



Newsletter of the European Forum for Victim-Offender Mediation and Restorative Justice

Editorial

A good part of this newsletter is devoted to the Forum as an organisation. The Board reports on its activities in the past few months and a Portuguese member organisation gives an account of the Annual General Meeting (AGM) which was held on September 2, 2001 in Leuven, Belgium.

The AGM took place just after a conference organised by the International Network for Research on Restorative Justice for Juveniles, also held in Leuven and reported on in this newsletter by a Nordic trio. The major theme of the conference was the positioning of restorative justice in relation to the criminal justice system. The presentations and debates during this conference and the AGM confirmed our feeling that the restorative justice field in Europe is very much alive. People are working hard to start up and develop further restorative justice practices. The report in this newsletter on the developments in Ireland is a good example of that. A first VOM service is well under way there and some experience has been gained in offender oriented conferencing and in restorative cautioning. And since July 2001 the juvenile justice legislation enshrines the possibility for referrals to

restorative measures. In other countries the big issues are at the nation-wide policy level, as the Finnish contribution points out. The question there is which model should be chosen in order to make VOM available nation-wide.

During the launching meeting of the Forum in December 2000, different committees were created. At this year's AGM one of the lessons learned from the functioning of these committees was that they need to focus on more concise projects in the coming year. The initial enthusiasm at the gathering got confronted by the limited time and resources the committee members have available for these external commitments. In this newsletter Belgian colleagues present an example of such a small-scale initiative for exchange. They offer a 'Mediation Tour of Belgium' to colleagues from abroad. Another example of realistic exchange activities is offered by the account on the Polish conference organised for colleagues from the former Soviet-Union. We are convinced that many other inspiring projects exist. Do not hesitate to call our attention upon them so that they can be presented in future issues of the Newsletter.

Katrien Lauwaert

Challenges of organising victim-offender mediation in Finland

The Ministry of Social Affairs and Health appointed the undersigned, as research manager of the National Research and Development Centre for Welfare and Health (STAKES), to be the Rapporteur to investigate mediation in civil and criminal cases as from 1 May 2000. My task was 1) to assess the present extent, costs and needs of VOM, 2) to examine and evaluate possible models in organising mediation, and 3) to submit a proposal on the way in which mediation activities should be organised in order to make mediation available nation-wide. The deadline for this investigation was set at 31 December 2000.¹

Mediation situation in Finland in 2000

A countrywide inquiry indicated that there is no uniform model available in Finland for organising mediation. The most common arrangement was to organise mediation as part of the duties of officials working in social welfare or youth affairs units (18.4%). Another common arrangement was to use various purchasing contracts (16.4%). Of the 452 municipalities of Finland, 34 (7.5%) had a mediation office of their own. A total of 14% of the municipalities indicated that they had organised mediation in some other way. These municipalities most commonly used a system in which a municipal official acted as a contact person for mediation, referring occasional

mediation cases to mediators acting in the municipality on a voluntary basis. Of all municipalities, 35% indicated that they had not organised mediation of crimes in any way. A total of 8.8% of all municipalities failed to respond to the inquiry. Actually, 72% of the total population had a chance to mediate.

National comparison showed that the way in which mediation was organised affected its efficiency in terms of the total volume. Municipalities with their own mediation offices applied mediation most extensively, representing an overwhelming majority of all cases (72%). For municipalities that were purchasing mediation services from organisations, the corresponding figure was 17%, i.e. the second highest. In the overall analysis, the alternative "Some other way of organising mediation" was slightly more efficient (4.5%) than service purchasing from some other municipality (4%). As pointed out above, the most common way of organising mediation in municipalities was to include it in the duties of a municipal employee. This arrangement, however, resulted in the lowest number of mediation cases in the whole country (2.4%).

Annual mediation costs at the national level were 1,06 million euros at the time of the investigation, the average costs of an individual mediation being 233 euros.

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Proposal for the Government

Legislation on organising mediation

On the basis of the information gathered and experience gained, I considered that the nation-wide availability of mediation services cannot be achieved merely by voluntary activities started and maintained by municipalities from their own resources. This is why I proposed that an act on organising mediation should be adopted in Finland. This act should assign the general management, guidance and control of mediation activities to the Ministry of Social Affairs and Health. Provincial State Offices would be responsible for ensuring the availability of mediation services within each province. They would have the responsibility for providing mediation services in co-operation with municipalities. In order for mediation services to be provided, each municipality should enter into an agreement referred to in Section 2, Sub-section 2 of the Municipality Act (365/1995) with the respective provincial State Office. In this agreement the municipality would commit itself to providing mediation for its inhabitants. Municipalities may arrange the mediation activities on their own or together with other municipalities or they may purchase mediation services from another municipality or a relevant organisation. The State will reimburse the municipalities for the service provision on grounds to be defined by the Ministry of Social Affairs and Health.

