



Editorial: restorative justice and children

This issue is devoted to the topic of restorative justice with children. Children can be involved in restorative processes in the justice system in the roles of victims, perpetrators, and witnesses. Apart from the justice systems, other important locations are schools and other (pedagogical) institutions where conflicts occur amongst children, but also between children and adults.

For a few decades, international organisations such as the UN, EU and the Council of Europe have recognised that children have specific needs when it comes to accomplishing justice. In a guidance note about the UN approach to justice for children, the secretary general outlines — amongst others — two principles that should guide justice for children: one is ‘advancing the right of the child to express his or her views freely and to be heard’ and the other is ‘treating every child with dignity and compassion’ (Secretary-General of the United Nations, 2008, p. 2). While it is important to strive towards achieving these in all of the justice system, to us, they sounded a lot like a restorative approach. Hence an issue on children and restorative justice. As the definition of a child differs, we talk of children, but are mindful of the term occasionally overlapping with juveniles and reaching at least up until age 18.

Respect for human dignity is the first of the four values mentioned in the [Manual on restorative justice values and standards for practice](#). Every human being is carrying an inherent worth and all are treated with the same respect. Childhood and adolescence are distinct phases in life that go along with biological and socio-emotional processes of development, resulting in specific skills and needs. This requires purposeful recognition. It is an important principle of restorative approaches to accommodate to the specificity of each case. Therefore, it is only an extension of this general principle to cater restorative processes to the specific needs of children and juveniles. One of the main challenges is that restorative justice heavily relies on verbal language competencies, because children and juveniles may be limited in their capacity to express perspectives, emotions, needs, and wishes through verbal means.

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Not least through projects of the EFRJ a multitude of creative tools to help children express themselves have been developed and shared in, for example, the [Practical Guide: Implementing restorative justice with children](#). Drawing and other forms of arts as well as toys and dolls can be helpful vehicles for children to relay themselves. Additionally, also the way of informing children and juveniles about what restorative justice is has to be adapted to the developmental stages of children and juveniles. This is also true for the ways in which to ensure their active ownership of the unfolding process. This issue deals with some of these topics.

The EFRJ has been involved in [four research projects](#) that focused on restorative justice and children and thus built a broad base of theoretical knowledge and practical tools for involving children and juveniles in restorative processes. The issue starts with an interview with four representatives of the four partner countries of the EFRJ project [i-Restore 2.0](#) that among others develops tools for practical work with children on restorative justice. The representatives talk from their practical experience.

Also, Tomáš Horeháj deals with relevant methods and tools when involving children in restorative justice in his article.

Anastasia Katsimpeli and Aila Kara dive deep into a very controversial topic in the field. They write about intra-familial sexual abuse, which presents a demanding challenge for the justice system, and explore the applicability of Restorative Justice to intra-familial child sexual abuse as an alternative route to justice where the best interests of the child are paramount.

Heidi Jokinen continues in her reflection with another controversial issue: children under the age of criminal liability and opportunities with restorative justice. The reflection underlines the importance of individualising the approaches on children.

This individualisation to the specific requirements of a case and the involved persons, the flexibility and creativity that shape restorative work don't only apply to children and juveniles, they also apply to other groups of participants with special needs, and to varying degrees also to each individual participant.

Therefore, we thought it was appropriate to also include an article in this issue that deals with restorative justice for the elderly. Moreover, there is a parallel between elderly people and children/juveniles in that the harm they experience is often perpetrated by family members. They also share similarities in relation to their living conditions that are characterised by the dependence on others to care for them and act in their best interest. In her piece at the end of this newsletter, Olga Kiseleva highlights that the age group

of the elderly have long been neglected in the discussion around restorative justice. She argues that elderly people also come with specific needs and that cases of family violence against elderly are especially appropriate to be dealt with restoratively due to the elder's wish for transforming those relationships and finding lasting solutions.

The issue closes with her article, but hopefully it doesn't close the topic. We hope this issue will be a thought-provoker and an inspiration in the demanding but rewarding work with children and restorative justice. Happy reading, and bon courage for your work on the field.

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Restorative Justice gives youth a voice: on the experiences with the i-Restore 2.0 project.

Introduction

The EFRJ has been running projects on restorative justice and children for a while. The [i-Restore 2.0 project](#) deepens these findings. The project is carried out in four different project countries, Greece, Estonia, the Netherlands and Romania. For this article, the newsletter editors talked to the country representatives.

i-Restore 2.0 project

The i-Restore 2.0 project (2022–2024) continues from where the i-Restore project (2019–2021) finished. The new initiative is EU funded and is coordinated by [Terre des Hommes](#), Romania, the local

branch of a Swiss based organisation for children's rights and operating in several different countries. i-Restore 2.0 has the aim of strengthening the access to high quality restorative justice processes for children in contact with the law. In line with the EU Vic-

tims' Rights Strategy, the project aims to empower children, including victims, to express their views about restorative justice through digital and child-led creative approaches; increase awareness of families, practitioners, policy makers and the media on restorative justice for children in criminal proceedings and increase the number of practitioners who can provide child-friendly restorative justice services.

During the first year of the project, a training scheme for professionals was developed and implemented in the four participating countries, including an online course but also basic and advanced trainings that were carried out face-to-face. Some of the upcoming project deliverables are:

- guidelines for professionals who conduct restorative justice with children,
- a media tool-kit,
- a digital assessment tool,
- a child-led resource,
- an awareness circles storybook,
- a learning from the field report and
- a policy brief on budgeting.

In this interview the representatives of each of the partner countries get to reflect on their experiences with the project so far and moreover, their experiences of working with children and restorative justice.

In Romania when they talk about a child, they refer to the age group 0–17 years old, as from the age of 18 legally you are considered an adult. A person is considered a child until they reach the age of majority at 18. However, the minimum age of criminal responsibility is twelve years of age. If a child under the age of 12 commits a criminal act, the child has no responsibility in any form; yet their parents or legal guardians may face criminal prosecution.

Project partners and countries

Helerin Välba works as a restorative justice co-ordinator at the Social Insurance Board in Estonia. While victim support workers have been using victim-offender mediation in Estonia for more than a decade now, children have come along only in 2020. Yet the experiences have been promising.

'We work with many kinds of cases involving children: violence, hitting and fighting, also cases from schools like difficult relationships among children

and bullying. Sometimes also cases from closed institutions and other complicated relationships,' explains Helerin.

Annemieke Wolthuis works as a children's rights' consultant in the Netherlands, and is the local project coordinator for Restorative Justice Nederland, the national knowledge and invocation centre on Restorative Justice. In the Netherlands victim-offender mediation and other restorative approaches have been around since the 1990's, as several simultaneous initiatives took place. Right from the start, many of those cases involved children.

'Our cases can be very varied as restorative justice referrals are possible in different stages of the criminal process. We can deal with cases of theft or violence, but also with more complex case like, serious knife incidents, sexual violence, family violence and sometimes even in murder cases sufficient time after the incident when parties still have questions to the offender or to the victim on,' explains Annemieke.

Panagiota Kanellopoulou works as Project Co-ordinator for the Access to Justice projects in Greece. Restorative justice is not a new legal term in Greece. It is reflected, for example, in the writings of Aristotle ('epanorthotikon dikaion'/ 'restorative law'). Today, Greek penal and civil law contain provisions that promote conciliation and mediation processes between offenders and victims and between the parties involved in disputes.

'As far as Greece is concerned, the most common offences involving children are property offences, such as theft, aggravated theft, robbery, burglary etc. The second most common are offences of violence such as insulting behaviour, bodily harm etc.,' explains Panagiota.

Children have been involved from the start. They are one of our key components when it comes to our activities in the field and what we do in Romania.

Cristiana Bulgariu works as the project manager of the i-Restore 2.0 in Romania. Terre des hommes Romania has been implementing restorative justice based projects since at least 2019, with i-Restore phase 1 being a cornerstone for restorative justice in the country.

