
WEBINAR REPORT – HATE CRIME AND RESTORATIVE JUSTICE 10.5.2022

1 Introduction

Ministry of Justice coordinates Osaavat project, funded under the Rights, Equality and Citizenship program of the European Commission. Project aims at strengthening work against hate crimes and harassment especially through developing the competence of professionals in various fields. The objective of the project is to improve national coordination and information exchange, strengthen the competence of professionals, to develop data collection and to strengthen the role civil society in work against hate crimes. More information on the project: <https://oikeusministerio.fi/en/project?tunnus=OM023:00/2021>

On May 10th, the Ministry of Justice organized a webinar on hate crime and restorative justice measures as part of the Osaavat project. The objective of the webinar was to share information on different practices of restorative justice and alternative sanctions, and to discuss more effective way of tackling hate speech and hate crime.

More than 120 people registered for the webinar from 29 countries, and 115 people participated in the event. Corinna Tammenmaa, Head of Unit for Autonomy and Equality from the Department for Democracy and Public Law, Ministry of Justice acted as a moderator of the webinar.

2 Welcoming words

Johanna Suurpää, Director General, Department for Democracy and Public Law, Ministry of Justice, Finland

In her welcoming words, Johanna Suurpää emphasized the commitment of the Finnish Government to strengthening the work against hate crime and hate speech. The current Government Programme includes many measures to tackle hate crime and hate speech more effectively. Ministry of Justice has had an active role in tackling hate crime and hate speech, and that work has been supported by REC funded projects. Still, a lot needs to be done, and there is an increased demand for new, innovative measure to tackle this issue.

Johanna Suurpää also stressed underreporting as a severe challenge. Many victims do not report their cases. There are numerous reasons for this, including that victims believe that nothing would or



could be done in their case. For some victims receiving an apology from perpetrator is more important than getting a conviction. This is one of the reasons why there is a need to explore measures that can complement the criminal process or are alternative to the criminal process.

Johanna Suurpää described that Finland has been actively involved in developing restorative justice since 1980's. Since then mediation has gradually spread throughout the country. Finally, nationwide legislation and state financing ensured the availability of the services in 2006 as the law on mediation in criminal and certain civil cases came into force.

In 2020, a total of 13 000 criminal offences and 900 civil cases were referred to mediation in accordance with the Act on Conciliation in Criminal and Certain Civil Cases. A mediation process was launched over half of referred criminal offences and two thirds of those ended in a settlement. Unfortunately the National Institute of Health and Welfare has not collected statistics on hate crimes, hate speech and harassment dealt in mediation.

In Finland, restorative practices and mediation are used as an alternative ways of solving conflicts in many fields of society such as schools and workplaces, environmental disputes, family disputes, and neighborhood disputes. Recently restorative justice has been developed in prison settings for more serious crimes too.

3 Keynote speech

Dr Mark Austin Walters, Professor of Criminal Law and Criminology at the University of Sussex and Co-chair of the International Network for Hate Studies

In his speech, Mark Walters focused on restorative justice and hate crime. He brought up the harms of hate crime, what is restorative justice and restorative practices and how they can support victims of hate crimes, and what challenges there might be for practitioners to look out for.

Walters brought up that studies have shown that hate crimes are more likely to hurt more than similar parallel criminal offences. This is because there is an attack towards the victim's identity. Hate crimes cause fear, anxiety, depression, anger and shame, and victims start to feel powerless and marginalized in society. This can cause avoiding certain places or changing your appearance.

In England and Wales punitive approach leaves a "justice gap" in hate crime cases. In the statistics from 2019-2020 there were 190 000 estimated hate crimes, of which 105 090 were recorded by police. Of these, there were 10 950 prosecutions which lead to 9 340 convictions and approximately 7 230 cases with a sentence uplift. These results pose the question of whether punishment helps to address the root causes of hate crime, and does punishing more reduce hate? Can imprisonment or



finer help to repair the harms caused by hatred, and what does that do to victims? The current system fails to adequately support the need of victims.

Restorative justice has many different definitions but it can be defined as a dialogic process where the aim is to achieve reparation, which can be emotional, material or to relationships by engaging those affected by wrongdoing. Key restorative values are encounter, repair and transformation. The key process variables in restorative justice practices that help to repair the harms of hate crime are victim-offender mediation, restorative conferencing, peace circles, community justice boards and community mediation. These provide a platform for dialogue.

Restorative justice can be used as an alternative or addition to conventional justice processes. In a police arrest, the alternative for charge is to use out of court disposal, e.g. community resolution. If the case goes to prosecution/conviction, judges have the power to defer the sentence for restorative justice activity. In the sentencing or punishment, as an addition, a restorative justice meeting can be set up by police or probation service during or after sentence.

Walters describes the results of a research that shows that for 18 people of 23, a mediation process directly improved their emotional wellbeing. Before the mediation process, their level of anxiety was very high, but decreased afterwards. Also, the research shows that using restorative justice can help victims to move on from their experience. Even if the mediation process helps in a specific case, the anxiety of the victims still exist. This is because they know someone else might target them. The research also showed that abuse stopped after mediation process was finished. In 19 cases of 23, hate incident and/or other forms of abuse stopped.

