought, hey man, why did I attack such a nice person? Why didn't I talk to him, why did I beat him up right away?' (Austria, hooliganism and substance abuse)

More often the mediation acted as a support for a process of change which had already started. That is not totally surprising. RJ processes are voluntary and offenders have often admitted guilt or at least their participation in the offence. They chose to participate and this indicates at least a certain openness to look into one's own behaviour and its effect on others. It is probable that at least a part of the participants were already considering desistance. This is certainly the

case in RJ programmes in which the parties themselves request the mediation.

For some participants the mediation or conference had been an important and/or necessary step in the desistance process. For others it was one (small) element in a chain of events; this was particularly so for people heavily involved in crime over a longer period in their life.

A man with severe alcohol problems was involved in domestic violence when he was drunk. His desistance from alcohol was due to his own strong will, as he stated, and this happened well before the mediation took place. He taught that punishment would have destroyed what he had built so far:

'Of course, (the mediation) has encouraged me. (...) It was a possibility to prove that I am actually changing. This has taken a lot of strain and pressure from me. (...) It happened at the right moment and it motivated me to stay on the track.' (Austria, partner violence and alcohol abuse)

Youngsters in Northern Ireland with more persistent patterns of offending had sometimes many conferences over a number of years. This had a cumulative effect for some. In other words, they faced many victims in many conferences and slowly they began to develop the realisations of the harm their actions had caused and the moral error of damaging the lives of others. It also happened that after a number of conferences which did not seem to affect the youngster at all, one particular conference did trigger a start for reflection. Interviewees stated that court or other criminal justice sanctions would not have produced the same effect. RJ planted a small seed for change.

'I felt like a really bad person. I was being told by all the staff about how it (assault) really affected her, like she didn't really want to go into town anymore, it had affected her life in so many different ways. I felt really really bad because obviously this was months after the crime and she told me she hadn't been going out or anything that whole time. So in a way I had kind of like put her life on hold without even thinking about it. That made me feel terrible because I am not actually that type of person at all.'

'What do you mean by 'that type of person'?

'Well the first couple of conferences I was a bit like 'I did what I did, so what'. I went in and just sort of lied and they didn't know the difference, I would just smile and be a wee bit sarcastic, but it was that conference...that got to me because I realised I really hurt that person. And that is the only conference I really remember, it's the only one that stands out...after I saw what I had done to the girl who was afraid to go out of her house I didn't want to ever do that again. I often fought people who would fight back, but she was really vulnerable and I just basically picked on her for nothing. The fact that my dad used to hit me and I used to cry because he hit me and then how could I just go and do that to someone else.' (Northern Ireland, female)

The way in which the RJ influences people's desistance journey can be quite unpredictable. Sometimes the offender hopes it will be a support and that is how it works out: he receives respect from the victim, has the opportunity to answer questions or is able to financially compensate. These actions help to turn the page and build something new. However, some participants expressed that they hoped to communicate with the victim, but the victim refused to meet face to face or only wanted to make a financial agreement through indirect mediation. These participants were strongly disappointed about this missed opportunity. In still other cases there is no expectation of an impact on the process of change, but unexpectedly that is exactly what happens.

One man's mediation story started when he wanted to make clear to the victim how little he was involved in the robbery and ended in awareness of his responsibility. In this case, this unexpected impact did happen with a man who had a long criminal career during which he never really worried about the impact of his behaviour on victims. (Belgium, robbery)

6. Dynamics and factors in RJ helpful for desistance

The non-judgmental and open attitude of the mediator

In all three regions being treated in a non-judgmental manner by mediators/facilitators and Youth Justice Agency staff was repeatedly brought up as very important by the interviewees. The humanising attitude, the willingness to listen, not being labelled as a criminal stimulated people to prove that they were better than that and it strengthened the positive sides of their identity.

An Austrian woman accused of aggravated assault – she stabbed a knife in her husband’s back – stated:

‘(She treated me) respectfully. There was no judgement. I was reproaching myself the most. And it did me really good – I mean nobody approved what has happened, of course. But when I explained the whole story to the mediator, she kind of understood how it could actually have happened. And this was so helpful. It was important that in the end I was able to forgive myself and to accept that I’ve made a mistake but that I’m not a monster.’ (Austria, female, partner violence)

This attitude was sometimes put in contrast with the experiences they had with other professionals in the criminal justice system, whom they had perceived as „moralising“ or „teaching lessons“. In Belgium a participant explained that it mattered that the victim and offender, and not the system had given the mandate for the mediation. The mediator was there for him, because he requested his/her support and not because the mediator „had“ to talk to him as part of his/her job.