The starting point is thus that the responsibility for the service provision lies with the State. If a municipality is completely unwilling to provide mediation services, its neighbouring municipality or some other service provider may agree with the Provincial State Office to provide services for the inhabitants of this "unwilling" municipality. In such a case the reimbursement for the service will be paid to the service provider on the basis of the number of inhabitants in the municipality that is not willing to provide these services (0,62 euros per inhabitant). In practice, this means that municipalities cannot be obliged by law to provide mediation services, but the State is responsible for ensuring that this kind of service is available in one form or another.

This way of service provision will ensure that the existing arrangements for providing mediation by municipalities and other organisations can be retained. At the same time it can be ensured that co-operation between municipalities can continue. Moreover, the availability of mediation services will thus be guaranteed in all municipalities in Finland.

As compared with the present system, the proposed administrative model for organising services will increase the administrative work of both State authorities and mediation service providers. Among State authorities, the tasks of the Provincial State Offices in particular would be increased. They would have the responsibility for drawing up and maintaining purchasing agreements between municipalities and State, for co-ordination, training and development issues and possibility for various support activities.

Regional organisation of mediation

It is probable that, with the introduction of the new model of financing, municipalities that already provide mediation services will continue their activities at least as extensively as now. The objective is that municipalities that do not provide mediation at the moment will make mediation services available. This concerns mainly small municipalities with limited resources to arrange this type of activities.

When I discussed the organising of VOM with various provincial and regional authorities (police officers, prosecutors, municipal social directors, social workers and mediators) from the viewpoint of small municipalities in particular, the issue

that came up in most cases was co-operation on the basis of State Local Districts. A number of advantages were brought up. First, State Local Districts form areas of appropriate size for co-operation between municipalities. They often comprise the municipalities of more than one subregion, which ensures a sufficient population base for organising mediation and guarantees that the number of potential mediation cases is sufficient. Second, the police and prosecutor authorities of State Local Districts are fully informed of all cases within the district, which facilitates the guidance, processing and observation of mediation cases and promotes co-operation. Furthermore, the predictability of these activities will increase when these authorities co-operate simultaneously with the Provincial State Offices and the mediation offices/units organised by municipalities. Increasing interaction will improve co-operation, cases can be referred to mediation on more uniform grounds, and, most importantly, actors in the criminal justice system will increasingly perceive mediation as part of their work.

Costs

The evaluation pointed out that mediation both causes costs and produces savings in costs. As to mediation involving young offenders, the amount saved by the municipality is equal to the amount invested. However, when adult offenders are included, municipalities will become net payers for mediation.

Considering the potential welfare impacts of mediation, it is not unthinkable that municipalities also have 'a moral obligation' to support mediation. For instance, it is in the interest of the municipality and its inhabitants to intervene as early as possible in the behaviour of delinquent young people. Against this background, it seems justified that the municipality should contribute to the adequate resource provision and implementation of mediation within its area.

The State clearly seems to benefit economically - the benefit being the greater the earlier the case is referred to mediation with resultant savings in police administration and especially in judicial administration. Indicative estimates show that the cost savings for the State (judicial administration) would amount to 5,9 million euros per year. Assuming that the State would answer for most of the necessary financing, that is 3,7 million euros, it would still have a surplus of 2,2 million euros. So, the proposal is that the State would bear the main responsibility for the costs. A calculation shows that the operation of 60 mediation offices should be started and maintained instead of 34 offices of today.

How to go forward?

The proposal got a good acceptance in the field of mediation and in the administration, but the ministries could not reach a unanimous decision how to finance the national system of mediation and which of the ministries - the Ministry of Justice or Social Affairs and Health - should co-ordinate the system. To resolve the questions of financing and co-ordination the ministries formed a broadly-based task force at the beginning of September 2001. In the task force problems of legal protection, referring cases for mediation and the scope of mediation will be discussed as well. Is it allowed to mediate in very serious violence crimes? The latter question relates especially to cases of family violence, of which a three-year evaluation project has begun in Finland. The task force will present its final proposal at the beginning of next Spring.

