

Criminal Justice Platform Europe

International Criminal Justice Summer Course

Responses to Sexual Violence

Barcelona, 5-8 July 2022

WORKSHOP REPORT

Workshop Title: Restorative justice and victims for understanding and responding to sexual violence

Moderator: Cleo Custers

Leader 1: Kristel Buntinx

Leader 2: Vincent Mercer

Participants: 13 participants from 8 countries (Belgium, Cyprus, Estonia, Germany, Hungary, Malta, The Netherlands, Spain).

Note taker: Bálint Juhász

Impression: The workshop demonstrated the potential of restorative justice as a response to a wide range of harmful sexual behaviour cases. It also reflected on the critical considerations, risks and the management of these factors. The workshop leaders drew upon their vast professional experiences and included a high number of practical examples from cases from their own practices. These examples and narratives supported the learning and made the theoretical considerations remarkable and more easily comprehensible. The workshop leaders encouraged participants to share their own experiences and knowledge in a number of activities. Based on the feedback of the participants at the end of the workshop, it challenged them, and presented them new ideas, and practical or theoretical considerations on the management of harmful sexual behaviour in a restorative way.

1. Introduction

The “Restorative justice and victims for understanding and responding to sexual violence” workshop of the CJPE Summer Course focused on the experiences and research evidence of restorative justice approaches to harmful sexual behaviour. The two workshop leaders drew upon their unique experiences as senior professionals from the field, from two countries where available restorative justice services have evolved significantly in the past decades. Kristel Buntinx has been working as a victim-offender mediator in Belgium for over 20 years. She worked on a wide numerous cases that followed serious criminal offences, including sexual harm as well. Vince Mercer has worked extensively with cases of harmful sexual behaviour involving children and adolescents as a restorative justice facilitator in the United Kingdom. He has led the development of a unique approach responding to harmful sexual behaviour that involved minors, the AIM Project. He has also extensive experience with research and evidence-led practice innovation. The workshop leaders’ backgrounds combined seasoned practical knowledge and skills developed through working with serious cases of sexual violence with theoretical awareness, and research evidence of the subject. Their experiences also represented the history and the possibility of

Criminal Justice Platform Europe

practice and policy development in the field. The workshop invited the participants to share and use their own respective experiences and knowledge.

Workshop Methods

The workshop leaders offered varied methods to facilitate learning throughout the course, these included:

- Whole group activities (semi-structured and structured discussions, participative opinion sharing activity in the space (barometer), plenary sharing of the experiences from the small group activities)
- Small group activities (exploring a subject by drawing on the experiences and knowledge of the participants)
- Frontal presentations (theory and cases studies) often supported by projection of slides
- Watching video testimonies and reflection on them as a whole group

2. Summary of Presentations

- **Session 1** Introduction and Testimony — Restorative Justice and Harmful Sexual Behaviour; Sexual Violence in a Nutshell/Seashell. ‘Listening to a victim of sexual harm who went through a restorative meeting’ (Kristel Buntinx and Vincent Mercer)

The First session of the workshop started after the opening plenary session of the Summer Course. After the trainers and the participants introduced themselves, the trainers have invited the participants to share their viewpoints on the possibility of restorative justice in different types of harm, particularly of sexual harm (for example in serious cases in general; if there is power imbalance between the parties; or in case of children, etc.). This took shape as a barometer activity, in which participants had to stand along a line of continuum in the classroom, where one end represents total agreement and the other complete disagreement. The trainers invited participants to explain why they have chosen a position.

As a next activity, participants collected examples of possible needs of victims who experienced harmful sexual behaviour. Then the group watched the video testimony of Ailbhe Griffith who participated in a restorative justice meeting with the man who committed a sexual offence against her. (<https://vimeo.com/449684172>) Finally, in a discussion, the group reflected on the video.

