

VICTIM EMPATHY WITHIN PRISON WALLS: EXPERIENCES FROM PILOT PROJECTS IN SCHLESWIG-HOLSTEIN

ABSTRACT

The project in focus of this article³ aims at the implementation of Restorative Justice (RJ) procedures at post sentencing level as well as the development of “mechanisms” to support and protect victims of serious crimes and informing them sufficiently about the RJ offer. The project refers to the Directive 2012/29/EU of the European Parliament and of the Council [of the European Union] of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime. This article relates our work to the broader framework of RJ in general and to research on empathy as glue between people in particular. Empathy is related to the context of victimisation and offending and it revealed how it contributes to social peace and healing. Then the concept of the victim-empathy-training in prison is presented as well as some first insights on the victim groups. Finally preliminary conclusions from the practical work and some future ideas are summarised.

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INTRODUCTION

This article attempts to combine some theoretical considerations on empathy in the context of Restorative Justice and a project description on the application of this theory in practice in the prison system of the German state of Schleswig-Holstein. We have run five victim-empathy training sessions with groups of 5 to 8 inmates each. One victim-empathy-group has met with a group of 5 victims who prepared themselves independently in a victims group called 'criminal-act-dialogue'. Two other groups have met individual victims another one watched a film on victims' issues and the last one met with a group of victimological experts. Participants of these groups and individual prisoners also had the chance of victim-offender-mediation on a voluntary basis. Furthermore, the project consists of study visits for practitioners from the partner countries in English, German and Spanish prisons which offered the chance to speak to prisoners and victims participating in post-sentencing Restorative Justice programmes. Participants were interviewed using a semi-structured questionnaire prior and after participation. In addition observations of all sessions took place.

Victim-empathy training is sometimes used to prepare offenders for a Restorative Justice dialogue and/or mediation procedure (as Victim-Offender-Mediation, Conferencing or Circles) to make sure that such a (face-to-face) meeting would be safe for victims and the risk of secondary victimisation would be minimized as requested by Directive 2012/29/EU of the European Parliament and of the Council [of the European Union] of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

"Empathy is the emotional glue that binds people together in respect and dignity" (Pepinsky, 2008: 188). Hagemann (2014) has pointed to the crucial role of empathy in the context of victimisation and offending. For an empathic person harming other human beings seems to be more difficult and supporting people who have been harmed by others seems to be more likely. In dialogues between people in conflict empathy is a favourable feature and it helps the conflicted parties to overcome the consequences of problematic situations.

There are several definitions of Restorative Justice which link that theory to the context of crime, e.g.: "...it is a different way of thinking about crime and our response to it. It focuses on the harm caused by crime: repairing the harm done to victims and reducing future harm by preventing crime. It requires offenders to take responsibility for their actions and for the harm they have caused. It seeks redress for victims, recompense by offenders, and reintegration of both within the community. It is achieved through a cooperative effort by communities and the government" (Van Ness and Heetderks Strong, 2002: 50). In this definition the

authors emphasise the future-oriented functions of healing, prevention and reintegration, which have to be achieved even after sentencing if the persons involved have not already done this before the activities of the criminal justice system including sentencing. Walgrave (2008) has argued that restorative justice seeks to transform unhealthy relationships and does pave the way for a larger social transformation, thus trying to treat an offence as a transformative relational and educational opportunity for victims, offenders and all other members of the affected community.

Although RJ is generally an all-partisan approach balancing the needs and interests of victims, offenders and the community alike for reasons of clarity and limited space we have to restrict ourselves and therefore opted for a prison- and offender-focused perspective.

THE CONCEPT OF EMPATHY IN THE CONTEXT OF VICTIMISATION AND OFFENDING

According to Mulloy et al. (1999) empathy plays a crucial role in the context of victimisation and offending (see also Lauterbach and Hosser, 2007: 91 referring to Jolliffe and Farrington, 2004). Many offenders are principally able to anticipate and become aware of the suffering and pain of their victims. Awareness of painful consequences for victims prior to the offence on the perpetrator's side increases the threshold to offend, awareness after committing the offence impacts negatively on the gains. Therefore perpetrators try to neutralise these aspects. But as Lerner (1980) has elaborated in his theory of the belief in a just world this is also true for witnesses and everyone confronted with the suffering of a victim. We tend to find mistakes in their behaviour to protect ourselves from the insight that we would also be at risk of victimisation if that would not result from victim's faults! In this sense absence of empathy contributes to blaming the victim.