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1. A report with English summary "National Organisation of Mediation in Criminal and Civil Cases - Report by Rapporteur" was published in March 2001.

Mediators Tour Belgium

A visiting programme for foreign colleagues interested in restorative justice practices is offered by Suggnomè, the Flemish Forum for Restorative Justice and Mediation. The programme was organised for the first time on 2-6 July 2001. The visitors were trainees in mediation, all students of the European Masters in Mediation. This is an advanced training programme, set up in partnership by several European universities and co-ordinated by the University Kurt Bösch in Sion, Switzerland. During one week, the group visited a range of services and persons in the field of Belgian restorative justice. Presentations were given, and discussions held, on activities and underlying principles.

The participants went to victim-offender mediation and community mediation services in Leuven, Bruges, Charleroi and Brussels. Also, the European Forum and the International Network for Research on Restorative Justice for Juveniles were part of the programme. And to make sure that the Tour of Belgium was not exclusively a tour of duty, a cultural visit to Bruges was organised, as well as an informal evening drink in Brussels with mediators from different fields (school, family, victim-offender, etc.). The Tour ended with a Round Table Seminar and a farewell drink.

We felt the Tour was a success, not only because the participants were enthusiastic about it, but also because it was an opportu-

nity for Belgian persons, working in the field of restorative justice, to get to know other restorative justice services in both parts of Belgium (Flanders and Wallonia). Finally, the Tour was a success because it managed to arrange a programme at very short notice and a lot of persons and services could be persuaded to do a presentation. This is especially important because Suggnomè aims to repeat the Tour of Belgium in the future. By analysing the first experience, it should be possible to improve the programme in the future.

First of all, we need a sufficient number of participants. Otherwise the Tour is too labour-intensive and too expensive for the collaborating persons and services. In consequence, there is a real risk that they can't be motivated to give a presentation in the future. Ten participants can be considered as an absolute minimum. Secondly, the five-day programme was probably too long, and it seems better to limit it to three days. Participants should be offered different possibilities, from which they can compile a specific programme. Finally, the practical arrangements (hotel, train, ...) need to be improved.

The next Tour will take place from 18 till 20 March 2002, provided of course that there are enough participants. People interested can contact Noëlla Verreth, co-worker of Suggnomè (suggnome@wol.be, phone +32 16 22 63 88).

Frederik Bullens

Co-ordinator of Suggnomè

Report on the Annual General Meeting

Around 40 people from 13 different countries attended the second General Meeting of the European Forum, held in Leuven, on 20 September 2001.

The approval of the report of the previous General Meeting and of the 2002 budget were the first two points on the agenda. The explanations given by the secretariat on the budget, as well as on the 2001 annual accounts, evidenced the need of a most incisive fundraising policy, in order, amongst other things, to allow the recruitment of a person working full time at the secretariat.

Proposals for internal regulations concerning Forum, Board and Committees membership were discussed. There was a strong debate on organisational representation at the Board level. Some participants raised questions on how to deal with potentially important influence of certain organisations as full members of the Board and the inherent risk of the Forum being manipulated. Finally, it was decided that the proposal on Board membership should be reformulated, to avoid a breach of the constitution.

After approving 46 new membership applications, the Board and the secretariat reported on a very active and busy year of work, a year of setting up the basic structures and procedures of the Forum. Unfortunately, the same cannot be said about the activity undertaken by the majority of the committees: the hardest work came from the newsletter committee and the finance committee, which did an impressive job in terms of fundraising. Due to lack of time, of money and of communication between their members, some other committees were unable to achieve the goals outlined a year ago. Consequently, the Board requested the committees to establish less ambitious but more suitable and feasible projects for the next 12 months. Following each committee's meeting during lunchtime, some concrete ideas were raised, particularly with regard to the organisation of biannual conferences; to the collection of information which could be included on the Forum's website; to the development of a training directory; to increased efforts to obtain funds from national or international institutions, especially European bodies, with the help of a voluntary financial advisor; and to the publication of the newsletter with

three issues in the next year, including more information from different countries.

The Forum's future activity will abide by two basic principles: the participatory principle (a.o. promoting and stimulating interaction between researchers and practitioners) and the spirit of open-mindedness in face of contradictory opinions and models.

One of next year's priorities will be to promote membership, and, at the same time, to gain the attention and support of specific target groups, especially legal practitioners. Another priority in 2002 will be to continue to support eastern European countries in their efforts to implement restorative justice practices. A further aim will be to deepen the relations with other European organisations, especially the European Probation Conference and the European Forum for Victim Services. Last but not least, obtaining structural funding will be one of 2002's crucial goals, in order to maintain the Forum's independence.