'Children have been involved from the start. They are one of our key components when it comes to our activities in the field and what we do in Romania. We wish to create as many contexts for child participation as possible. As in many countries, in Romania

children can be involved in a variety of offences from petty theft and burglary to vandalism, substance abuse, fights, domestic abuse, sexual offences etc. The most common ones would be substance abuse and acts of violence, especially related to the school environment, which is the place we as Terre des hommes Romania try to get involved as much as possible. That is because in addition to law enforcement and legislative measures, we consider that comprehensive social services are also necessary in order to address juvenile delinquency,' explains Cristiana.

On terminology

To get the discussion right on children and restorative justice requires a fundamental understanding of what is meant with 'a child' in the first place. The legal definition of a child differs slightly from country to country. In Romania when they talk about a child, they refer to the age group 0–17 years old, as from the age of 18 legally you are considered an adult. Likewise in Greece, where a person is considered a child until they reach the age of majority at 18. Moreover, in Greece the minimum age of criminal responsibility is twelve years of age. If a child is under the age of 12 commits a criminal act, the child has no responsibility in any form, yet their parents or legal guardians may face criminal prosecution.

Sometimes 'a child' may be far older than that. In the Netherlands sometimes criminal youth laws can be applied via the adolescents' law, which refers to 18–23 year olds (often called youngsters or young adults) and in Estonia sometimes also to those under 29.

A general framework for the definition of a child is the UN Convention on the Rights of the Child, according to which a child is someone who is under the age of 18. In many countries this is the upper limit of a child. In this article the word child is used referring to varied age groups, which may make the talking of the phenomenon difficult. Also, children develop very differently and the traits of working with the different age groups may differ, making it even more difficult to try to make universal descriptions of a child.

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of 18, which in many countries is the upper limit of a child.

Co-creating together with children

For all of the interviewees restorative justice and children is fundamentally about empowering children and young people, and about doing that in a safe environment.

'Adults don't always take children seriously, or they think they can order children around. But restorative justice gives youth a voice. They can express their thoughts and feel safe in doing so,' underlines Helerin.

'In most cases, the children need to be heard and feel they're in a safe environment. Children need to be respected and feel you are paying attention sincerely to them and you are willing to actually listen to them when they talk to you and they will open up. They also need guidance. Every child wishes to resolve their conflicts and they need you to offer them a path that is appropriate to their needs,' adds Cristiana.

All in all, restorative justice with children shares many same aspects with other restorative processes. For example, restorative justice with children allow for dealing with different aspects of the conflict at stake.

What appears as a simple case of hitting someone, may be much more complex when talked about.

'Many conflicts have a deeper level to them. What appears as a simple case of hitting someone, may be much more complex when talked about. Often there is a background story involved and the roles of victim and offender can get mixed,' explains Helerin.

Also in connection to children it is important to allow a re-integration back to the society, as is explained by Annemieke: 'Children and young people should be able to learn from their mistakes. At the same time, it is worthwhile showing that there is a reaction to bad behaviour, and not only a reaction, but also that there is a supportive network.'

The idea of a supportive network is important also with regards to the child victims.

'At first the victim-support organisations were reluctant to work restoratively and they were "over" protective of the victims, but the bit with emotional recovery and finding answers to why me-questions are important for the victim. Now when restorative justice is better established in the law, policy and

practice also victim support is more supportive and involved,' says Annemieke.

Child Advisory Boards as a success factor

The i-Restore 2.0 has worked through four Child Advisory Boards (CAB) which have been established in the partner countries. The aim of the boards is the involvement of children in the development of restorative justice measures as part of a participatory approach. A CAB is composed of young people aged 16–21. They represent different backgrounds, even within the different partner countries. Some of them are high school students, some go to vocational training and some have just started university. They have different experiences in interacting with both the legal and social systems. They receive training before they start. The CABs are systematically involved in project activities and the development of certain project outputs. They are very active in discussing the topic, making tools. The CABs have proven to be real success factors for i-Restore 2.0.

'Many children report that participating in an Advisory Board, was the first time they felt that their views were taken into account, they are heard, and the content was actually shaped by the children themselves,' explains Panagiota.

'It's impressive how they think so out-of-the-box. The opportunity to play a role in the Board has really allowed the Board members to excel, they readily say what they like and dislike about restorative justice, and are actively helping to develop the practices. It has been great to co-create with the young people themselves,' says Annemieke.

'I appreciate the CAB meetings and awareness circles in schools so much. It's rewarding to have the direct feedback from the children when they ask why didn't we do this before,' Helerin notes.

Special characteristics of working with children

Different restorative methods tend to have their typical traits in any case. Working with children brings an extra twist to it., All interviewees underline that but both Annemieke and Helerin think that the differences between working with children and/or with adults must be acknowledged.

'I'd like it to be different from other mediations. The information shared should be levelled to what the young person can understand, including any mental

disabilities, neuro diversity or learning difficulties,' underlines Annemieke.

'In fact when working with children, as opposed to adults you need to adapt your speech and style so that they can be comfortable and for them to better understand the subjects you speak about,' explains Cristiana.

The special characteristics entail that restorative justice with children must be practised with care and skill and the adults involved must be specially trained.

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'Often mediators think they can just do the same thing as with adults, or if they have children of their own, they feel they know how to work with children, but that is not enough. That's why it's vital that the judges, police and mediators working with children are well trained into the rights of the child and have the skills needed. Here, the i-Restore 2.0 has been so useful, as it shares necessary tools with the professionals through specialised training,' comments Annemieke.

Despite the trained adults, in the end it is important to remember that it is about the child.

'A room full of adults can be very frightening. It's good if the child can bring along a support person, closer to their age, like a friend, or a sibling. A good preparation is key,' underlines Annemieke.

The sensitivities of parental involvement

A fundamental point of departure for restorative justice with children is that the child can be supported by their parents or guardians during the process. Both the victim's but also of the offender's parents can be supportive in many ways.

'Sometimes the parents are really glad of the opportunity to hear of the child's perspective, of their needs and wishes, during the meeting. I remember a time when a mum was innately glad to have learned of the teen-aged child's expectations, as she had thought a child of that age no longer needed that much attention from the parents. It has also happened that the victim's parents know the young offender and know of the hard time he is having. For the parents it is then important to have a mediation organised to support the offender,' Helerin explains.

‘Many parents are sorry for the victim, but also for their own child,’ adds Annemieke.

Having parents included in the process does, however, bring some special flavour to the process. One issue is that sometimes parents may become the obstacle to starting a restorative process.

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‘Especially when their child is the victim, parents sometimes need convincing that restorative justice approaches are indeed the best approach for a child,’ explains Panagiota.

This can be simply because of the resistance of parents to new practices that can be radically different than what they are used to. Sometimes parents also try to explain away what has happened by explaining that in their childhood bullying in school was normal.

‘When it comes to how parents deal with their children, especially in conflict situations they tend to use the same methods that were applied to them when they were children, meaning punishments and sometimes even violence so that they can “teach their children a lesson”,’ notes Cristiana.

One issue is that sometimes the parents take too much space.

‘Sometimes parents are so protective that they want to speak for the child,’ acknowledges Helerin.

Panagiota agrees, ‘Some parents have the tendency to be overprotective of their child and deny any and all allegations. Given that in restorative justice the offender must take responsibility for their actions, it is difficult to overcome this tendency of the parents.’

‘Parents are sometimes more hurt than the children and they can really take over in the meeting. That’s why we always try to have a moment alone with the youngsters. Sometimes it also happens that something has happened between the child and the parent. In those cases you need support from the neighbourhood or from the school,’ explains Annemieke.

Sometimes parents also try to explain away what has happened by explaining that in their childhood bullying in school was normal. Cristiana agrees, ‘Times are changing at a fast paced rhythm and things that were usually done in the past are not that efficient or productive anymore and you have a generational gap that sometimes it is very difficult to work with. Sometimes then again the child is very shy and doesn’t want to talk. Sometimes the child has

also told different versions of the events or not disclosed all the aspects of it at home. Then parents are surprised to hear about that during the meeting.’