Pepinsky (2008: 188) "call[s] the way we relate when we exchange empathy, peacemaking. [He] define[s] empathy as trying to put oneself in another's place, so as to imagine that in the other person or group's place [one] would feel and act as they do. ... Empathy expresses sensitivity to other's sensibilities." The concept is used by well-known psychotherapists e.g. Rogers (1975) to enter the world of another person. Empathy is regarded as a multi-dimensional process phenomenon (see Stueber, 2013) which according to Davis (1983) is composed of two cognitive (perspective taking, fantasy) and two affective dimensions (empathic concern and personal distress). Parts of the research put particular emphasis on personal distress. According to Davis, personal distress can be any kind of feeling

that may cause personal distraction and demand predominant focus, such as for instance fear, sorrow, stress, health issues and the like. Personal distress can again be separated into two forms: firstly the experience of distress in a specific situation. Thus in the case of an emergency, when their own experience moves more into focus than those of persons around them, just as Davis (1983) had in mind when constructing the IRI index to measure empathy. And secondly, as Paulus (2012) found, distress that is rather independent of a specific encounter. Now how does this affect the experience of empathy? It is possible that personal distress describes situational and personal circumstances which may have an impact on situational empathy⁴ but do not form a dimension of empathy. Preston and Hofelich (2012: 29; 25) stated that “true empathy - a compassionate, other-oriented state that requires a distinction in the observer between self and other - cannot occur when there is personal distress...” of any form. That would explain why released prisoners after having participated in a victim-empathy-training commit crimes again despite being aware of the negative impact on their victims. One prisoner we met in an English prison revealed openly that he has been in a desperate status without support and resources and due to empathic feelings with his victims tried to minimise the consequences of his act of burglary.

Neuroscientists discovered that the same brain regions were affected while feeling pain or other impulses or just watching others who were exposed to such feelings. So-called ‘mirror neurons’ which exist also in non-human beings activate these brain processes (see Rizzolatti and Sinigaglia, 2008). Early researchers spoke of emotional contagion and it may be that this phenomenon is more pronounced in direct face-to-face meetings than over a distance. That would explain why the direct meetings – especially the ones involving not only three or four people - are generally more effective and sustainable (see Shapland, 2012).

The brain apparatus develops to its full capacity during childhood and adolescence. These developmental processes are sensitive to psychological and physical influences. Consequently some researchers (e.g. Bauer, 2005; Hüther, 2003) stress the significance of traumatic experiences including psychological and physical abuse, accidents, health problems and comparable life events for a normal or deviant development in general and empathy in particular. In a worst case scenario a child will not be able to experience empathy because it cannot make up for certain physical developments (see Eissele, 2009 on “cold children”). People suffering from Borderline Personality Disorder, Antisocial Personality Disorder, Narcissism and Conduct Disorder - all covered by dissocial personality disorders in ICD 10 -,

⁴ “Psychologists distinguish between measurements of situational empathy—that is, empathic reactions in a specific situation—and measurements of dispositional empathy, where empathy is understood as a person’s stable character trait.” (<http://plato.stanford.edu/entries/empathy/measuring.html> (1.9.2014)).

autism as a pervasive developmental disorder, other disorders of psychological development, or dementia may not express empathy to the same extent as others (see Baron-Cohen, 2011).

Beyond the innate mirror neurons other aspects of empathy have to be acquired during the process of life-long socialisation in a healthy human being particularly when growing up. In this context the reflections of Kay Pranis (2000) are important, she implemented Restorative Justice programmes addressing delinquent juveniles in North America on raising children in today's society. Pranis has interviewed facilitators and volunteers about their experiences as teenagers with reactions of people other than parents, teachers or youth workers while behaving delinquently and harming others. Although this cannot be regarded as scientific research in a strict sense there is some indication, at least for modern Western societies that "we have not taught young people to understand the interconnectedness of all things and the need to always understand the impact of our actions on others. ... We have raised an entire generation without the prerequisites for developing empathy. ... The development of empathy requires:

1. regular feedback about how our actions are affecting others, respectfully communicated
2. relationships in which we are valued and our worth is a validated experience of sympathy from others when we are in pain" (Pranis, 2000⁵)

Her observations fit well with other descriptions of self-centred or careless behaviour of young people which does not lead to informal control reactions (see Wallis, Aldington and Liebmann, 2010).

(How) Can empathy contribute to social peace and healing?

There are several links between the concept of empathy and the central ideas of Restorative Justice which aims at social peace and healing. On a micro level Rosenberg (2001) invented the concept of non-violent communication which is rooted in expressing human needs but avoids dominating others at the same time. By using "giraffe language" based on I-messages conflicting interests can be solved without victimising the counterpart. Instead the conflict parties are looking for win-win-solutions or compromises. Obviously empathy is necessary to become aware of different needs and interests. As Pranis (2000) has pointed out many of our children do not learn to take others' views into account; instead competition and narcissism are supported – although unintentionally or with best intentions but not aware of different consequences for an individual on one side and the community or society on the other side.

⁵ <http://www.corr.state.mn.us/rj/publications/rjempathy.htm> 4.11.2013

In this article we will only marginally deal with the macro level of a society as a whole, however, recently the term “restorative society” has entered the discourse referring to addressing manifold problems ranging from war, climate change, environmental destruction, inter-generational responsibility to a just distribution of wealth and health around the globe (see Boston, 2007; Wright, 2010).