A brief presentation by David Miers on the results of his international research project for the UK Home Office concluded the GM. The above-mentioned research constitutes a comparative study on restorative justice in several European countries, also including references to developments in the US, Canada, Australia and New Zealand.¹

Developments in some other countries were briefly reported. In Denmark, the pilot project in three districts finishes next summer. A Federal Association for Victim-Offender Services (Bundesarbeitsgemeinschaft fuer Taeter-Opfer-Ausgleich) has been established in Germany. A national conference will be held on 3-5 June 2002, in Bonn, and members of the Forum are invited to attend. In Romania there is hope of developing restorative justice in prisons and in the community, and it is hoped that a training manual can be developed.

João Lázaro and Frederico Marques

Portuguese Association for Victim Support (APAV)

1. The full research report can be found at www.homeoffice.gov.uk

Readers' corner

Why Restorative Justice? Repairing the harm caused by crime, by R. Graef (2000). In this short book film-maker and criminologist Roger Graef presents the background and principles of restorative justice, as it is applied in different fields. The role of victim, offender and community are discussed. Services and new legislation in the UK are presented. Available from Calouste Gulbenkian Foundation, London, e-mail: orders@turnaround-uk.com, fax +44 20 8881 5088.

Restorative Justice Investigated, by the Association of Chief Police Officers England, Wales and Northern Ireland (ACPO) (2000). In this brochure, restorative justice is presented from the perspective of its concrete applicability, mainly in the field of youth crime. The core evaluative findings of restorative justice programmes in Britain and other countries are discussed, amongst others on the issue of recidivism. Types of programmes are described, as well as their relation to the criminal justice process, practical implications and key considerations for implementation. The document includes, as an Appendix, the full text of the RJ Consortium's Standards in Restorative Justice. Available from Ian Carter, ACPO, c/o Chief Constable's Office, Police Headquarters, PO Box 2, Chelmsford, Essex CM2 6DA, UK, e-mail: ian.carter538@essex.police.uk.

The Rough Guide to Restorative Justice and the Crime and Disorder Act, by G. Masters (2001). A practical guide for developing restorative practice within juvenile justice. Although explicitly designed for the new youth justice legal framework in England and Wales (Youth Offending Teams), the guide is of relevance for all those interested in conceptualising and implementing restorative justice for young persons. Available from Mediation UK, e-mail: enquiry@mediationuk.org.uk, fax +44 117 904 3331.

Corrections, Peacemaking and Restorative Justice. Transforming Individuals and Institutions, by M. Braswell, J. Fuller and B. Lozoff (2001). The first part of the book deals with the philosophical and spiritual roots of peacemaking in the context of criminological thinking and criminal justice. The second part is on the practice of personal and institutional

transformation and is illustrated by witnesses and stories from prisons. Available from Anderson Publishing, Cincinnati, website: www.andersonpublishing.com, tel. +1 800 582 7295,

International Perspectives on Restorative Justice, edited by H. Mika and K. McEvoy (2001). Proceedings from a Northern Ireland conference, held on 26-27 October 2000 at Queen's University Belfast. Remarkable in this initiative was the attempt to plan and to organise the conference itself according to restorative justice principles. Together with the summaries of the workshop discussions, the report contains contributions on conflict management in transitional societies (R. Shonholtz, US), restorative justice standards and principles (J. Braithwaite, Australia), effective performance (A. Morris, New Zealand), juvenile justice reform (A. Skelton, South Africa), and the centrality of victims in restorative justice (M. Wright, UK). Available from Queen's University, Institute of Criminology & Criminal Justice, e-mail: p.banna@qub.ac.uk, tel. +44 28 9024 5133.

The Handbook of Victim Offender Mediation. An Essential Guide to Practice and Research, by M. Umbreit (2001). This voluminous book (425 p.) offers a practical state-of-the-art perspective on VOM for practitioners and researchers. It reflects materials developed over a period of years by pioneer Mark Umbreit and his colleagues at the Center for Restorative Justice & Peacemaking at the University of Minnesota. Part 1 focuses on the underlying philosophy, practices and context of VOM, based on a 'humanistic dialogue-driven' model. Practical guidelines and case studies are presented and attention is given to multicultural implications. Part 2 deals with research. Amongst others are the results summarised from 40 studies on VOM. Part 3 confronts particular emerging issues, such as mediation in crimes of severe violence and potential hazards for restorative justice practice. The book, which mainly is based on North-American experience, concludes with useful information on training materials, directories and profiles of programmes, and an evaluative 'victim satisfaction scale'. Available from Jossey-Bass, San Francisco, fax +1 800 605 2665, website: www.josseybass.com.