Fair and respectful treatment by the mediator/facilitator and others present in the meeting

The respectful treatment by the mediator and by other participants, especially the victim, meant much. Some participants were genuinely surprised that the person they had harmed was respectful towards them and this made a difference.

Being respectful towards each other may seem a normal expectation. The frequent reference made to it indicates however that for many

participants this was different from many other situations they had been in and how important this positive experience was.

In Northern Ireland some youngsters felt treated in a punitive and authoritarian manner by some participants in the conference, and they were more likely to have a negative memory of the conference.

Open communication

The open and respectful attitude of the mediator facilitated an open communication.

In Austria it was clear that nobody really liked to attend the mediation in the very beginning. It is an unpleasant event and many people do not have much knowledge about what to expect, so they feel a certain tension. Obviously, the typical client was then surprised by what finally happened during the mediation. In most cases the mediators were able to make use of the tension felt by the offender (and the victim) and to transform it into a positive climate. Only in this spirit, some respondents claimed, it is possible to really take up responsibility.

Similarly, in Belgium, participants felt they could speak freely and that they felt safe to explain their whole story to the mediator. A participant made a comparison with his experience of the criminal trial. He characterised the mediation as a place where you „have the right to speak“ and where you can „play cards on the table“, „bring up your own truth, the one only you and no one else knows and which is different from the judicial truth“.

A process tailored to the participants' needs

To know what might fit best an individual journey out of crime, it works better to listen to the offender concerned, than to impose plans the professionals think are best. That is a lesson we learned from desistance research. The more interventions are crafted to suit the needs and social context of the person, the more successful they will be. This knowledge fits very well with the restorative justice approach, in which the communication between the parties on what happened and what is needed to move on from there, are central. This is true even if the flexibility of the RJ processes varies.

In Belgium an offender can request mediation himself at any stage of the criminal procedure and the mediation will be about what the parties bring to the table. There are no predefined goals. The minimum requirement is that the parties are open to listen to the other parties expectations.

In Austria the mediation focuses on conflict resolution and reparation. The goal is to clear out all aspects of a case, be it personal, emotional and material. Within this framework, the parties fill in what is relevant.

In Northern Ireland, the content of the conference is more structured, but the reparation plan contains rehabilitative elements which are tailored to the individual needs and the social characteristics of the young person.

The confrontation with the victim and his/her narratives

The confrontation with the victim's story is a dominant element in terms of impact on change and desistance. Facing the situation of the victim, but also the attitude of the victim frequently impressed.

In Belgium one man was surprised by the fact that the victim (of inappropriate sexual behaviour) accepted the mediation, was open minded, really listened to him and was understanding. Another man who had been extremely nervous at the start of the meeting, emphasized that the victim himself made him feel comfortable enough to speak and tell what was on his mind. That was unexpected.

Also the fact that the offender was able to explain things, that he could apologise and express his regrets or that he had the chance to show that he had changed since the offence, had been helpful.

Although it seems that the impact of the communication with the victim was more intense when there was a face-to-face meeting, there were also cases in which the indirect communication with the victim produced similar effects.

The impact of the meeting with the victim was described in different ways. The meeting enabled some participants in Austria to change their perspective and to develop empathy with the victim; they realised what they had done to a „nice“ and „normal“ person.

Similarly in Northern Ireland, while of course many of the interviewees knew that their actions were illegal, the real impact of their actions was far removed from their reality. During conferencing they realised that their actions had a detrimental impact on real living people who suffered emotionally, financially, and even physically as a result of victimisation. They were often quite alarmed and shocked at the results of their offending. This was also true for some of the young people who had stolen from retail stores, a crime they had considered to be victimless and harmless. Listening to accounts of store managers and owners telling of how their business is struggling and losing revenue, and therefore their livelihoods and those of their staff are at risk, put a human face onto their crime and invited compassion, empathy and remorse. This was mostly the case for young people who engaged in occasional or context specific offending. In particular the shaming effect of facing a person whom they had harmed, whether it was through damage to property or actual physical harm, was felt very effectively.

For the young people who engaged in more serious and consistent patterns of offending in their past lives, this effect was not so clear at all. For some of them many conferences over a number of years appeared to have had a cumulative effect. In other words, they faced many victims in many conferences and slowly they began to develop the realisation of the harm their actions had caused and the moral error of damaging the lives of others. For other young persistent offenders, conferencing appeared to have had no positive effect.