On a meso-level involving communities, companies and corporate bodies or social groups sometimes we are facing solidarity within these entities but with a “don’t care-attitude” related to others. The sociologists Heitmeyer (1997, 2000), for instance, has diagnosed several divides between social groups, e.g. families with children or without, older and younger generation, long-term unemployed people and those with jobs. Some companies lack responsibility for their employees or for the environment (see Fisse & Braithwaite, 1993) and there are also corporate bodies who see themselves in a competition with others, thus, acting to the disadvantage of people who are not able to contribute to wealth to the same extent as others.

Despite the fact that empathy is a quality which is associated with (human) creatures and thus a company or a specific group of people cannot be empathetic these structures at the meso and macro level are made up of humans and therefore empathy comes in again. In our context this is relevant for acting in groups (be it defined politically, economically or just interest groups involving drug dealing syndicates and other organised crime associations or e.g. ad hoc formed vigilant groups against paedophiles. As group researchers and psychologists dealing with mass phenomena have found out, the individual member might get into a dynamic that he or she is no longer able to empathise (Le Bon, 1895; Festinger, 1952 in Postmes and Spears, 1998). Buford (2010) gives an example of losing the inhibition to injure supporters of opposing teams in his phenomenological description of football hooligans.

Thus, the simplest case to start with concerns empathy at the individual level – the preceding discussion was to show that we are aware of the constraints and temptations individuals are facing while they have to decide on acting in this way or another. At the individual level there may be options to victimise another human being or not.⁶ Sykes and Matza (1957) have shown that although a young person was aware of inflicting pain on others he or she used neutralisation techniques and was then able to do so. Later Bandura and colleagues (1996) took up these cognitive techniques for instances in which persons have contributed to the suffering of victims intentionally or unintentionally to neutralise the feelings of guilt

⁶ *We do not intend to suggest a rational choice approach. On the contrary, our reflections on empathy in groups and on personal distress as well as the reference to taking the macro level into account should link this work with individuals to more systemically conceptualised pressure and constraints (see the discourse on the transformative function of Restorative Justice and on Restorative Society).*

and bad conscious in the aftermath. With regard to both theories we conclude that suppressing empathy temporarily is possible for everyone. Empathy should not be understood as a personal trait which characterises some persons and is lacking in others. Working with sex offenders and paedophiles revealed that most of them are generally empathetic (see Fiedler, 2004: 296) but nevertheless are also able to exclude empathy for some persons in some situations who then might become their victims (see David et al, 2005:75; Ruhnke, 2013). In another study a hostage who was going to be killed was able to trigger empathic feelings and saved his life (Bastiaans et al, 1981). Hence, it is clear that empathy plays a crucial role in processes of committing a crime. The challenges are

- how to raise/improve empathy in persons who generally show a low extent of empathy,
- how to make it accessible in a particular situation and
- how to maintain empathy despite experiencing personal distress.

These are the starting points of our project on the offender side (see section 3). Three perspectives on empathy: facilitators, victims and offenders?

Empathy can be regarded as a kind of method used by mediators facilitating a dialogical process between victims and their perpetrators. This process can involve only three persons in a direct meeting such as in victim-offender-mediation or being carried out as group encounters where support people and community members are involved too, such as in conferencing or circles. The dialogue might also be indirect only with the facilitator conveying messages between the parties (shuttle mediation). It might also happen that it is not about mediation in a narrow sense but just working with the parties involved as in victim-empathy-training or criminal-act-dialogue. The impartial person mediating between the conflict parties helps the prisoner to free himself/herself from the offender role and the victim to achieve the same concerning the victim role. The work is part of an emancipation process to overcome and reject various stigmata associated with these statuses. In any case the core qualification needed for a facilitator involves the ability to empathise with the victims, offenders, supporters and community members, respectively as Rogers (1975) has described in his humanistic psychotherapeutic methodology to understand and direct the communicative processes. Empathy means "entering the private perceptual world of the other and becoming thoroughly at home in it" (Rogers, 1975: 4). He stresses that a therapist must be sensitive to meanings, anxieties and whatever the client is experiencing without identifying himself with all this.

The main focus of this article is on the offender side and it has already been outlined that a lack of empathy lowers the threshold to commit crimes involving

personal victims. Offenders might discover a possibility for reconciliation and coping with guilt especially if they feel remorseful" (Hagemann, 2014: 223). Empathy functions as an internal control "mechanism". Personal distress, use of neutralisation techniques as well as certain chemical substances and alcohol but also hierarchic power structures such as in the military or in organised crime syndicates contribute to disable and neutralise empathic feelings. Our hypothesis is that the absence or reversing of these factors and being aware of the suffering by associating negative outcomes with concrete significant others such as the mother, own children, partners or friends, enable a growth and more permanent access to empathy and thus increases the threshold. Empathy may also open a path to reconciliation and peacemaking if this happens in a dialogue with victims, their supporters or community members. They will certainly appreciate such an approach if it is accompanied by a request to apologise. However in an emotional encounter where at least at the beginning tensions characterise the atmosphere, to offer empathy will contribute to authenticity because the others have to evaluate whether asking for an apology is a genuine need or merely a strategic manoeuvre.⁷ Because of the close connection of empathy by taking the perspective of the other the offender might also find an access to his/her own emotions and quite often to his/her own victimisations which have often been suppressed over a long time. It is known from psychotherapeutic research that old men who have witnessed or probably contributed to war atrocities and ordinary violence start to suffer from the thought of these deeds after retirement when a lot of distraction "mechanism" and neutralisation strategies vanish (see Müller-Hohagen, 2005).