Newsflash

Interested persons can subscribe to an e-newsletter of the restorative justice website www.restorativejustice.org. Subscribers receive a monthly e-mail informing them about new information posted on the website.

The European Probation Conference (CEP) has elected a new Board during its general meeting in March. Two members of the new Board are active contributors to the European Forum for Victim-Offender Mediation and Restorative Justice: Jaime Martin (Spain) and Lenka Ourednickova (Czech Republic).

Since January 2001, article 3a of the new Polish law on juvenile justice includes a provision by which a family court can refer cases to VOM. The adoption of this provision follows the evaluation of a programme of mediation between juvenile offenders and their victims, implemented since mid-1995 in a few family courts. A fuller description of this new

development will be available in a future issue of this newsletter.

Invitation: In the recent past the secretariat of the Forum has been contacted several times by people interested in exchanging information and experience in the area of mediation/restorative justice and family or domestic violence. Also often questions are asked concerning restorative justice in prisons and in schools. Therefore it has been decided to start informal networks. The secretariat will keep a list of people eager to exchange in these fields of restorative justice. If you want to be in one of these networks or want to get in touch with people in these networks, do not hesitate to contact Jolien Willemsens at the secretariat of the Forum. Please also inform her of any publication you know of on these specific subject matters. Jolien will use your information to compile a dossier on these three subjects.

Bulletin board

October 25-26, 2001, Belfast, UK, 'Restorative Justice', organised by the Academy of European Law, Trier. For more information contact Ute Beissel at ubeissel@era.int or phone +49 651 9373 731.

January 10, 2002, La Rioja, Spain, 'Walking to a Restorative Justice: victim-offender mediation', organised by La Rioja government and the International Criminology Association,

for more information contact Luis F. Gordillo Santana at oficina.victima@larioja.org.

November 29-December 1, 2001, Adelaide, South Australia, 'Reconciliation: Conversations beyond', organised by the Asia-Pacific Mediation Forum. For information see www.unisa.edu.au/cmrg/apmf or contact Dale Bagshaw at dale.bagshaw@unisa.edu.au.

Report from the Board

Since the inaugural General Meeting and the incorporation of the Forum as an international NGO in December 2000, the Board and the secretariat have worked throughout the year to address a number of issues, the most important of which are funding and membership.

The Board met on 28-30 April, among the idyllic pastures of Derbyshire, beneath the romantic ruin of Peveril Castle, which we could not visit because of regulations on foot-and-mouth disease. We reviewed the work of the committees, drafted internal regulations, and considered our own functioning and that of the secretariat. We also paid attention to fundraising.

The Board noted that the initial aims of the committees had been hampered because we did not succeed in obtaining funds from the application to COST (a European Union funding programme).

It was thought that the initial aims of the committees may have been too ambitious. In addition, there was a sense that the remits of the committees needed to be reviewed, and the Board made proposals for consultation with the committees.

The Board had drafted internal regulations on membership and subscription in December 2000. In April we drafted more regulations on membership of the Board and of committees, and voting. The regulation on membership dealt with the issue of how organisational members could act as members of the Board. The regulation on voting dealt with abstentions and the right to enter reservations on policy issues. These internal regulations were brought to the Annual General Meeting in September for ratification. The AGM accepted all these except that on membership of the Board, which has been sent back to the Board for further work.

In considering its own function and that of the secretariat, the Board thought that it was working reasonably well. However, we have quite full agendas. It was not possible for everyone to attend. We think we should communicate more with the members. There is also a need for promoting communication between members. This means involving members in activities. The secretariat has faced difficulties because Jolien did not have enough time or financial resources, and had to invest a great deal of time in creating and learning new systems (e.g. software).

In view of concerns about the rate of fundraising, the Board required to make arrangements for limiting the budget of the secretariat until such time as fresh commitments to fund us had been received. We also decided to renew our approaches to governments.

The Board met again on the days before and after the Annual General Meeting on 19 and 21 September. Much of the first day was devoted to preparation for the AGM. We drafted further regulations on criteria for membership and suspension and termination for membership of the Forum. These were

approved by the AGM. We examined and endorsed the budget for 2002, and the revised estimates for income and expenditure for 2001. We endorsed candidates for membership. We also approved a draft of a letter to VOMA expressing our solidarity with them in the aftermath of the terrorist actions in the US. The AGM subsequently approved all these decisions.