The right mindset and the tools available

The project has convinced the participants of the opportunities of working with children and restorative justice and they would encourage others for similar pilots. Although there are specialities to attend to, there is also so much material out there on the topic.

‘i-Restore 2.0. as such has produced a lot of useful information. In addition the international children’s rights framework and Tali Gal’s needs and rights approach are useful background materials to nurture thinking and working in the field,’ reminds Annemieke.

Panagiota also points out the pressing need for children to be fully aware of their rights and their implications, to receive information and support throughout criminal proceeding: ‘Currently, we implement two Access to Justice projects, i-Restore 2.0, focusing on promoting access to quality restorative justice processes for children in contact with the law and i-Access My Rights, which aims to improve access to information and legal assistance in the field of digital justice for child victims by creating an AI tool that is above all child-centric.’

‘During the project study visit in Greece I was impressed with the community feeling they had managed to build up in the child justice field. In addition, there was a determination of not giving a child not just a second chance, but giving five more chances,’ explains Annemieke.

Despite all the theoretical, evidence-based materials out there, a vital learning from the project has been the need to include children and young people in the development of approaches concerning them. This way the restorative justice method can be embedded not only in the way we do during the mediations but also in how we develop restorative practices.

It is really important never to consider any child a lost cause, every child deserves the chance to learn and be better and no matter how difficult it may be at the start, never lose hope in that child.

‘Learn how to truly listen to the children you are working with. Children want and need to be taught how to manage their feelings, how to handle conflictual situations and how to communicate. It is really

important never to consider any child a lost cause, every child deserves the chance to learn and be better and no matter how difficult it may be at the start, never lose hope in that child,' underlines Cristiana.

'In order to work with children you have to first love what you do. Patience, responsibility, authenticity seem to be key prerequisites. It is really important to ensure that the child is actively involved, and empowered, knowing that their voice is being heard and decisions are not being made for them without them,' says Panagiota.

Helerin underlines that it all starts with the right mindset: 'Ask about their story and about their thoughts and feelings, the restorative approach needs to be part of the conversation from the start.'

Are children more restorative by nature?

All interviewees have noticed that in fact adults can learn a lot from children what comes to restorative justice.

'Cases with adults can be very complicated, they become principled and don't want to give in at all. With children it's different. They are more open, also to take responsibility,' says Helerin.

'It is easier for children and adolescents to grasp the concept of restorative justice and its benefits compared to adults. The children are always keen to participate, to take initiative, to learn things,' acknowledges Panagiota.

'Once they understand how they can benefit from these methods and how it can affect their lives in a positive matter they are more interested in learning more, they become open to the idea and want to include it in their work and life as well,' adds Cristiana.

Young people are very forgiving; they seem to be able to put things behind them more easily. They often hug each other after the agreement made at the end of the mediation.

'Young people are very forgiving; they seem to be able to put things behind them more easily. They often hug each other after the agreement made at the end of the mediation,' says Annemieke.

'In addition, children have different needs and priorities compared to adults. In civil mediation cases for example, adults often require a solution that can be easily valued in financial terms, whereas for children this is not always important even in cases where

property damage has occurred, such as the theft of a mobile phone,' acknowledges Panagiota.

'In conclusion, while in essence children don't have the maturity of adults, they are more flexible and open to trying new things, more adaptable and eager to try new methods, especially if these new methods propose solutions to make them feel better and have their best interests at heart. Thus, many times working with kids in Restorative Justice is actually more productive and efficient in the long term,' acknowledges Cristiana.

I-Restore 2.0. to be finished later this year

The i-RESTORE 2.0 project is ongoing and the partners will meet in person again on May 23rd in Athens, Greece. The occasion is the second regional advocacy event hosted by the Greek partners of the i-Restore 2.0 project, targeting policy makers and professionals from the field of restorative justice and children's rights. A final conference is scheduled for September 2nd 2024 in Brussels to discuss and share ultimate outcomes.

More information on the project can be found on the [i-Restore 2.0 webpage](#).

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I'm from Finland, where I'm still today based in. I currently teach theological ethics and philosophy

of religion at Åbo Akademi University, so it makes a nice mixture of both teaching and research. I wrote my PhD on victim-offender mediation more than a decade ago now and have had an interest in restorative justice ever since. I'm a member of the EFRJ Newsletter Editorial Committee since five years ago.

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I come from Greece and I am currently working there as a criminologist expert witness in legal cases. I am motivated by the vital role that a testimony can play in a court, helping to ensure a fair judicial outcome through evidence-based knowledge. I was first introduced to the principles of restorative justice during my masters and have been fascinated by the way restorative processes are able to restore safety and

security, repair harm and alleviate suffering through dialogue and agreement.

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I work at the Clinic for Child & Adolescent Psychiatry/Psychotherapy in Ulm, Germany. The main focus of the research I'm involved in, is child maltreatment and neglect. It is a heavy topic and I'm touched by it, but this is also what drives my motivation: I hope that with the knowledge we gather and projects we implement, we can have a positive impact on children's and families' lives. And also raise awareness amongst professionals from different fields of work.

Using child-friendly specific methods and tools as a form of communication in the restorative justice process

1. Introduction

Currently, various innovative intervention procedures are applied with victims of criminal activities (and of course with perpetrators) in different legal systems. While innovations in intervention work with perpetrators are often focused on probation and prison services, other key actors, such as non-governmental organisations, are often involved in working with victims. These procedures are often evidence-based, meaning they are designed and implemented based on verified data and practical experience to achieve the most effective results.

Intervention procedures with victims of criminal activities may involve various forms of support and assistance, including legal aid, psychological counselling, therapy, support in recovery and rehabilitation, as well as various forms of compensation and restitution. These procedures aim to mitigate the harm and trauma suffered by victims and help them recover and rebuild their lives.

An important aspect of innovative intervention procedures is also the collaboration between various actors and organisations, including public institutions, non-profit organisations, healthcare and social services, as well as victims and their families themselves. This collaboration can help ensure that victims receive comprehensive and individually tailored assistance and support that takes into account their specific needs and situation.

Overall, it can be stated that innovative interven-

tion procedures with minor victims of crime are an important tool for improving their situation and ensuring a fairer and more humane legal system.

2. Minors as a specifically vulnerable group of re-victimisation

The special status of minors in the legal system reflects the fact that children undoubtedly belong to the most vulnerable groups of the population, especially in relation to crime. As already implied by the title of this chapter, its aim is to increase knowledge in an area that is one of the most serious consequences of victimisation, namely the increased predisposition of victims to become repeat victims, that is, increased risk of re-victimisation.

On the other hand, the special status and rights of the child from the perspective of procedural criminal

law reflect the challenging position of minor victims in judicial or pre-judicial proceedings, and the need to protect (not only) their procedural rights, whether due to their insufficient 'equipment' necessary to protect themselves, or due to their dependence on other persons, often on the perpetrator himself, or on the environment in which the perpetrator is protected, which further complicates their access to asserting their rights.

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It is all the more important that, in cases where such a vulnerable victim of a criminal offence comes under the purview of criminal protection, which often means having to face various fears, feelings of shame, uncertainty and fear of speaking about the act itself, they subsequently do not become victims of secondary victimisation. This applies not only from the perspective of the legal definition of secondary victimisation according to the Victims Act but also in terms of the lack of real, comprehensive fulfilment of the individual needs of the person in their specific life situation marked by the criminal offence.



Tomáš Horeháj

However, it remains a significant challenge for the future to supplement the current legal system with

additional components or to develop currently well-directed steps that, in addition to support and legal assistance, financial compensation, preservation of procedural rights, punishment of the perpetrator, and measures to prevent further criminal activity, would offer the minor victim the opportunity directly to decide and express, or in many cases help articulate, their needs. This would enable each victim to achieve a sense of 'closure' with the past marked by the criminal offence, attain a sense of justice and understanding and create conditions to continue with their normal life.