In Belgium, several participants stated the meeting „took away a weight“, that it was a psychological help, a real relief. Another participant explained that after the meeting with the victim he had felt courageous and proud, that it helped him to turn the page. Another participant described the meeting with the victim as a wake-up call, a turning point.

Many participants spoke of the difficulty they had with facing the victims, the anxiety they experienced pre-mediation and pre-conference. They felt the weight of social stigma upon their shoulders and could not believe they had ended up in that position through their own actions.

'It was really hard. You need lots of courage. It is really hard because it's like confronting one's reflection. It is a bit like looking into the mirror. And to see the victim and to be confronted with that again, and sometimes it is for something that happened years ago, and bringing all that up again.' (Belgium, sexually inappropriate behaviour and stealing)

The relation with the social worker who guides implementation of the reparation plan

Some programmes, more often conferencing programmes than mediation programmes, consider rehabilitation for the (young) offender a key strategy for reducing reoffending. As they include prevention of reoffending in their goals, positive outcomes of the conference often include rehabilitative opportunities. These are included in the reparation plan which is agreed on during the conference meeting. Suitable rehabilitation options are identified before the actual conference, based on preparatory talks with the youngster, and the knowledge the professionals have about the services and programmes available. A social worker will support and oversee the completion of the agreed reparation plan.

In Northern Ireland a member of staff of the Youth Justice Agency is assigned with this task. One of the strongest outcomes of the interviews was the appreciation for the relationship the youngsters were able to develop with the Youth Justice worker as well as for the ethos and humanising response they received from the Youth Justice Agency as a whole. The staff there provided a welcoming, supportive environment and sought to advocate for young people, educate young people and hold them to account.

'Acceptance, a big thing for young people who commit crime is they feel neglected, of being not worthy of a chat or peoples friendship. I went into that door and nobody looked at me for the offences that I committed, everyone looked at me as a child that needed help...The problems that I was dealing with throughout my life was to do with what was inside, it was to do with my guilt and my violence, and to do with understanding who I was. Part of the youth conference plans was meeting the worker, that was the first part of change for me. I

had seeds planted in my head and watered through the years that the person knew me.’ (Northern Ireland)

Reparation plans – financial reparation

In Northern Ireland, the research showed that *persistent* young offenders benefited little or not from the confrontation with the victim, due to for example a lack of empathy towards the victim, little remorse for the past offending and the harm caused, or blaming drugs for what happened. They did profit, however, from the rehabilitative components of the reparation plan. Appreciated components were for example the return to school or a training programme, participating in some form of emotional and psychological treatment and referrals to drug and alcohol counselling services. The latter were in most cases suggested by victims who wanted the young person to sort out their substance misuse problems. In contrast, community service included in the reparation plan was often viewed as punishment and the reparative intent towards the community was not appreciated.

A young, chronic cocaine user explained how his state of mind deteriorated to such an extent that he was forced to accept the help that was on offer to him through the Youth Justice Agency. His participation in counselling and drug education through his reparation plans provided the opportunity to reduce and eventually cease his drug use and to build structured routines that permitted the rebuilding of physical and mental health. (Northern Ireland)

A minority of the persistent offenders interviewed were ready to cease their offending behaviour and took the opportunity that the rehabilitative elements of their reparation plan provided. The more common outcome tended to be a process of cumulative learning through attendance at counselling or personal development work with staff from the Youth Justice Agency. In summary, for young people with a persistent pattern of offending, the rehabilitative package offered in the reparation plan together with the therapeutic and supportive relationship with the staff in the Youth Justice Agency had the most impact on their desistance process.

In Belgium the financial reparation the participants paid to their victim(s) came in a few narratives to the fore, but in quite different ways. Sometimes it was seen as a real burden.

The fact that the beating one offender was involved in went to court and that it had long lasting financial effects on his life made him think for the future. In total he would pay a small monthly sum to the victim during more or less five years. Being without a job, he saw this as a heavy impact on his life for an act he had not perceived as very serious. He did not want to be in such situation ever again.

Others saw the financial reparation as a means to make their feelings of guilt and regret visible. One participant thought that compensating the victim was the only thing he could do to show his good intentions to the victim, by paying systematically, month after month.