In its meeting on 21 September, the Board followed up unfinished business and points arising from the AGM.

On the question of increasing membership, each Board member undertook responsibility for the different countries in Europe. We also asked the communication committee to draft a leaflet promoting membership. A twinning arrangement between organisations in different parts of Europe was also proposed. This could promote bilateral relationships as well as providing a means by which well-resourced organisations might help those who could not afford to pay a membership fee.

We also asked the research committee to take up the COST application again.

We agreed that the next conference will be held in Prague or Bucharest, and that the theme should be 'The Application of Restorative Justice in Partnership with Criminal Justice Agencies'. We hope that the format will be innovative. We remitted the planning of the conference to the communications committee.

We discussed a proposal that we set up a regional office in Romania. We will formulate a proposal and consult with members before the next AGM.

The Board is composed of nine members, representing most of the regions in Europe. It has been a very positive experience in collaboration. In between the Board meetings, there is a lot of consultation by e-mail. This makes urgent actions possible, such as requesting European governments to support the United Nations resolution on restorative justice, action towards the European Union and practical support to East European countries in funding applications. We hope that in the next year we will be able to communicate more with the membership, and that we can provide strategic guidance to the committees in their important work.

Robert Mackay
Secretary of the Board

Update on restorative justice developments in Ireland

Context

As Manager of the first Victim-Offender Mediation Service in Ireland, I have often addressed employees and volunteers from relevant agencies within the criminal justice system. They invariably refer to the exciting 'new' concept of restorative justice now being practised in Ireland.

However, as readers may be aware, the principles of restorative justice were at one time widely practised in Ireland. For the best part of 1500 years Brehon law was practised throughout the island. Respected members of the community studied to become a 'Brehon' and when qualified were available to the community to act as a jurist and arbitrate on matters brought to their attention. 'Brehons' could impose sanctions on those found to have wronged a member of the community; and a central tenet of Brehon law was an acknowledgement that the victim should be compensated appropriately by the offender. Restitution, not retribution, was the main objective of those who were involved in dispensing justice.

The demise of Brehon law can be traced to the middle of the 12th century. The British gained a foothold in Ireland at that time, and over the following 500 years assumed control and authority. Brehon law was gradually replaced by a more centralised and retributive system. By the beginning of the 18th century almost all trace of Brehon law had disappeared. In 1801 the Act of Union was passed in the British Parliament, which effectively ruled that Ireland was part of the United Kingdom and therefore formally subject to its laws and penal code.

While we continue to administer a system of justice that is heavily influenced by the British model, the criminal justice system in modern day Ireland is more reflective of Irish society and is considered civilised, fair and accountable. It is also retributive - those who are found guilty of a crime can expect to receive some form of punitive sanction.

Recent figures released by the Department of Justice, Equality and Law Reform show that custodial sentences are becoming more frequent when sanction is imposed and that the Irish prison population has surpassed 3,000 for the first time. Intriguingly, statistics released by An Garda Síochána (Police) show that indictable crime has significantly decreased in the last five years. There are differing views as to why these trends appear to contradict each other, but that debate is for another time.

Developments in restorative justice

With regard to restorative justice there have been significant recent developments.

Establishment of the Victim/Offender Mediation Service

In May 1999 the Minister for Justice, Equality and Law Reform, Mr John O'Donoghue announced funding for a pilot Victim/Offender Mediation Service (V/OMS). The service would offer a safe, non-threatening, facilitated, channel of communication between victims of crime and offenders. It would provide the opportunity for the parties to address the damage, hurt and pain that has been caused by the offence committed. Referrals would be made at pre-sentence stage and would be accountable to the courts by way of a written report, which would be provided to the referring Judge upon completion of the mediation process.

The funding was allocated, via the Probation & Welfare Service, to an independent Board consisting of representatives from

Victim Support, Probation & Welfare Service, An Garda Síochána and the community. The V/OMS then recruited staff and suitable individuals to train in restorative justice practices. A similar restorative justice service from Edinburgh, Scotland provided the training programme during the autumn and winter of 1999, part of which involved the trainees spending time with the Scottish service participating in 'live' situations with victims and offenders. During that time the V/OMS also held discussions with the judiciary to promote the service. The service became formally available in February 2000 and received its first referral in that month.