A means that takes into account (not only) the needs of crime victims and, at the same time, serves as a 'healing process' is undoubtedly restorative justice. The expert level of facilitators in Belgium, specialising particularly in working with children, is supported, among other things, by Belgian legislation, specifically the law passed in 2006 — the so-called Youth Protection Act. This law, in addition to separating the criminal justice system for adult and juvenile offenders, builds upon the *Convention on the rights of the child* (1989) and obliges state authorities to prioritise the preservation of the rights of the child in any decision-making process. Furthermore, among other rights, it advocates for the right of the child to be heard. In practice, the implementation of this law by judicial authorities is also reflected in the fact that state authorities are required to facilitate a restorative process in every appropriate criminal case where the perpetrator of the offence is a child, that is, a person under 18 years of age.

3. Child-friendly communication methods and tools

One of the innovative methods of a specific and sensitive form of communication with children (successfully used in some cases also with adult participants), aimed at giving voice to child victims, as well as child perpetrators, is the *presentation of stories, emotions, needs, etc.*, through various objects such as *dolls, animal models, pictures, cards*, and so on. This approach, presented by Belgian facilitators, offers participants in mediation the opportunity to work with these objects only if the participant agrees, and the selection of objects is also left to each individual child. This form of communication is particularly suitable for sensitive matters that are difficult for victims to discuss, or they may not be able to talk about them. By, for example, selecting a toy that represents themselves, it becomes easier for them to talk about

the object, which is in a way separated from their personality. Similarly, the child assigns other objects to important people in their life, as well as those involved in the conflict situation. Moreover, this transfer of the child's subjective experience into the space of objective reality through the afore-mentioned aids always begins with the present and present circumstances, which is a safer state for the victim to discuss, and then sensitively moves on to circumstances in the past, while strictly respecting the will to speak or not speak about specific things. Another advantage of these aids is that many child victims, as well as perpetrators, do not have the emotional maturity verbally to describe their own emotions and needs, but they can express them through various thematic pictures, cards, and so on. An engaging psychological tool is the so-called 'magic wand,' which the mediator offers to the child victim or perpetrator after depicting the conflict situation, asking what the child would change about this situation if they had such a magic wand in real life. The idea of having unlimited fairy-tale power can, in some cases, help the child overcome barriers, fears, and the fear of expressing wishes that they may consider unattainable for any reason (Chapman et al., 2015).

4. Case studies/examples of good practice¹

An example of the application of the method described in practice was a pre-mediation meeting between a mediator and a minor victim in a case of conflict between children at a re-education centre and an employee of this centre. The victim found it challenging or had no interest in discussing the incident on her own, but she agreed to use animal models to express herself and the important people in her life, including friends at the centre and family outside the re-education centre. She assigned the model of a tiger to the employee with whom the conflict had arisen, and interestingly, other children who had been affected by this person also assigned the same character. Through this process, the child also depicted the conflict situation, and the result of the process was that after the victim was handed a magic wand to express freely what would help improve the situation for her in the future, she spontaneously took the tiger figure and energetically threw it off the table along with the other characters. The mediator thanked the victim sincerely for her honest expression without evaluating her reaction.

¹Cases exemplified were introduced during the EFRJ Winter Academy 2024 course 'The Voice of Children in a Restorative Justice Process.'

This briefly summarised case was an example of how the facilitative process helped give a voice to a child who was unable to return to the incident with her own words or express her needs.

In a broader context, the significance of the healing restorative process was demonstrated, including through a sensitive case involving the rape of a minor victim by her underage brother. The siblings lived in what seemed to be a functional family, and the girl kept the incident secret until she disclosed it to a classmate on a school trip, who happened to be the daughter of a prosecutor. Subsequently, criminal proceedings were initiated against her brother, who was removed from the family and placed in a detention facility.

... it became evident how important it was for the victim not only to fulfil her legal rights as a victim and a person harmed by a criminal act but also to resolve the conflict situation comprehensively, not only between the accused and the victim but also within the entire family unit ...

In this case, despite the fact that there was no discussion about the incident itself during the entire facilitative process, it became evident how important it was for the victim not only to fulfil her legal rights as a victim and a person harmed by a criminal act but also to resolve the conflict situation comprehensively, not only between the accused and the victim but also within the entire family unit in which the victim moved and upon which she depended. It was necessary to set up this environment so that the victim could return to normal life.

In summary, findings from the facilitative process included:

- The victim's mother was angry at her daughter for not disclosing anything at home and blamed her for the removal of her son from the family. Her sole desire was for her son to return home; she did not believe he could have committed such an act and was also angry at the system for taking her son away overnight.
- The accused was diagnosed with an autism spectrum disorder through psychiatric examination. He had been working extensively in therapy to understand his sister's victimisation better, realising what he had caused her. He regretted it and desired to apologise to her in

a personal facilitative meeting, but he was unsure of her reaction. He did not want to return home; after being released from the detention facility, he lived with friends' parents and tried to become independent. However, he was glad to see his parents when his sister was not at home and was happy when he saw that his parents were happy. He believed that the abuse would not recur, continued therapy and hoped the judge would not treat him as an adult, as he was close to reaching adulthood.

- The victim still could not talk about what had happened to her. Over time, however, she became convinced that the abuse would not recur, wanted her brother to come back home, and did not want him to be tried as an adult. Contacts with her brother, gradually re-established, were good; he helped her when she had problems, such as with the computer. She wanted her parents to be happy; her relationship with her mother improved, and she found the greatest support in her father, in whom she could confide about anything.

5. Closing remarks

The aim of the content of this article was to highlight and emphasise the importance and necessity of continuing positive changes in relation to education, increasing the professionalism, and expertise of professionals in the field of restorative justice (mediators/facilitators) working with juvenile and child victims of criminal offences. This is particularly important for the victims themselves, as well as for all individuals affected by the crime in a broader context. All individuals who come into contact with victims, such as police officers, prosecutors, judges, social and healthcare workers, as well as organisations providing assistance and support to victims and last, but not least, organisations providing restorative justice services, should undergo adequate training. This training should include practical guidelines on how both state and non-state authorities should communicate with minor victims verbally and non-verbally in

a child-victim-friendly manner. This communication can potentially be hurtful to victims and may pose a risk of secondary victimisation but, with the right approach, it can also be empowering. To be effective, the training should emphasise the need for a sensitive approach to victims, especially concerning particularly vulnerable victims, and provide specialised expertise focusing on such a specific victim category.

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Intra-familial child sexual abuse and restorative justice

Child sexual abuse is a multifaceted phenomenon involving the inappropriate sexual exploitation of a child by an adult or older adolescent (Finkelhor and Shattuck, 2012). This abuse surrounds an extensive range of behaviours, including but not limited to sexual touching, fondling, penetration, and non-contact acts such as exposure to pornography or sexualised conversations (Crosson-Tower, 2020). The crucial elements of child sexual abuse include the age and vulnerability of the child, the power differential between the perpetrator and the child, and the violation of the child's rights to safety, autonomy, and bodily integrity (World Health Organization. Violence and Injury Prevention Team & Global Forum for Health Research, 1999).

Intra-familial child sexual abuse is a deplorable occurrence that is distinguished by the sexual exploitation of a child by a family member or someone in a position of trust within the family unit. Again, this form of abuse epitomises a breach of the child's fundamental rights to safety, security, and well-being. Comprehending the dynamics and impact of intra-familial child sexual abuse is pivotal in order to develop effective prevention and intervention strategies to address this pervasive concern.

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1. Prevalence and characteristics of intra-familial child sexual abuse

The prevalence of intra-familial child sexual abuse is quite strenuous to ascertain attributable to underreporting and the clandestine nature of that kind of crimes. Hence, research puts forward that a remarkable proportion of child sexual abuse occurs within the family context. A meta-analysis by Stoltenborgh et al. (2011) established that approximately 18% of girls and 7.6% of boys worldwide encounter sexual abuse before the age of 18. Furthermore, intra-familial sexual abuse is quite often characterised by chronicity and severity, with victims experiencing prolonged periods of abuse and undergoing multiple forms of victimisation (Maniglio, 2010).