Regarding the victims the empathy issue seems to be more difficult and probably not unanimously positive. Furthermore there is a difference between victim's empathy towards one's offender emerging from a direct meeting and participation in any kind of Restorative Justice procedure which does not necessarily lead to such pro social feelings. Victims might find closure by participating in meetings with their offenders at least regarding victimisation no longer being the central point of reference in their life (Herman, 1997; Wallis, 2014). There is an oppositional protective argument of therapists such as Ottomeyer (2011) who would not tolerate his clients meeting their perpetrators. He claims that victims are too vulnerable and that exchanging empathy which arises in emotional contagion and perspective taking from group dynamics will imply the danger of self-blame or minimisation leading to a regression in the recovery process or to secondary or re-victimisation. Ottomeyer argues from a partisan psychological standpoint which accepts negative feelings as hatred or contempt concerning the offender building

⁷ From the victim perspective a lack of empathy in offenders and all other interaction partners might cause primary and secondary victimisations..

new strength and self-confidence. In our view supported by the research of Yantzi (1998) this can be very helpful in the initial period of survival which might last for a long time depending on the specific circumstances of the victimisation and individual resilience. However, from a sociological point of view, we do not believe that such a strategy will lead to freeing oneself from the offender in the long run. Side effects such as bitterness and mistrust will impact on social relationships with people not involved in the initial victimisation. Even as an object of hatred the offender does still exercise power over the victim. During recovery from a victimisation experience the personal distress level may impede the victim's own access to empathy.⁸ Following from these reflections is the question of appropriate timing both for the separate group work and for the dialogue or mediation, respectively. The right time is always a question of each individual case. However, is it true that from the offender perspective many aspects ask for a timing as soon as possible, the earlier the better because if repression has occurred once it is more difficult to access feelings and to achieve open-mindedness? And is it true that from the victim perspective it is better to allow oneself a time of mourning, recovery and regaining stability and normality before accepting a quite challenging dialogical process because a relatively weak person might experience the confrontation of the offender as too stressful and thus not be able to send the adequate and necessary signals leaving a lasting impression on the offender? Further research will be needed to answer these questions.

VICTIM-EMPATHY COURSES IN TWO PRISONS IN SCHLESWIG-HOLSTEIN

Our practical work in the two cooperating prisons for adults in Kiel and for juveniles in Schleswig consists of group work with 6 inmates per group. They participate in 7 module sessions of about 2-3 hours each which take place in 7 successive weeks. Before the start and after the work has ended individual interviews were carried out for research purpose; the group sessions were also observed by two trained students. Quotations stem from these sources.

Module 1 is intended to achieve an appropriate work atmosphere which allows for open-mindedness and to overcome resistance to a potentially challenging topic because tackling victim issues will permanently remind the participants of their own responsibility for causing harm and suffering. In terms of content a quiz game is offered showing prominent victims as an opener to discuss various forms

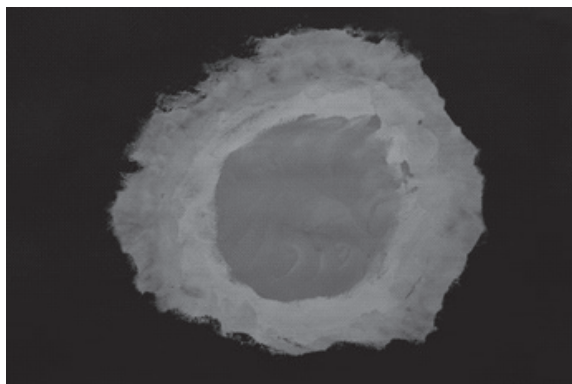
⁸ Some authors like Wolfers (2013) stress the positive effect of forgiveness on healing. However, forgiveness seems not to be related directly nor necessarily with empathy which can evolve independently.

and causes of victimisation. At this stage it may be that participants express sympathy for one or another of the victims. We had good experiences with selecting persons who are predominantly viewed as positive models like Michael Jackson as a victim of lacking private sphere, overwork and finally of an overdose of Propofol or the children and their parents of the sunken Korean ferry in Sewol in April 2014.

Module 2 reacts to the background of most male prisoners who are neither used to sitting and talking or writing all the time nor to being aware of their own feelings. The predominantly non-verbal task is to paint a picture relating to personal victimisation or a particular aspect of it to express the personal feelings associated with it and encourage empathy through this reflection. Partly, to our surprise, both the older and younger men accepted the task and explained their paintings afterwards within the group. By allowing questions from other participants and facilitators indications of empathy could be observed.