In another situation the offender started the mediation to make financial arrangements in order to obtain a conditional release. He insisted not being ashamed of his career as a robber of supermarkets „without blood on his hands“, and targeting „institutions“, not individuals. He accepted to pay his due, to do what needed to be done and once agreed he continued to pay even if in the end the mediation had not helped him to obtain a conditional release. This was a very rational approach, of a man who wanted to take responsibility for the collateral damage of a career he had chosen. Paying the victims brought him „peace of mind“ because he was „doing what he had to do“.

7. How are these dynamics and factors helpful?

Dealing with emotions of shame, blame, guilt and culpability

Early desisters who want to start a different life have to deal with difficult emotions such as shame, blame, guilt and culpability. The RJ process can provide a forum to deal with these emotions.

In Belgium moral emotions such as guilt, shame, embarrassment and regret were in some way present in a good number of narratives. Interviewees stated they felt bad, guilty, ashamed about what happened and that they hoped that participation in mediation would allow them to apologise, and to feel better and/or to be forgiven for what they did. In all these cases the mediation started at the initiative of the interviewee. When this initiative led to direct or indirect communication with the victim about these emotions, this was described in various ways as (very) helpful.

In a few cases communication with the victim about these emotions was not possible, or stayed one way, either because contact with the victim was forbidden by the judge or because the victim did not reply to the letter of apology, and the exchange was limited to a financial arrangement. That was disappointing. Sometimes it was nevertheless helpful to write a letter to the victim.

Instilling hope

Hope is vital for a person to be able to desist from crime. It provides strength and motivation. Having hope means having the desire to reach a goal, but also the perception that one is able to reach that goal and that one possesses the means to do so. It is about „the will and the ways“. The social circumstances make it often difficult to have or keep this belief. Respected others can be hooks, who encourage, support and thus provide people with hope.

When a person chooses to go through a restorative justice process, succeeds and gets there the respect of the mediator/facilitator and other participants and the support to move forward, this can provide hope.

Finding closure

A restorative justice process provides an opportunity to close a period in life and to move forward. After a mediation or a conference, people sometimes feel they can finally start a new chapter in their lives. In terms of desistance, the communication with the victim allows to knife off the past from the present. Sometimes providing hope and finding closure go hand in hand as in the following quote.

'On the long term, it contributed a lot. It allowed me to turn the page, a small page. I had also a feeling of satisfaction...I was happy and proud of having done this. Really, I was happy and proud because I felt I had been courageous, responsible... I was happy that I did it.' (Belgium)

Confirming the desister's pro-social identity

In Belgium, several participants saw the mediation as an occasion, or a platform to „correct the image“ the victims(s) might have had about them. By telling the victims their story, and their view on what happened during, and sometimes before and after the offence, they wanted to confirm the pro-social side of their identity. In several narratives it looked as if the offender called in the victim's help to undo the criminal justice label. Apparently it was important to them that the victim acknowledged that they were (also) something else than what the criminal justice label claimed.

One man had been convicted for extortion. When he was in serious financial trouble, he had obliged a person whom he acquainted first, to provide money. He wanted to explain in the mediation in which difficult situation he had been at the time of the offence and how he had changed since. He wanted the victim to know that he had stopped offending and he brought pictures of his family to show his new life. Also during the interview he insisted on the pro-social aspects of his life: the normal school career, the fact that he had worked most of the time and the family life he built. That is what he wanted to be seen.

Repairing relationships

In Austria in some cases VOM had been able to initiate or support social change directly. Especially in cases of domestic violence, an important function lies in the mediation's potential to re-establish a basis for communication. The mediation can be a first step or a supportive element in repairing a damaged relationship. Special methods applied in domestic violence cases, such as working with two mediators of opposite sex in a setting called „mixed double“, have the potential of creating an atmosphere in which troubled couples may find a new start or way of communicating. This does not imply that the relationship is saved by all means but that the (ex-)partners are supported in dealing with each other. The respondents explicitly said that an indictment in court might have destroyed their (very successful) efforts to go straight. Instead, they were supported and encouraged on their desistance journey that might have begun long before the mediation.

One man had a history of alcohol abuse and when he was drunk he committed domestic violence. He stopped drinking before the mediation started, and no further escalation of conflicts occurred. The victim-offender mediation helped him to start repairing the damaged relationship with his wife. It had reanimated the relationship very slowly and empowered the wife to draw a firm line. The mediation organisation had also helped him to find a psychiatrist who then helped him to deal with the addiction. This man was convinced that going to court would have destroyed what he had achieved so far. The mediation supported his staying straight. (Austria, domestic violence)

The yellow card – preventing a criminal record

In the Austrian situation, participants in VOM rarely have a previous criminal lifestyle and are not typically persistent offenders. All these participants insisted that a major benefit of VOM was the possibility to settle a conflict without being indicted as a criminal in court and without criminal record. The mediation was seen as a way to prevent labelling by the criminal justice system and to open a second chance. Clients became prudent and more reluctant to become involved in crime again.