Intra-familial child sexual abuse takes place within the family system, where the perpetrator may exploit their position of trust and authority to perpetrate abuse. Various factors such as family dysfunction, parental substance abuse, and intergenerational patterns of abuse can have a great contribution to the occurrence of intra-familial abuse (Pereda et al., 2009). Moreover, perpetrators of intra-familial abuse often make use of grooming tactics which aim to manipulate and control their victims, thereby maintaining

secrecy and perpetuating the abuse (Crosson-Tower, 2020).

Intra-familial sexual abuse is quite often characterised by chronicity and severity, with victims experiencing prolonged periods of abuse and undergoing multiple forms of victimisation.

The consequences of intra-familial child sexual abuse on victims are profound and multifaceted, encompassing physical, emotional, and psychological consequences. Victims may experience immediate physical harm, such as genital injuries or sexually transmitted infections, as a result of the abuse (Finkelhor et al., 2009). However, the lasting effects of intra-familial abuse expand far beyond the physical realm, with victims facing heightened risks of mental health disorders, including depression, anxiety, and post-traumatic stress disorder (PTSD) (Putnam, 2003).

Victims may grapple with feelings of shame, guilt, and self-blame, which can be a hindrance to their ability to confess the abuse and seek help.

Additionally, intra-familial child sexual abuse can impair victims' interpersonal relationships, self-esteem, and sense of identity. Victims may grapple with feelings of shame, guilt, and self-blame, which can be a hindrance to their ability to confess the abuse and seek help (Spataro et al., 2004). Also, the betrayal of trust that is inherent in cases of intra-familial sexual abuse can destroy victims' capability to form healthy attachments and trust others in future relationships (Whiffen and Macintosh, 2005).

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The disclosure of intra-familial child sexual abuse can have intense implications for family dynamics, which may lead to disruption, conflict, and disintegration within the family unit. Family members may

experience an extensive variety of emotional reactions, including shock, disbelief, anger, and guilt, as they fight with the reality of the abuse (Broman-Fulks et al., 2009). As a general rule, trust within the family gets shattered, and relationships get notably strained as family members find it difficult to come to terms with the betrayal of trust by the perpetrator.

Moreover, intra-familial child sexual abuse may preserve cycles of abuse and dysfunction within the family system, as unresolved trauma and unaddressed issues continue to reoccur across generations (Kendall-Tackett et al., 1993). The siblings of a victim may undergo secondary victimization or grapple with feelings of guilt and accountability for not safeguarding their sibling. Following the disclosure of sexual abuse, siblings might display internalizing symptoms, such as experiencing anxiety, sadness, or depression (Schreier et al., 2017). Moreover, research has shown that, non-offending parents may also experience negative feelings such as shame, self-blame, and inadequacy. The revelation of child sexual abuse can be distressing for non-offending parents, particularly mothers, as research indicates it can lead to increased levels of psychological distress, depression, and post-traumatic stress disorder. Such outcomes would further complicate the family's ability to cope with the aftermath of the abuse that has taken place in the family environment (Cyr et al., 2016).

There is no doubt about the fact that intra-familial sexual abuse presents distinct challenges within the justice system (Barnes et al., 2009) as victims of intra-familial abuse often encounter various difficulties in seeking justice.

Intra-familial child sexual abuse may preserve cycles of abuse and dysfunction within the family system, as unresolved trauma and unaddressed issues continue to reoccur across generations.

Tackling child sexual abuse in general introduces a demanding challenge within the justice system, where the best interests of the child must be of prime importance.

Tackling child sexual abuse in general introduces a demanding challenge within the justice system, where the best interests of the child must be of prime importance. By focusing on the best interests of the child in the justice process, authorities can uphold their duty to protect and advocate for the rights of the most vulnerable members of society.

2. Applicability of restorative justice

In addition to criminal proceedings, restorative justice should be an option for such cases. Restorative justice is a method of criminal justice that focuses on repairing the harm caused by a crime. It is based on the idea that crime is not just a violation of the law, but also a violation of relationships and social norms. Restorative justice seeks to address the needs of both the victim and the offender, and to help them heal and rebuild their lives (Walgrave, 2008). While several victims may not wish to participate, and certain offenders may never admit wrongdoing, restorative justice can significantly impact those situations where it is possible and can be implemented safely. It aids victims in overcoming the crime and moving forward. Survivors, confronting their abusers in person, may seek closure, reclaim agency, and progress in their life. Research on the use of restorative justice for intra-familial sexual offences is notably limited. Implementing restorative justice in sexual assault cases is not intended to eliminate or supplant the traditional criminal justice system. Rather, it serves to complement existing options, offering a broader range of responses that can better address the unique needs and desires of survivors (Klar-Chalamish and Peleg-Koriat, 2021).

By focusing on the best interests of the child in the justice process, authorities can uphold their duty to protect and advocate for the rights of the most vulnerable members of society.

There is growing evidence supporting the benefits of these interventions in the legal system for victims of intra-familial child sexual abuse, as noted by Morris (2002). However, there are concerns raised by some professionals, such as Stubbs (2002), who fear that face-to-face interactions with their perpetrators may be harmful, or even dangerous, for intra-familial child sexual abuse survivors. Many believe that avoiding contact with the abusive parent during the child's upbringing is the safest approach. However, while this approach (i.e. avoiding contact between the child and the abusive parent) seems to be the safe approach, there is a possibility that the child may not be aware of the abuse suffered by the abusive parent in cases where the abuse did not involve physical harm or in cases where the child is too young to understand and realise the situation. Additionally, complete avoidance of contact may lead to a generalised fear of the absent parent and persistent anxiety regarding their actions and whereabouts (Paige and Thornton, 2015). Additionally, fear of the offender's inappropriate response is reflected in the concerns expressed by some

professionals (e.g., Stubbs, 2002) regarding the use of restorative justice in cases of child sexual abuse.

Both the individual harmed (especially the child) and the perpetrator must receive appropriate support and safeguarding from further harm.

However, whenever restorative justice is applied, it's important that the entire process is carried out with the highest quality and is focused to child's best interest. Both the individual harmed (especially the child) and the perpetrator must receive appropriate support and safeguarding from further harm. Expectations should be effectively managed, and the risk assessment procedure must be thorough and flawless. To achieve this, adequately trained facilitators with the requisite skills and experience to handle these complex situations must be available. Moreover, they must be given the time to do so — as cases of sexual abuse can be prolonged and require extensive preparation of all involved parties. Restorative justice services should be willing to handle such cases and collaborate with organisations that offer assistance to victims of such crimes to establish referral pathways and provide continued support to participants. However, they must also ensure that facilitators handling these cases possess the capability to deliver them to a superior standard. This will instil confidence that survivor of child sexual abuse engaging in restorative justice procedures will have a constructive experience that aids them in moving past the offence.

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3. Research findings

In a study, McGlynn and colleagues (2012) conducted an interview with a survivor who engaged in restorative justice conferencing with a family member who had harmed her during her childhood. The procedure allowed the survivor to express her thoughts and take charge of the situation, leading her to view it as a pivotal moment in her life, prompting her to cease self-blame and shift responsibility onto the perpetrator.

Another study, (Klar-Chalamish and Peleg-Koriat, 2021) builds upon recent investigations into restorative justice within the context of sexual offenses, specifically within families. It enhances the existing literature by detailing the participants' experiences, highlighting the unique aspects of Restorative Justice

procedures in cases of incest. Twenty-three adult participants were interviewed, including victims (six women), non-offending family members (two mothers, one sister and one brother), victims' friends who participated in the process (three women), and restorative justice facilitators (ten women). Victims' ages at the time of the offence ranged from 6 to 16 years. Victims' ages at the time of the process ranged from 18 to 37 years. All were abused by males (three fathers, two siblings, and one uncle). In all cases, the offences were prolonged rather than one-time events. The age gaps between participants and their perpetrating siblings ranged from 3 to 6 years.