To date, agreements have consisted mainly of acceptance of wrongdoing, an expression of remorse and an apology. Some agreements contain commitments about future behaviour, or completing a treatment programme for substance abuse or medical condition; an agreement between two parties to acknowledge each other and be civil to each other in the future; an offer to relocate; an offer to provide a professional service free of charge; and an agreement to continue dialogue through community mediation in an intra-family case.

Evaluation

In March 2001 the Board of the V/OMS commissioned an independent evaluation of the Service's first 18 months of work, which is currently being considered by the board, mediators and staff of the service. The report will then be forwarded to the Department of Justice, Equality and Law Reform.

The evaluation was very positive in its tenor which was very encouraging. However, the Service also acknowledged and welcomed the findings that identified the areas where learning and refinement is required, and the Board intends to act on them.

The pilot project is in its last few months and the service will shortly be submitting its proposals for its next stage of development to the funding agency.

National conference

In June 2001 the V/OMS hosted a National Conference: 'Restorative Justice: Challenges and Benefits for Irish Society'. The proceedings were opened by the President of Ireland, Mary McAleese and chaired by the Honourable Mr Justice Michael Moriarty. Main speakers included the chair of the European Forum, a judge of the District Court as well as principal officers of Victim Support, the Probation & Welfare Service and the V/OMS. Contributors and delegates came from all parts of Ireland, mainly from relevant agencies and organisations with an active role or interest in the administration of justice.

Nenagh Community Reparation Project

The funding for this initiative was also announced in 1999. This project provides a mainly offender-focused pre-sentence reparative model, however victims or their representatives are occasionally engaged. The process is based on the 'conferencing' model, with a Chair, the offender, members of the offender's family, the community, An Garda Síochána, and Probation & Welfare Service participating in a round table discussion. The offending party accepts responsibility for his/her behaviour, expresses remorse for their actions and agrees a number of reparative actions that are deemed to be helpful and practical. The Court then agrees to the contract and adjourns the matter for a specified period of time. On return to the Court a report is

provided outlining progress made by the offender and a final decision is taken.

Children Act

The Children Act 2001 became law on the 9th of July 2001. It covers three main areas of law.

1. The provision of a framework for the development of the juvenile justice system.
2. Re-enactment and updating of the provisions of the 1908 Children Act pertinent to protecting children against persons who have care of them.
3. The provision of family welfare conferences and similar initiatives for dealing with offending children. These initiatives may be led by the Probation & Welfare Service, An Garda Síochána or a Health Authority.

This third area is welcome, as the first recognisable restorative measure enshrined in Irish legislation.

Among the provisions in this area are powers for the Children's Court to direct that Family Group Conferences can be convened by the Probation & Welfare Service to formulate an action plan as an alternative to a finding. The victim is an important participant in the Conference, which should also involve the offender and their family, and relevant agency representatives. Any plan agreed should be based on restorative principles including an apology, reparation and accountability.

Section 26 of the Act provides for Restorative Cautioning. This will allow the victim to be present at the formal cautioning of a juvenile by An Garda Síochána. It also provides for discussion to take place around the effects of the offending behaviour and the child can be invited to apologise and to make some form of reparation to the victim.

Mediators promote victim-offender mediation in Poland

An international conference on 'Detention Pending Trial in Poland - Procedural and Penitentiary issues' was held in Poland on April 4-11, 2001. The conference was organised by the Constitutional and Legal Policy Institute in Budapest and the H. Ch. Kofoed Institute in Siedlce (Poland), under the auspices of the Polish Ministry of Justice and the Central Board for Penitentiary Service. It was attended by representatives of the Justice and Internal Affairs Ministries from Georgia, Mongolia and Ukraine, by experts in Polish criminal law, and various professionals and practitioners. Prof. Andrzej Murzynowski, Dr. Janina Waluk and Marzena Kruk presented papers on the use of mediation as an alternative to pre-trial detention.