The painting of Demian, a drug addict: one of his acts of burglary in a petrol station. He drew himself with his head down to represent his strong feelings of remorse. He took a similar position during all group sessions.



With this painting, Peter tried to express his personal victimisations and the suffering he has caused. He explains that the black part represents the various victimisations, which are followed by a period (yellow) of sorrow and suicide thoughts. When this period is overcome, it slowly gets better in the white phase moving on to a period of hope (green) at the end of the tunnel.

Module 3 confronts the participants with brief descriptions of four case examples of crime victims (assault, robbery at the work-place, car theft, burglary; age and sex of victims varied too). The inmates have to sort the cases in small groups according to the gravity of the victimisation. In a first round of analysing there are no indications of the consequences but in a second round for each case they get a short Victim Impact Statement (VIS) in addition that leads to challenge the established order. This task helps to free the mind from thinking in standard categories or taking "objective" characteristics of victimisation as the only scale of judgment. Instead it is possible to discover the individual impact and the varying vulnerability of victims hence allowing the insight that possible consequences of victimisation are not predictable externally beforehand. Being confronted with a VIS which challenges the previous understanding of the consequences of victimisation opens a gate to empathy especially with vulnerable victims or victims who resemble loved ones because a VIS is always formulated as an I-statement (see Gordon, 1970) whereas a report is a kind of objectivisation, thus, turning a human being into a case. It is an exercise in a change of perspective, a precondition of empathy.

Module 4 combines two aspects in one exercise. From an earlier work of Hagemann (1993) we have identified 13 different coping forms of victims which aim at overcoming the consequences of victimisation and regain a state of normality. In an exercise these coping behaviours are discussed as well as the participants own strategies after having gone through a difficult situation thus getting an insight on the individual differences within the group reflecting their personal journey to healing, making amends and doing justice. This is again about perspective taking as a more cognitive prerequisite of empathy.

In module 5 the participants are asked to write a VIS of one of their own victims: How did they feel during and immediately after the victimisation incident? This is the ultimate test whether a person is able to empathise with his or her victim. Different from writing a letter to one's own victim, in this case a change of perspective is required to succeed with this task which is also related to the affective dimension of empathic concern (Davis, 1983). After realising that nearly all members of the first groups stated that they failed to cope with this task we changed the formulation of the questions, providing the beginning of sentences, hoping to make the exercise easier. However, the result was the same probably pointing to

the limits of the victim-empathy-training. As an explanation one might think of the group context as a barrier or that the preparation is still too short and superficial. Originally we thought of using this module as a test of whether empathy had developed to a satisfactory extent so as not to risk secondary victimisation in a meeting with real victims which was intended to happen in module 6.

Module 6 should be based on dialogue and confrontation with a victim group that has taken place simultaneously to the victim-empathy-course. However, we could only carry out this dialogue once because we were not able to attract groups of victims more often (see next paragraph). In the other cases we replace this by showing a film or by inviting individual victims not having previously participated in group work and victim support workers to represent the victim perspective. There is some indication that these lines of action are not as powerful as the authentic confrontational dialogue. In any case it is important to provide a safe environment and to take into account that most victims have never been in prison before. Preparation and supervision for the victims is needed including a debriefing afterwards. That is also needed for the offenders because the confrontation seems to achieve real empathic concern leading to intensive emotional reactions.

The final module 7 concludes the course by reflecting on the previous meeting and how to make sense of the course individually. Furthermore, mediation in individual cases is offered and a possible VOM-procedure is described. Finally all participants who followed the sessions regularly and who did their workbook got a "certificate" indicating the dates and name of the course and the titles of the modules. These certificates were from Kiel University of Applied Sciences and signed by the persons responsible for this project. Together with it comes another paper including pictures from the paintings as a memory. Concerning the certificates which are intended to appreciate the courage to participate and acknowledge the performance to give a sign of empowerment some questions arise with regard to the use in the wider context of the criminal justice system. The prison includes a copy in the file and thus the certificate proves, to non-involved institutions such as the court which has to decide upon early release, that the prisoner has invested some kind of effort. However, these investments seem to differ a lot from individual to individual and it is impossible to infer from participation that the prisoner has learned something, improved empathy or will be able to refrain from committing further crimes.

EXCURSUS ON VICTIM GROUPS (CRIMINAL-ACT-DIALOGUE) AND INDIVIDUAL MEDIATIONS

As follows from the description of modules 6 and 7 we have also carried out group work with victims and individual restorative dialogues as victim-offender-mediation.