The study further enhances the role of restorative justice as an alternative or complementary approach to legal or therapeutic methods, emphasising the importance of family system restoration and the appropriateness of restorative justice in incest cases. In incest scenarios, restorative justice frameworks are at times utilised alongside family therapy. It is often perceived as an informal process guided by non-legal entities but supported by the legal framework, allowing offenders to publicly admit their responsibility and empowering victims to actively voice their experiences.

The restorative justice process can extend to involve all family members, even those not directly harmed by the abuse, such as step parents and grandparents.

The restorative justice process can extend to involve all family members, even those not directly harmed by the abuse, such as step parents and grandparents. Individuals with developmental disabilities or young family members may have representation during conferencing or express themselves through written communication. In cases of sexual offences, especially within families, the manner in which the process is conducted is crucial. Empowering victims to feel in control of the process and ensuring their voices are heard with respect and attention are of paramount importance.

Empowering victims to feel in control of the process and ensuring their voices are heard with respect and attention are of paramount importance.

4. Challenges and conclusion

The truth is that there are potential complexities of restorative justice in cases of intra-familial sexual

violence. When sexual abuse occurs in a family context, it can affect everyone, including extended family members. Finding out about the abuse can trigger intense emotions, like anger, sadness, distrust, and shock. Family members may also feel guilty (Mercer et al., 2015). It is really difficult for families to deal with intra-familial sexual abuse, in a restorative way, because it means working to also help the person who caused harm understand and escape from a position where they deny or downplay how wrong their choices were and truly admit the responsibility they have. It also means helping the victim to feel safe and powerful again and find ways, both as a group and as individuals, to talk about the shame, trauma, and betrayal.

In conclusion, due to the fact that the lasting effects of intra-familial abuse are extremely expanded, and the fact that it is extremely difficult and painful for a child to face his or her abuser relative, restorative justice is only appropriate when the victim is ready and fully understands the purpose of the procedure.

When sexual abuse occurs in a family context, it can affect everyone involved, including extended family members. Finding out about the abuse can trigger intense emotions, like anger, sadness, distrust, and shock.

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I currently I live in Athens, trying to make dreams come true but I was born in Corfu, an island in Greece. I am motivated by the opportunity to learn new things, take on new challenges and help people. My family has always been next to me through every step of my career and they are the best part of me.

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I live in Athens, Greece, where I was born.

My current position is Guardianship Mandated Person for Unaccompanied Minors in Greece. This position involves representing minors in international protection and migration matters. It requires carrying out procedures to determine minors' legal status, facilitating family reunification, relocation, and judicial procedures. Additionally, the position entails conducting assessments to determine the 'best interest' of the minors.

I am motivated by the challenges in the field of child protection, and in particular the vulnerable

group of unaccompanied minors.

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Restorative Justice and children having committed severe crimes

Motivated by an actual and recent case of school shooting in Finland, this article discusses the intersection of children in severe conflict with the law, minimum age of criminal liability and the opportunities of restorative justice as a means of facilitating the child's reintegration into society.

Introduction

On the morning of April the 2nd, a 12-year old boy prepared to go to school in the city of Vantaa, Finland. Only that this day would not going to be like the other days. This morning, he would take a small

handgun with him. Inside the classroom he then opened fire, killing a classmate on the spot and critically wounding two others. Only minutes later the shooter was taken into custody by the police on the street not far from the school. A school shooting is not an unknown phenomenon, not even in Finland.

What was special about this case, however, was the young age of the shooter. It was clear from the start that he would not face any criminal charges. Yet the feeling amongst the general public immediately after the incident was that something should be done. Precisely what merits some reflection. This text discusses the intersection of children, children's rights, criminal responsibility and alternative dispute resolution methods, in particular restorative justice.

In a global perspective, many of the very first restorative initiatives in the 1970s included children. The famous initiative in Kitchener, Canada assumed that a restorative diversion would benefit adolescents having committed petty crimes. Among others, restorative justice was expected to support their re-integration to society (McCold, 2006).

As restorative justice now has established itself in many parts of the world, children have been marginalised from the procedures at the expense of adults. All of a sudden, the idea of children and restorative justice sounds progressive, also to many of those working with restorative justice. In the meantime, the legal framework including the international safeguards for children's rights have developed rapidly. The field has become more complex. That also means its potential is based on more information and evidence now.

The rights perspective as the foundation

A key development in the field of children's rights is the *UN Convention on the Rights of the Child* from 1989. The framework plays in at different stages of a child's life, and in many different settings, obligations extending to social welfare institutions, courts of law, administrative authorities or legislative bodies. For example, the right to freedom of violence is elementary for any child of any age, starting from homes and families, and extending to schools and streets. The convention also confirms, in its first part, the child's right to health, education, artistic and leisure activity at all times. It is clear that these provisions play a role also when children come into conflict with the law.

Connected to the idea of children's rights, the question of the minimum age of criminal responsibility comes to the fore in most legislations. While different countries even in Europe still set very different age limits, the general standard is set by the *UN Committee on the Rights of the Child*. In 2019 it recommended elevating the originally set minimum age of

12 years to at least the age of 14, and preferably to 15 or 16 years. The rationale of the age limits is based on psychological development and even pedagogical considerations. It is believed that children differ from adults with regard to their physical and psychological development, as well as to their emotional and educational needs. That's why children should be treated differently.

When a child experiences chaos, neglect, threats and violence, their potential is stunted and distorted.

According to Dr Anne Lindboe, Norwegian Ombudsman for Children, in a talk in 2013 cited by a UN publication, brain research shows that a person's self-control, planning and abstract thinking only fully develop in late adolescence. When a child experiences chaos, neglect, threats and violence, their potential is stunted and distorted. This all increases the risk of more self-absorbed, impulsive and anti-social behaviour which may increase the likelihood of offending (United Nations Office of the Special Representative of the Secretary-General on Violence against Children, 2016).

The thinking then goes that children cannot be assumed to have a capacity to understand the full scope of their wrongful acts, and child delinquency is considered an expression of problems in the child's development. Hence children below a certain age are exempt from the legal consequences that adults face. Preventive rather than criminal measures are sought for.

In Finland criminal liability starts at 15 years. For children younger than that the pre-trial investigation may extend to establishing the suspect's involvement. After that the investigation is automatically closed. A child having committed severe crimes would be handled by social workers and child protection officers, the practical measures being determined case-by-case. Apart from the descriptive question of what is done, it is also worthwhile asking what could be done to address child delinquency of this sort.

A learning opportunity

While the retributive paradigm seeks to establish blame and guilt, restorative justice comes with another logic. It refuses to punish and instead focuses on resolving the conflict and on restoring the harm done. It focuses on liabilities and obligations and

on the future. While restorative justice can in a normal order replace a formal justice process by means of diversion or complement them, the perspective changes when it comes to children already exempt from criminal procedures. In such cases, apart from the perspectives relevant to the victim and to the wider society, the response should be discussed from the perspective of the child's reintegration back into society and reducing recidivism. The offender could be offered a chance to address and deal with what happened in a safe and meaningful environment.

Although restorative justice usually involves bringing together at the minimum the victim, the offender, their custodians and the community to exchange in a dialogical, non-adversarial way, the practical methods can involve different sets of stakeholders.

Restorative justice may take many practical forms, including mediation, circles and conferences. Although restorative justice usually involves bringing together at the minimum the victim, the offender, their custodians and the community to exchange in a dialogical, non-adversarial way, the practical methods can involve different sets of stakeholders. As the focus of restorative justice is twofold, rehabilitating the victims, but also offering the offender a chance to understand the harm done and to acknowledge their liability, some methods see the harm in a wider perspective. For example, community reparative boards, used in the United States, bring together the offender and a group of trained community members. The boards aim at allowing for the offender to develop a sense of ownership of the harm and of the reparations.

Restorative justice can have a more profound effect on serious offenders than on those who committed pettier crimes.