Also in Northern Ireland, for some of the young people, avoiding the permanent stigma associated with a criminal record was of utmost importance. This factor made the conference experience a valuable and worthwhile event as it meant that they would not experience the practical difficulties that a criminal record can cause when pursuing work and career. Furthermore, and possibly more essential for their sense of self, was that the absence of a criminal record gave them the perceived freedom to start their lives again and to leave the stigma of the criminal offence in their past.

For some the choice of the conference did not have this positive connotation. They referred to the advantage of not going to court, but just as the lesser of two evils. Some resented the lack of justice in being required to accept full blame for their offences.

Supporting a decision for a leave or a conditional release from prison

In Belgium, some participants had heard from other inmates or from prison staff that taking part in a mediation could influence positively the decision process for early release and this had been (one of) the motivation(s) to take part in the mediation. They saw the mediation as a practical way to work towards an early release which allowed them to execute a plan for reintegration. Indeed, although the stay in prison can be a trigger for reflection and introspection, after a certain period of time it is perceived as counterproductive for building a new, crime-free life.

Enhancing the norm

Another important effect observed with occasional offenders in Austria was „the enhancement of the norm“, meaning that the official (police) reaction to the incident in combination with its settlement in VOM set a clear red line to some offenders, who before, for example, thought that fighting on a Saturday night is just normal and fully acceptable or pushing a woman is no violence at all.

8. What may work against RJ influencing desistance?

Victimless conferences

In Northern Ireland conferences where the actual victim of the offence was not present were not taken seriously by the young people. Effectively these conferences were experienced as a type of bureaucratic necessity where their offence was discussed and a victim representative lectured the young person on the possible effects of their crime. Not only was the conference viewed as irrelevant by the young person, the seriousness of the offence was diminished in the eyes of the young person. To paraphrase some of the participants: *'If the victim could not be bothered to show up then it really could not be that serious after all'*.

Drug addicted offenders

Some of the young Northern Irish people who were regular drug users and who had many conferences, had very little memory of their conferences and expressed the attitude that the actual conferences were irrelevant and quite forgettable. In fact a small number of participants who had this pattern of substance misuse expressed a serious lack of empathy for the victims of their crimes. This raises the question of the suitability, at least in a desistance perspective, of organising conferences for youngsters deeply entrenched in drug abuse. Individuals who are intoxicated, even mildly, will find it much more difficult to benefit from the emotional exchange envisioned in restorative justice conferencing. Emotional immaturity combined with the effects of substance misuse can mean that the chronic user experiences a limited range of emotional states. The requirement to express their thoughts and feelings at a conference, and to give an adequate explanation of why they committed the offence, was beyond their emotional and cognitive ability at that time.

Persistent young offenders?

The interviews carried out in Northern Ireland demonstrate that restorative justice conferencing has a positive outcome for young people who were involved in few offences. However, for those displaying a persistent pattern of offending, the central elements of

restorative justice, that is meeting the victim, had a more limited effect. Persistent offending develops over time due to many complex causal factors, and desistance is an equally complex process that is triggered and supported by many factors. However, the persistent offenders did benefit from the rehabilitative effects of their reparation plans (see above).

The picture was somewhat different for the Belgian adult persistent offenders. For some of them communication with the victim did have an impact.

9. RJ as one of many factors of desistance

Almost always also other factors, besides the participation in RJ, were at play in people's lives that helped to encourage, initiate and sustain desistance from crime: support of family and friends, stable relationships, becoming a parent or the desire to be a good parent, fear of incarceration, the prospect of a lengthy jail term for those who had served short sentences in prison, the death of a close friend due to heroine, getting alcohol and/or drug use under control, maturation, space for reflection through isolation such as in imprisonment, employment, religious conversion, helping others, and the support of mentors of many kinds.

In this perspective we should conclude that, as shown above with many examples, restorative justice processes, such as victim-offender mediation and conferences, can initiate and support desistance from crime, sometimes in an important and sometimes in a very humble way. It is thus worthwhile to keep the hooks and obstacles for this process in mind in day-to-day work.

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