The victim of a crime is often left alone with many open questions on the offence and the offender. Sometimes, victims try to create a picture of the person who has caused their victimisation or repress these thoughts (Strang et al, 2006, Liebmann, 2007). Group work shall give victims the opportunity to speak about their victimisation, their individual needs and feelings that have resulted, with those who have gone through similar experiences and share how one deals with the situation (Muylkens and Smeets, 2008). Generally it may appear to be rather difficult to speak about these thoughts with close relatives or friends at least to a satisfying extent. Thus, the precise goals of the group work is raising the issue of victimisation, the reflection of one's own needs, the support given by other group members, to come to terms with the experience, the involvement with the offender image and, if possible, aid the healing process. Which position does the offender have in his/her imagination and how can one deal with that? The offender image has a great influence on the individual coming to terms with what they experienced (Hagemann, 1991). A necessity is to provide a safe environment for the discussion of these aspects. Individual suitability is assessed in a preliminary interview in which goals, expectations and the procedure are discussed on a personal level. There are no general exclusion criteria. Two facilitators of preferably different gender, experience and professional background carry out the group work. The group should not involve more than 6 participants. It is important to provide continuity, safety and structure and allow the participants to prepare themselves for the upcoming session. Interactive and creative group work shall facilitate this difficult process. The group meets seven times. Having met for several times, in module 4 of the criminal-act-dialogue, the victim group is intended to meet the victim-empathy-training group in prison. The meeting with the offender group⁹ is a central element, as it allows those victims whose offender has never been caught to ask general questions and it can be used as a preparation for a mediation procedure. It seems to be important to have another three group sessions after the prison visit in order to allow an exchange on possible emotional changes during that time. As reported by Belgian colleagues, victims tend to react enthusiastically after the prison visit, mostly experiencing empathy for the offenders which may again be questioned a

⁹ *The offenders in the victim-empathy-group are not the victim's direct offenders*

week after (Smeets, personal communication, 2013). The last session should not contain any new content to prevent leaving the group work with open issues.

One participant sent us the following text message:

“as the project criminal-act-dialogue was presented to me I was immediately impressed by its existence. However, I had originally considered whether I would attend. I have associated that project with the word ‘sacrifice’ and expected emotional outbreaks and of course I did not want to attend a self-help group in which everyone would pour out his/her grief and a mourning mood would prevail due to burdens which people were not able to cope with. I also reject being a victim. Certainly, each of us was a victim of crime, but one will not become a victim of life by that fact. Nevertheless, I have decided to participate in the project: Firstly, because I wanted to filter out my own limit of emotional pressure; and secondly, because I wanted to support the project with my participation. I quickly realised that during criminal-act-dialogue it’s neither about emotional outbursts nor was the individual offence in the foreground. Rather, it was about the experience and the consequences that have resulted from the offence either personal or family or professional –but also for the perpetrators of this crime, the offenders. Our experienced victimisations will be with us our entire life but also with the life of the person who has caused or carried out this act. What is important is how we handle it. This very fact has become clear to me again. I hope that the project can be continued and will reach more people. I would be glad if in the future it also reached men who have experienced a criminal offence. The project is not about showing that you are a person affected by an act, but rather to show others that you have coped successfully with the situation and have found ways to deal with the experience. You should make this experience available to other people. Also the visit to the juvenile prison was a significant event for me. In our group there were young adult males who were all perpetrators of one or more offences; nevertheless the visit made it clear that any offender - despite his/her act - is a lovely person on a whole different level. Especially the demonstration of the consequences of victimisations brought the prisoners to think. I have noticed that unfortunately they seem to assume generally that men would carry no such consequences of a crime. By this I mean not only emotional consequences. The young offenders assumed that man would put away a criminal act quickly, would just go on living normally after the healing of the physical injuries. But they must understand that a criminal offence just changes everything –even for the perpetrators themselves. With the project criminal-act-dialogue one could achieve a great deal in the future if only sufficiently affected persons participated and their voices heard. In my opinion being affected by victimisation is no shame and you should not feel ashamed. I appeal to everyone who wants to speak about exceeding these limits of shame and fear about his/her offence. The project has given me a lot. I was able to reflect on many events and to let go of certain strains.”

Another part of our project deals with individual mediations between victims and their offenders. While questions of victims concerning the causes of crime in

general can be answered by offenders not personally linked to the victims, their own specific questions however, "why me?", "why this way?" can only be answered by the direct offender responsible for the victimisation. Group work is helpful to prepare victims and offenders for a mediation procedure and can also be an alternative for those whose direct offender or victim is not interested or reachable.

The initiated mediation procedures have all been started from the offender side¹⁰. Two of them have participated in the VET in Kiel prison, all others came from the prisons in Lübeck, Neumünster and the asylum seeker prison Rendsburg, who have heard about the offer through other channels. Out of the victim group there has been no mediation referral so far, which may reflect the fact that offenders have either never been caught or do not admit to have committed the crime. There are no exclusion criteria except that offenders should at least recognise the offence. Since serious crimes are dealt with (see Aertsen, 1999; Yantzi, 1998), generally a few preliminary interviews are necessary to prepare the parties for the process. In some cases an apology letter is formulated or a statement video-taped by the offender, as in two current cases. One of them is Peter, an offender who has committed several serious violent offences and arson. After a preparatory phase of six months, in which he wrote a number of letters, the victims are now contacted, sometimes through their victim attorneys, to see whether they would like to participate in the process and receive the letters. In the second case, a sexual offence, a video message was taped and has now also been referred to the victim's attorney. Especially in cases of serious victimisations, it is important to make the offer as sensitive as possible in order to avoid further victimisations. The other three cases are murder by negligence, incitement to robbery and fraud. The latter has already been completed successfully through direct victim-offender-mediations with two different victim-families. One offender referred himself to the mediation procedure but died shortly afterwards.