They explained that the Polish criminal law and criminal procedure make provisions enabling the public prosecutor or a judge to refer certain cases to mediation. The Minister of Justice is given power to regulate any problems concerning the course of mediation and the persons/organisations who are allowed to conduct it. The regulation was published on August 14, 1998. New legal codes came into force on September 1, 1998. According to the substantive criminal code, a positive result of VOM is to be taken into account by the court when determining the penalty, deciding on the conditional suspension of the proceedings and while deciding on extraordinary mitigation of the penalty. The report of mediation outcomes is to be taken into account while deciding about the prosecutor's motion to the court. According to the Regulation of the Ministry of Justice of August 14, 1998, mediation can be carried out either by authorised institutions working in the social field or by private trust-

While this Act has only recently come into law, the National Juvenile Liaison Office of An Garda Síochána have been

worthy persons. Mediators acting in the institutions or as individuals must be over 26 years old, of Polish citizenship, without criminal record, have suitable life experience, ability to resolve conflicts, and skills relevant to handling mediation (psychology, law, sociology, education, etc.). The institutions and the individual mediators should be authorised and registered by the President of the Appeal Court. In Poland we have 10 appeal courts and about 580 registered mediators. Criminal justice officials cannot be mediators. The report of mediation includes the information on the course of mediation and its result, but cannot enclose the parties' statements. Mediators are paid a lump sum of 100zł per case (about 25 Euro).

In Poland 420 cases were referred to victim-adult offender mediation in 1999, and 850 in 2000.

To promote the idea of mediation it is essential to get the interest of academics and lawyers. It is also important to involve criminal justice officials, social workers, local authorities and NGO's. In this respect, the decision to present victim-offender mediation to the representatives of Mongolia, Georgia and Ukraine constituted a good starting point. The participants in the conference were very interested in mediation as the way to divert cases from the traditional justice system.

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Note: For the developments regarding VOM for juvenile offenders, see Newsflash, page 4.

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Positioning Restorative Justice

The 5th International Conference on Restorative Justice "Positioning Restorative Justice" was held in Leuven, September 16-19, 2001. This conference, organised by the International Network for Research on Restorative Justice for Juveniles, can certainly be seen as a major annual event in the restorative field. Indeed, it brought together the world's most authoritative scientific scholars with prominent practitioners and policy makers, although the terrible disaster in America unfortunately prevented several colleagues from coming. The conference has been opened by Marc Verwilghen, Belgian Minister of Justice and concluded by an address by Mieke Vogels, Minister of Welfare of the Flemish community. The debates constituted a great opportunity to discuss restorative justice in its relation to other concepts and practices. In this respect, the similarities and differences with concepts of punishment, rehabilitation and prevention were discussed. The relationship of informal restorative justice processes with the formal systems of law was examined. Empirical research results assessed the achievements by restorative practices.

The following issues were presented in plenaries: *Towards Ethics for Restorative Justice* (George Pavlich), *Restorative Punishment and Punitive Restoration* (Anthony Duff), *Towards a Systemic Model of Restorative Justice* (Jim Dignan), *Planning Restorative Justice for Juveniles in a Legalistic Judicial Context* (Lode Walgrave), *Victimisation and Restorative Justice* (Hans Boutellier), *Victim Movement and Restorative Justice* (Elmar Weitekamp), *Differences in How Girls and Boys Respond to Family Group Conferences* (Gabrielle Maxwell), *A Pedagogical Perspective on Restoration* (Ido Weijers), *The State, the Community and Restorative Justice* (Adam Crawford), *Prisons and Restorative Justice* (Tony Peters), *Methodological Issues in Researching the Impact of Restorative Justice Interventions* (Peter Lindstrom), *A Survey of Assessment Research on Mediation and Conferencing* (Paul McCold).

About 70 papers were discussed in workshops in the following areas: Contextualisation of Restorative Justice, Anthropological Views on Restorative Justice, Restoration in Schools, Theoretical Approaches to Restorative Justice, Dimensions of International Cooperation and Exchange in Restorative Justice, Positioning Restorative Practices into the System, Impact on Offenders, Types of Offenders and Offences, Evaluation Research, Restorative Practices, Restorative Justice as a Factor in Rebuilding Damaged Societies, Restorative Justice in Prison, and Restoration and Retribution.

These debates raised important questions concerning the possibility of implementing an ideal model, the need to situate restorative justice practices in their socio-political context, to define adequately the concepts of victim and community, to give more support to victims, and to encourage policy makers, judicial officers and the participants themselves to adopt restorative justice practices.

Some encouraging conclusions can be pointed out:

- The existence of high public support for restorative justice when it has been explained that victim, offender and community are the focus of restorative justice;
- The high satisfaction of victims and offenders when participation is voluntary;
- Half of victims and offenders participate in restorative justice programmes and agreement and compliance are high;
- Re-offending rates of restorative justice are at least as good as in the present criminal justice system, and probably better;
- Restorative justice can be integrated in the present criminal justice system if the political will exists.

The 6th International Conference on Restorative Justice will be held in Vancouver in 2003.

Hans Klette, Dagmar Rasmussen and Anne Lemonne

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