- **Session 2** ‘Characteristics of child and adolescent Harmful Sexual Behaviour’ (Vincent Mercer) – The second session started with the presentation of Vincent Mercer, who shortly introduced his work, in which he only works with children who caused or experienced harmful sexual behaviour. Through reflecting on terminology he demonstrated the significance of different response strategies and coping mechanisms, for example the use of ‘victim’ may be stigmatising and hinder closure. Mercer also explained why he finds the most pertinent the English definition of ‘harmful sexual behaviour’, since it includes a wide range activities and behavioural forms that cause harm and are related to the sexuality. It also includes wrongdoings that may not fall into the category of a criminal offence, yet they may cause great harm/trauma to the victims. Next, participants worked in three smaller groups to identify key characteristics or

Criminal Justice Platform Europe

stereotypical concepts of adult (above 18), teenage (12-18 years old) and child (below 12) persons who engage in harmful sexual behaviour.

- Session 3** Restorative Justice: The Belgian experience (Kristel Buntinx) In the third session, Kristel Buntinx drew on her own work as a victim-offender mediator at the Flemish (Belgium) restorative justice service provider and umbrella organisation, Moderator. She described key principles of the restorative justice work she and her organisation delivers and demonstrated them with examples of cases from her own practice. She talked about the concept of giving back the conflict to the parties (Nils Christie), thus allowing the victim and the offender to be directly involved in shaping the justice project after a harm; about the favourable Belgian legal framework that enables restorative justice without restrictions (for example regarding the types of cases, age, level or remorse, or in relation to the different stages of the criminal procedure.) As important strategy she shifted the focus of the 'Is it possible?' and 'Can we do it?' questions to the 'What do I need to do to make it possible?' and the 'What do they need?' questions.

She described key steps of a victim-offender mediation procedure, and mentioned initiation, preparation, indirect and direct communication and follow-up. Based on the data collected by Moderator, roughly third of the victim-offender mediation processes are initiated by victims, whereas the proportion being slightly higher in case of sexual offences.
- Session 4** The AIM Project — A 'good' Restorative experience: A Project Model for Restorative Practice in cases of child/ adolescent Harmful Sexual Behaviour (Vincent Mercer)

Mercer delivered a presentation on the development of his work and the AIM Project, and on the key underpinning theories of restorative principles in the fourth session. He explained that background of the work developed in the AIM project stems from treatment strategies to harmful restorative behaviour and from restorative practices, and it evolved over time. He mentioned the significance of case assessment in the preparation phase and how this may be informed the restorative integration theory, trauma informed practice, the management of shame and denial, and finally of taking into account of the parties identity and narrative. As he mentioned, throughout his career his position moved away from assessing denial as exclusion criteria of the restorative process to establishing strategies to cope with denial, and how this enabled some harmers to move towards acknowledgment; or in some other cases enabled victims to distance to proceed towards closure.
- Session 5** Different approaches and projects beyond the classic Victim-Offender Dialogue in Belgium, Historical abuse and other specific cases (Kristel Buntinx) – To start the fifth session participants worked in two groups and collected possible motives of an offender (one group) and of a victim (another group) for choosing or not choosing to participate in victim-offender mediation. Then Buntinx discussed key factors of assessment, and talked about her experience of being a member of the Commission on Historical Abuse in Belgium, and the risks such, and other particularly complex cases involve. These may include, among others, minimising the offence, the blaming of the victim, when the offenders maintain influence over the victim, or in the cases with offenders with a mental disorder. She explained that for victim-empowerment, to avoid secondary victimisation (caused by not allowing the victim to make own decisions), or because the severity of the crime may increase the need for restorative justice, mediation may be still be beneficial for the parties in complex cases. She demonstrated how through care and adapting the procedures to the specific cases the risks can be handled.

Criminal Justice Platform Europe

Next, an excerpt of the video-documentary of Moderator's Samenspraak project was shown to the participants, demonstrating the possibility of group meetings between victims of offenders of different cases. Buntinx explained the background of the project and some of the principles they applied. In the Samenspraak project, after preparatory meetings, Moderator brought together on a group of former perpetrators and victims involved in sexual offence cases, another group involved or affected by terrorist crimes, and a third one impacted by road traffic offences. In each group, the society was also represented by some participants.