PRELIMINARY FINDINGS

The findings reported here are only related to the work in Schleswig-Holstein, predominantly to four victim-empathy-training sessions. Some aspects are illustrated by statements of participants, both offenders and victims.

With the help of the chaplain in Kiel and with the help of staff in Schleswig it was not at all difficult to recruit prisoners to volunteer in this kind of work. We were facing big differences between the work with adults and juveniles and also

¹⁰ Our British colleagues have studied how this process can be achieved starting from the victim side, see Emerson et al. in this journal.

between young people who have already gained experience in group work and have dealt with personal issues and distress in individual therapy compared to those who have not received any treatment. The meeting with the group of victims seems to constitute a highlight for both victims and offenders and seems to be much more powerful for offenders than involving surrogate victims or showing a film. However, we have only once been able to form a group of victims because our various approaches to recruit victims nearly failed. If no victims are involved in such meetings/group work then this raises the question whether such work with offenders can be sufficiently effective. The authentic direct encounter with people who are or have really been through such a process seems to touch offenders (see also Katounas and McElrea, 2002 on a VOM) and seems to impact far more than every other form of confrontation pedagogy.

Quotes from Group Participants

'I used to have problems speaking about my feelings. Everything is spinning right now. My feelings are quite confused right now. It is really bad what has happened to you. I am particularly shocked by your story because I could have done that myself. (...) Well, I know these stories and now it is, the time has come, where it becomes conscious that I... that I could have caused very bad things, would it have gone on. And a big compliment to all of you, I think it is really good, that you are sitting here today and it has definitely helped me personally and definitely, I will think about it.' (Benjamin, 20 Years, Schleswig Juvenile Prison first addressing Julia, afterwards the whole group)

Julia concluded that the victims group work has enabled her to talk about her victimisation which she saw as a first step for coming to terms with it as best as possible. She even considers contacting a therapist afterwards which she would never have done before. She regrets that her offender is not known, depriving her of a possible direct dialogue. 'Well, I believe, if it wouldn't have been like that and I wouldn't have followed my inner wish, which I have, to tell my offender, now in the end I have told others who have committed similar things but not my direct offender. I think, if I wouldn't have been able to speak about this at the end of the meeting, this plea, I think, I would have left unsatisfied and wouldn't have left having done another such big step.' (Julia, 28 Years, Victim of Serious Bodily Harm in the post interview)

'I am very thoughtful now, but do feel good and what has touched me, that your faces have changed during the past hours. Well, all these shades from here to there and what that has caused, well, one could feel that something has reached you. I wish for you that this remains, that it is not only this moment, which will be overlapped by everyday life, but that something will sustain.' (Sonja, 45 Years, Victim addressing the offenders during the meeting)

Another issue seems to be related to personal distress as we got the impression that the better prisoners were prepared for release, the more able they were to focus on the issues of empathy, restoration and reconciliation. Emancipation from

the offender role and reintegration into society seems to require a certain level of safety concerning one's personal future. Therefore, such programmes must be embodied in a bigger framework of rehabilitation, offender support and restorative justice. Restrictions of the prison environment and the specific structure, principles and atmosphere have to be taken into account (see Edgar and Newell, 2006; Hagemann, 2003; Van Ness, 2007; Liebling, 2004).

Prison is predominantly a male world. As an irritating finding we learned that some young prisoners were ready to accept the conclusions of empathy-training for female victims but did not succeed in transferring the content to male victims too (see the statement of a victim above).

All three pilot projects described have been successful in that the participants reported to have gained a benefit from them. Victims have spoken of a struggle to overcome the first burdens, namely the decision to participate as well as the attendance. But, at the same time they express satisfaction to have come this far and that they certainly do not feel worse, with a certain amount of optimism to be able to cope with the victimisation better now.

Most inmates gave positive feedback as well, stating that dealing with the victim's side was new to most of them and an important step in the right direction, some aspects even helped them to cope with their behaviour and avoid re-offending. It appears however that the group work has not reached all participants. Particularly amongst the young offenders, it was difficult for some to allow empathic feelings and get involved in a dialogue with victims. There were, however, also some participants who were interested in making the next step to meet, not only the victim group, but also their 'own' victim. To conclude, the meeting between the VET and the victim group is a central element of the concept and a powerful experience for all participants.