At the same time, the potential of restorative justice is particularly well exemplified in serious violence, both what comes to the offenders but also to the victims, and their family members. Restorative justice can have a more profound effect on serious offenders than on those who committed pettier crimes. The stigma associated with the offence and the rage of the community are prevalent, as well as the need for reintegration, and all these need a dealing with. Also Finland has successfully run programmes for the aftermath of serious crimes, mainly with regards to

adult offenders. However, the potential of restorative justice is showcased in its ability to be adapted to meet the special needs of each individual party, including the child offender.

It may seem that suggesting restorative justice for children below the age of criminal liability having committed serious crimes makes a schoolbook example of net-widening. A child exempt of criminal procedures would now be subjected to a systemic response after all. But the question needs to be approached from a completely different angle. Restorative justice does not need to be approached as another way of punishing. Restorative justice is something else.

The shift from a retributive to a restorative paradigm presents a gigantic leap of faith. Discarding the age-old determination of punishing the offender and replacing it with a restorative consequence requires a new logic. The offender would not participate in the process in any punitive manner, but with a view of offering them a new way of addressing the past and preparing for the future. The question would not be about how best to punish a child, but how best to re-integrate them back to citizenry.

In search of safer communities

Restorative justice with children has the potential of addressing some pressing social issues in European societies today. The past couple of years have seen massive changes in many living conditions. The continued economic crisis does not promise a much brighter future. Social exclusion of children and families has accelerated, and the perception is that the world has seen younger children commit more serious crimes. National governments are facing pressure to do something about it, as pleas for criminalisation of children are voiced across Europe. Tighter legislation, and tougher sentences are often seen as the viable remedy.

As something indeed needs to be done, it is useful to stop and think what it is that is aimed at with punishing; why do we punish in the first place? Namely, if it is for example for the reduction of recidivism, it's good to ask if other means than punishment could be used just the same.

From the perspective of historical evidence, tighter control usually is not able to secure safe societies.

From the perspective of historical evidence, tighter control usually is not able to secure safe societies. In-

ternational studies for example, from Denmark show that lowering the age of criminal responsibility does not have much of a deterring effect. After a trial period of a lower age limit, Denmark in fact reverted back to the original limit of 15 (Schrøder, 2017).

The criminal justice system seems misplaced to address children in conflict with the law. It could be claimed that the system and societies have already failed, if children engage in criminal activities. The communities would do right in taking back the responsibility of supporting the children. Children in conflict with the law face often multiple and complex challenges in their lives. Also, the responses to these must be cross-sectorial and individualised. Child welfare requires a multi-party approach and cooperation, also in the aftermath of serious crime. That's why it's imperative to map the choice of means available and to dare to think out-of-the-box.

Restorative justice has interesting prospects as to children in contact with the law, their families, and societies at large. In the absence of one-single off-the-shelf description of restorative process, it offers a wealth of opportunities in finding appropriate measures. It presents a holistic approach together with different victim support interventions as well as social- and health services involved. This way restorative justice can contribute to cohesive and democratic societies. Herein lies the potential of restorative justice. It has the potential of stepping up and developing into meaningful response with appropriate safeguards and procedural provisions in place. But herein lies also a risk.

Sometimes restorative justice is promoted as a cheap and affordable option to full scale criminal trials. It is dangerous to go this way. Even though serious crime committed by children, or by anyone, raises lively debates and strong opinions, it would be best to remain focused in the aftermath as well as in prevention of it. In particular when it comes to children, the primary question should not be formulated in terms of economic affordability. The prime focus should be in what works and what contributes the best

to the child's potential for re-integrating back to the society. Sometimes this is also the most affordable option.

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I'm from Finland, where I'm still today based in. I currently teach theological ethics and philosophy of religion at Åbo Akademi University, so it makes a nice mixture of both teaching and research. I wrote my PhD on victim-offender mediation more than a decade ago now and have had an interest in restorative justice ever since. I'm a member of the EFRJ Newsletter Editorial Committee since five years ago.

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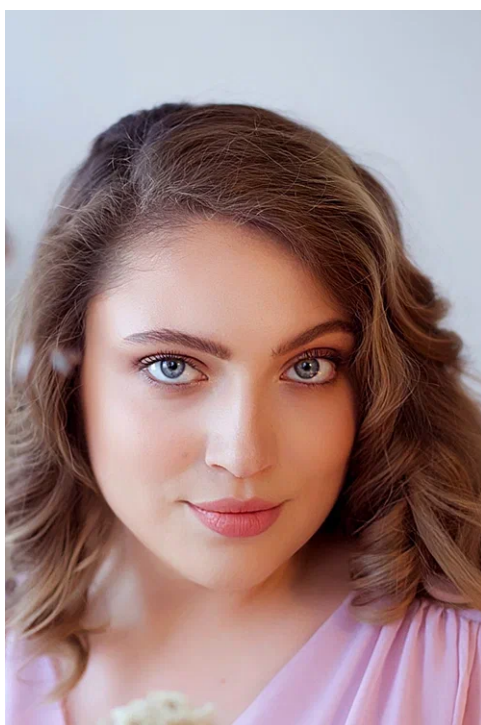
Violence against elderly people in the family context

The aim of the present article is to attract attention to the pending need of the intensification of the restorative justice application in cases of violence against elderly people within a family. Thus, on the basis of the existing literature and research findings the elderly victims' specific needs as well the particularities of the family violence context are defined. In conclusion, the

potentials of the restorative justice approach application in these cases are summarised.

Introduction

Rather than random victimisation, older adults are more likely to experience abuse and violence from close and proximal relationships. For instance, according to the data of the U.S. National Council on Aging in almost 60% of elder abuse and neglect incidents, the perpetrator is a family member. Two thirds of perpetrators are adult children or spouses (National Council on Aging, 2021). According to a systematic review of 52 studies in 28 countries, the reported prevalence rate of elder abuse in community settings was 15.7% with the following highest abuse subtypes: psychological abuse, followed by financial abuse, neglect, physical abuse, and sexual abuse (Yon et al., 2017). However, results of a study on the elder abuse incidence rate in New York State indicate that only 1 in 24 cases of elder abuse is reported to authorities with psychological abuse being the most common form of mistreatment (Lachs and Berman, 2011).



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Conventional approaches to addressing elder abuse include social service interventions, criminal justice responses, civil litigation, and more recently, multi-disciplinary teams (Moore and Browne, 2017;

McNeal and Brown, 2019). However, older adults are often reluctant to pursue these remedies, particularly when the person committing the harm is a family member as many older people have complex, interdependent relationships with the people who are harming them (Clarke et al., 2016). Therefore, to strengthen the well-being of older adults, addressing these conflicts requires interventions that assure safety, resolve division, and address harmful actions. Lately, researchers indicate that elder abuse intervention models should have the capacity to work with both older adult victims and alleged harmers, as well as to strengthen relevant relationships and social supports surrounding them individually and as a dyad to address the full scope of risk factors characterising a given case (Mosqueda et al., 2016; Burnes, 2017; Liu et al., 2022).

One of the most important characteristic features of restorative justice is greater participation from extended family members that can either support the direct participants or make the transformation of relationships in a family possible. Restorative justice is more and more often referred to by researchers and practitioners working with elder abuse cases (see Groh, 2003, 2005; Holkup et al., 2007; Yerxa et al., 2015; projects described in the literature review by Păroşanu, 2017 and in the study by McNeal and Brown, 2019; Păroşanu and Marshall, 2020; Burnes et al., 2023).

Since these outcomes are critical for interdependent relationships where elder abuse victims very often find themselves, restorative justice holds promise for dealing with issues in geriatric contexts and situations. Therefore, for the development of the restorative justice practice application in these sensitive and complex cases, on the basis of the existing literature and research findings it is necessary to define the elderly victims' specific needs as well as to understand the particularities of the family violence context.

Elderly victims' specific needs

For instance, a number of studies highlighted that older people valued group support in helping them to move on from their abusive experiences. Speaking with other female victims of abuse and sharing their experiences sometimes helped them to deal with unresolved issues (Pritchard, 2000). All of the older victims in the research conducted by Hightower, Smith et al. needed someone to listen to them, believe them, give practical advice and support, be trustworthy, and

keep their confidence (2006, p. 221). Another commonly reported need was the need to receive accurate and reliable information regarding legal issues, income support, housing, available resources and financial support (Pritchard, 2000, 2001; Hightower et al., 2006).