- **Session 6** A user manual on victim recovery models.... Or... thinking about how restorative justice can help victims of sexual harm (Vincent Mercer) – At the beginning of the sixth session, participants worked in two groups to list possible impacts of harmful sexual behaviour on victims. Both groups established extensive lists of impacts, ranging from physiological consequences to social, economic and physical impacts. Mercer then talked about the range of sexual victimisation, and different possible forms of trauma caused by it. He mentioned possible factors, that may increase the risk, and others that can moderate the affect of the trauma.
- **Session 7** A Case Study - Presentation of a Restorative Justice Process in Rape Case (Kristel Buntinx)
The seventh session took place on the last day of the workshop, and it started with the participants reflecting one-by-one on their questions and key take-aways from the workshop. Participants have shared that they learnt new ideas or became aware of important considerations. Some of them reflected on the challenges of their own countries, while others brought up questions that the presentations raised for them. Next, Buntinx presented one case study in detail from the background of the mediation process, through the initiation, the preparation phase, and the meeting itself, to the long term follow-up events. It was a case of multiple rape offences by an offender unknown prior to his victims, who - after having been detained for multiple years contacted the mediation service and expressed his wish to meet with his victim and make a financial compensation them. The case demonstrated the different needs of victims (one of them wanted to need with the offender, one of inquired and declined the option, others refused or didn't not answer to the offer). It also showed how the offer to participate in a restorative justice has contributed to their informed choice, and allowed those who had sought answers from/by the offender were able to receive them.
- **Session 8** Challenges and Opportunities.... Maybe a few doubts... (Vince Mercer)

In the last session of the workshop, as summary and overall reflection Mercer talked about the current challenges and opportunities of restorative justice practices in cases of harmful sexual behaviour, these were linked to the nature or lack of collaboration with different stakeholders of the criminal justice and the victim service sectors, or to gaps in research of the practice. As a response to some participants' dissatisfaction with their governing authorities slow- or disengagement with restorative justice, he drew parallel with the previously mentioned time-factor in individual restorative justice processes: in some cases a restorative action became possible only after a significant amount of time have passed, and previously the situation wasn't ready for it yet. Similarly, the passing of time may contribute to the informed implementation of policy changes.

4. Key Learning Points

The trauma of harmful sexual behaviour may impact the victims/survivors in many different ways, and the consequences may emerge in different times, some shortly after, some years or even

Criminal Justice Platform Europe

decades later. Victims have also very different needs. - Offering restorative justice to victims enables them to make an informed choice, and if done in a proper way does not lead to re-traumatisation, even in cases when they turn down the offer. - Participating in restorative justice may provide answers to victims and empower them in a way that does not occur in other justice processes, even when they can make a 'victim impact statement' during the process. - Special care and safe-guards are required when working with victims of harmful sexual behaviour. - When fully informed, victims/survivors may still choose to participate in a restorative justice process when risks are present, and the process may benefit them despite the risks present. - Declining to participate in a restorative justice process may also empower the victim/survivor. - Harmful sexual behaviour is often a cause of shame for the victim/survivor, the offender and their close environment as well, which requires special consideration. The individualised approach and the confidentiality of the restorative justice process can facilitate the work with the parties when shame influences their actions and behaviour.

- Shame and other factors may lead to the offender's denial. Restorative justice may enable offenders to acknowledge responsibility or progress in taking partial responsibility during the course of the process.

5. Key Practice Issues for the Future

The personal practical examples of the workshop leaders were very informative components of the workshop and well embedded in the learning process. This is a quality that should something to aim for in the future. The structure and learning forms of the workshop should aim more to co-construct knowledge with the participants.

6. Annex

References – provided by the workshop leaders – for additional reading:

<https://www.euforumrj.org/en/restorative-justice-and-sexual-violence>