In other cases, inmates who had not participated in the group work contacted mediators aiming for dialogue and in order to restore the damage done. Not every inmate is lacking empathy and has to be prepared for such dialogue by participating in a victim-empathy-training session. In terms of the law in Germany, every victim and offender can refer themselves to a mediation service. Nevertheless, it remains open whether the other conflict party wants to participate and in the particular case of inmates, it is questionable if the prison allows this process. Some initial burdens could be overcome so that some mediation procedures are currently taking place. (See also Hartmann et al, 2012)

CONCLUSION: AN OUTLOOK INTO THE FUTURE

A victim-empathy-training session is an arrangement based primarily on learning theories. It is important to note that the cognitive and the emotional dimension of social learning have to be addressed simultaneously. Learning settings achieve their best results when the participants do remember them positively. Therefore it is important to create a light atmosphere where humour and appreciation play crucial roles. This is not the typical prison atmosphere which is more characterised by being alert all the time, structural and physical violence, uneven distribution of power and hierarchy, assignment of roles. However, training well-done can contribute to a necessary emancipation process of offenders freeing themselves as prisoners from the offender role and rejecting different stigmata associated with the inmate status.

The legislation in Schleswig-Holstein has recently taken up the RJ approach in two new state laws regulating arrests (short term detention ranging from a weekend to the maximum of four weeks thus regarded as a means of discipline and below the threshold of imprisonment) for juveniles and the prison act which became mandatory after the Constitutional Court ruled that federal law from 1977 can be replaced by state laws.

From the discussion concerning the personal distress dimension of empathy or suppression of empathy because of personal distress, respectively, follows that this initiation of a restorative element in prison can only be a first step as it clearly evolves that it must be accompanied by other measures enabling the participants to escape too much distress after release. Probation officers would point to housing, employment, debts, lack of education, health problems including addiction, stigmatisation and social isolation from ordinary people. Participating in a course which leads to increased empathy and learning about negative consequences and avoidable pain for others resulting from one's own behaviour will not change that behaviour per se. There must be offered real options to participate in the ordinary every-day world and there must be effective support for a longer period of adjustment (see research on "desistance" and "transition management", e.g. Maruna, 2006, Matt, 2014). This approach is taken up in the concept of *Restorative Society*: Restorative Society is "an organising principle around which to view responses to conflict within society". It "links the separate, but related, developments in restorative justice and restorative practices that have been occurring in a growing number of policy areas" to form a *good society*, which "will be one where there is a genuine quest, across the many and varied fields of human endeavour, to restore or rebuild positive relationships and sound social structures, whenever such relationships or structures have been harmed or damaged in some way ..." (Boston, 2007: 321).

Therefore these offers are useful. Are they necessary as well? The prison system has coped without restoration of social peace for centuries. Victims of crimes had to deal with the consequences themselves and if necessary find support themselves. Many offenders have reoffended again and are partly re-incarcerated. The communities, to which victims and offenders belong, had to deal with the resulting problems on their own. Society overall affords an expensive exclusionary system with prisons for offenders, social support for their victims and their relatives. Is it not time to deal with these problems in a more creative, constructive and healthy way?

Nils Christie (1995) wrote about the limits of suffering, when he argued for it, to deal with conflicts mainly through dialogue with the person directly concerned, in order to use the internal chances for learning, restitution and social peace instead of compensating the suffering of victims with that of offenders. Victims are not helped through our current responses to crime, neither are offenders deterred or become better persons through punishment.

Ideally, everyone, including victims, offenders and the community, who is interested in personal healing and social peace, should have the option to participate in the described and possibly even other procedures. The American criminologist Pepinsky (2008, 2013) defines empathy as social glue that holds communities and the society together and it becomes clear that this develops mainly through dialogue in personal encounters between people.

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EMPATIJA PREMA ŽRTVAMA UNUTAR ZATVORSKIH ZIDOVA: ISKUSTVA PILOT-PROJEKATA U SCHLESWIG-HOLSTEINU

SAŽETAK

Cilj projekta u fokusu ovog članka provedba je postupaka restorativne pravde nakon izricanja presude kao i razvoj "mehanizama" za podršku i zaštitu žrtvi teških zločina te njihovo zadovoljavajuće informiranje o tome što restorativna pravda nudi. Projekt se odnosi na Direktivu 2012/29/EU Europskog parlamenta i Vijeća Europske unije od 25. listopada 2012., a postavlja minimalne standarde za prava, podršku i zaštitu žrtvi zločina. Ovaj članak u općem smislu povezuje rad sa širim okvirom restorativne pravde te, u užem smislu, s istraživanjima o empatiji kao poveznici između ljudi. Empatija je povezana s kontekstom viktimizacije i prekršaja te na koji način pridonosi društvenom miru i iscjeljenju. Potom se predstavlja učenje empatije prema žrtvama u zatvoru kao i prve spoznaje o skupinama žrtava. Naposljetku se sažimlju preliminarni zaključci iz praktičnog rada i buduće ideje.

Ključne riječi: *empatija, restorativna pravda nakon izricanja presude, učenje empatije prema žrtvama, Direktiva 2012/29/EU*