According to another qualitative study with the service providers estimating the success of their work based on their clients' wishes and needs, when law enforcement intervened, and 95% of cases were resolved successfully, success was defined as improving the elder's quality of life: '...are they less fearful and worried, are they coming out of their shell, and are they feeling social again.' These insights mean that the involvement of the legal remedies raises the general safety feeling of the older people (Brown and McNeal, 2020, p. 367).

Besides, in one of the studies (Sweden) such needs as interactions with others, (professionals, friends, and family) were important for the process of restoring one's dignity: 'Signs of respect from others, e.g., being listened to and believed, as well as signs of self-respect, e.g., standing up for oneself to prevent abuse, was a recurrent theme in the interviews' (Simmons et al., 2022).

Moreover, the researchers highlighted that the need to be taken seriously, to feel respected, and to feel validated was repeatedly emphasised by the interviewees. Besides, most informants expressed a need for some degree of help or support from formal (health care professionals) or informal (for instance, family or friends) sources of support. Simmons, Ludvigsson and Wiklund made an important conclusion that the components of prevention and intervention should be individually tailored to match the needs and preferences of older victims (2022).

Teaster emphasises that older adults may be incapable of recouping losses incurred by several or ongoing forms of abuse as they are intensified by characteristics unique to advanced age: exit from the workforce, diminution of social networks, reductions in finances, presence of multiple and chronic diseases, and decreases in cognitive ability. Other losses may include but are not limited to loss of independence, loss of a sense of safety, and removal from one's home and family (2017, p. 291).

Specific features of the family violence context

Obviously, the family context could be referred to one of the most dangerous circumstances within which

abuse can take place. As Păroşanu observes, family members are the most common perpetrators, particularly the intimate partner or the adult children of the older person (Păroşanu, 2017, p. 20). According to the results of the restorative justice pilot project *Kōrero Tahi* ('talking together') in New Zealand and on the application of restorative circles in cases of elder abuse (there were 30 interviews with older persons, family members, social workers and restorative justice facilitators conducted), in nearly all cases the source of harm for the older person was the behaviours and actions of family members (mostly from the side of adult children followed by the older person's partner) (Păroşanu and Marshall, 2020, pp. 16–17).

The Project Team of the U.S. National Committee for the Prevention of Elder Abuse basing on the studies on polyvictimisation of children developed a definition of polyvictimisation in later life:

Polyvictimisation in later life occurs when a person aged 60 or older is harmed through multiple co-occurring or sequential types of elder abuse by one or more perpetrators, or when an older adult experiences one form of abuse perpetrated by multiple others with whom the older adult has a personal, professional, or care recipient relationship in which there is a societal expectation of trust (Ramsey-Klawnsnik and Miller, 2014, p. 5).

In the American National Elder Mistreatment Study a positive correlation was found between being married or cohabiting and reporting elder polyvictimisation (Williams et al., 2020). Thus, polyvictimisation is more likely found in situation of elder abuse involving family members, within trusted relationships, or involving situations in which, an obligation for care exists.

As elderly victims often trust and depend on the perpetrator, they may be slow to recognise and report abuse ...

At the same time when violence is experienced from the side of a family member relationship dynamics are likely to differ and this may influence help-seeking behaviour (Wilcox, 2012). As mentioned above, fears about consequences for harmers (e.g., prosecution and incarceration), or fears of severing (family) relationships are one of the reasons for

reluctance to engage with the forms of the possible interventions (Burnes, 2017). As elderly victims often trust and depend on the perpetrator, they may be slow to recognise and report abuse and reluctant to cooperate with criminal justice professionals (Uekert et al., 2012, p. 2).

... reasons for non-reporting of emotional abuse referred mainly to 'not wanting publicity' and 'not wanting to get the perpetrator in trouble' ...

These observations are confirmed by the findings of the National Elder Mistreatment Study (U.S.) with 774 participants who were surveyed 8 years later via telephone in order to assess whether episodes of the past financial and emotional mistreatment were reported to authorities. In total, 87.5% of financial abuse by family, friends, or acquaintances was not reported versus 33% of that perpetrated by strangers; for emotional mistreatment, 89.9% of that perpetrated by family, friends, and acquaintances was not reported, compared with 83.3% by strangers. Researchers note that reasons for non-reporting of emotional abuse referred mainly to 'not wanting publicity' and 'not wanting to get the perpetrator in trouble,' while no consistent reason emerged for failure to report stranger-perpetrated mistreatment (Acierno et al., 2020).

If a dependent senior is in a situation where their primary caregiver is verbally or physically abusing them or taking financial advantage of them, they may feel unable to take legal action against the abuser because of their fear of losing their access to care.

According to Groh such cases often involve ongoing relationships that are extremely important to an elder abuse victim. If a dependent senior is in a situation where their primary caregiver is verbally or physically abusing them or taking financial advantage of them, they may feel unable to take legal action against the abuser because of their fear of losing their access to care. The situation may be further compounded by the fact that the abused senior may still have strong ties with the person who is victimising them, as the abusers are often family members (Groh and Linden, 2011, p. 129). Besides, older victims may be ashamed that a relative has been abusing them and also may be afraid of suffering further harm from the abuser or of being put into a nursing home against their will (Groh and Linden, 2011, p. 128).

Conclusion

Obviously, the main characteristic feature of elder abuse is the dependency on the person of trust abusing an elder person and necessity to sustain the relationship. This is the reason why restorative justice interventions are widely discussed as means of rectifying any wrong that has been done and transforming inter-family relationships. Instead of placing the victim and offender in oppositional positions, restorative justice opens the process for communication and dialogue. Therefore, the following potentials of the restorative justice application in such cases can be highlighted.

Groh describing the findings of the Waterloo Project (a collaborative of health, justice, social services, ethno-cultural, faith, and First Nations agencies in the Kitchener-Waterloo area of South Western Ontario) highlights the following benefits for the elder abuse victims who take part in the restorative justice programs: giving the older adult a voice in the process; respect for family values; less fear of the process from the side of the older adults; prevention of conflicts in the early stages; respect for cultural diversity, values and preferences; no financial barriers to this service (free of charge); bringing together professionals from different disciplines (Groh, 2003).

In the framework of another research service providers working with elder abuse cases named the 'possibility of the older adults being able to restore and maintain the supportive aspects of the relationships with the persons who had been committing harm' as the main restorative justice measure of success (only theoretically as these interviewees were not restorative justice practitioners) (Brown and McNeal, 2020, p. 368). Moreover, among the restorative justice potentials they focused on educating offenders about how their behavior is harming the older adult; involving other stakeholders which could help break the social isolation that makes the older adult vulnerable to abuse; healing relationships; and supporting caregivers who are committing abuse or neglect because of their struggles with caregiving itself (Brown and McNeal, 2020, p. 369).

Beck, Lewinson and Kropf note that restorative justice can be powerful in addressing trauma and conflict in later life as it is

1. an opportunity to repair damage,
2. an opportunity to tell their stories to people who have caused hurt and injury to the victims and

3. a method to address unanswered questions that victims usually have (such as ‘Why me?’ or ‘What could I have done differently?’) (Beck et al., 2015, pp. 220–221).

According to the results of the restorative justice pilot project *Kōrero Tahi* (‘talking together’), the overriding reason older persons gave for participating in a restorative dialogue was to end the distress they were experiencing. They welcomed the opportunity to be supported by professionals in voicing their needs and concerns in a safe space as well as to be better understood and respected by their family. Practitioners noted that older people often become aware in later life of the importance of restoring ruptured relationships and resolving hurts before they die (Păroșanu and Marshall, 2020, p. 21).

Last but not least, the effectiveness of the restorative justice procedures in working with the cases of family violence against the elderly victims can be increased by involving the support from the criminal justice system and other services and agencies specialising in this field.

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