Restorative justice can potentially and partly repair the harms of hate crime. As helpful was seen measures of storytelling, explaining to the other party how they felt, being able to explain how the incident had affected their life and how it feels to be different. Talking about the effects of prejudice can empower victims, and make them feel supported.

There are some challenges to restorative dialogue, for example bridging empathic divides, facilitating dialogue where the harmer denies the hate element of a crime and ensuring that power-imbalances do not risk of re-victimizations of victims.

The preparations are highly underlined. The individuals need to be prepared to what might happen, and there needs to be training for facilitators. Also, the independence and impartiality of facilitation was underlined.



4 Presentations

Restorative justice and hate crime. Practices and perspectives from France **Émilie Matignon, the French Institute for Restorative Justice**

French Institute for Restorative Justice (IFJR) is a national association partly funded by the Ministry of Justice, and established in 2013. It works nationwide. IFJR disseminates information about restorative justice, provides training on restorative justice, publishes information on restorative justice practices, coordinates restorative justice programmes at regional level and provides supervision of facilitators.

The legal basis for restorative justice in France is provided in the Code of Criminal Procedure. In France, all victims have access to restorative justice measures, and it is the right of all victims and perpetrators to be informed about restorative justice measures. Still some professionals might be reluctant to use restorative justice measures.

Introducing restorative justice measures is possible at all stages of criminal proceedings and for all types of offences. Perspectives of restorative justice include specifically trained facilitators, recognition of criminal acts, confidentiality, voluntary participation, control by the judicial authority and information for participants.

In France restorative justice measures are not an alternative to criminal process, but are used autonomously from the criminal process. The only objective of the restorative justice measures is dialogue. Restorative justice measures provide a safe and voluntary space of confidential dialogue to all victims and perpetrators.

In France, main restorative justice measures are restorative mediation and restorative group encounters. Restorative mediation includes facilitator, victim and offender. Restorative group encounter includes a large number of different stakeholders.

For successful implementation on restorative justice measures, preparation needs to be done carefully. Furthermore, the training and supervision of facilitators is important. And finally, adapting to people's expectations and offering different restorative justice measures can lead to successful outcomes.



Dialogue instead of Hatred

Herbert Janusch, Graduate Social Worker, NEUSTART, Austria

Neustart is an Austrian NGO, that offers solutions in coping with the problems of criminality and its consequences. In collaboration with state prosecutors and judges NEUSTART has developed “Dialogue instead of hate” programme that aims to sensitize people to discrimination and lead to reflection and consequently a change in behavior.

In recent years there has been a massive increase in discriminatory hate speech on the internet. This has led to increase in convictions, and sparked discussion on creating new ways to tackle hate speech. All cases of online hate speech are not crimes, although they are serious to the victims. These findings encouraged Neustart to create Dialogue instead of hate programme as a socially constructive response the hate speech. Legal basis and program were developed in cooperation with prosecutors from Graz and Vienna.

In Austria there are two ways of joining the programme. The first is pre-trial offer of "Diversion" from the public prosecutor, and it includes a probation period, "Dialogue instead of Hate" programme as a duty, and the offender will not get a criminal record. The other way is judicial conviction and direction by a judge, and it includes conditional indulgence or conditional release, a probation period, direction for "Dialogue instead of Hate" and a criminal record for the offender.

The aim of the programme is to offer a socially constructive response to the dynamics behind hateful statements on the Internet. The programme includes 5 goals for every client:

- Knowing and respecting the legal norms and limits of discrimination
- Dealing with the issue of discrimination on a theoretical and personal level
- Raising awareness about the boundary between freedom of speech and committing hate crime
- Not the attitude but the behavior in accordance with criminal law has changed
- Knowledge in dealing with social media is increased

The content of the programme is divided into 7 different modules. The first module is initial survey and anamnesis, which includes detailed anamnesis of the clients. This anamnesis is done by using the instruments of the "Resource-Risk-Inventory", which was first used 2016 in the regular probation service, and enables the determination of the client's resources and the identification of risk areas for recidivism.

The second module is clarification of norms, and it aims to create an understanding of the legal limits of discrimination. Module focuses on the boundary between freedom of speech and committing hate crime.



The third module focuses on offense processing for relapse prevention. A targeted, intensive examination of the client's crime is an essential component for the relapse-prevention. The risk-oriented intervention program for delinquents includes for example: raising awareness of the consequences of the offense and evaluating offenders behavior, individual case-related clarification of the facts as well as the risk assessment of relapses or new offenses, learning about socially constructive, alternative action strategies, discussing necessary changes in relation to attitude and behavior, and acquiring tangible objectives.

Fourth module focuses on media expertise. Media expertise is the ability to adequately use media, as well as the ability to understand and critically evaluate media content. Main goals of the module are: understanding of how media and social media in general work, identifying “fake news” and how to handle them, understanding how “information bubbles” work, knowing the phenomenon of “echo-chambers” and their dynamics, and using technical possibilities of social-media like privacy-adjustment.

Fifth module focuses on discourse expertise, and aims to create awareness of the type and effect of the statements made and also focuses on learning certain methods of expressing opinions in a non-pejorative form.

Sixth module focuses on change of perspective and perspective of the victim. It focuses on creating and developing awareness, and showing the effects on people or groups of people who fall victim to such online hate speech. Module addresses any existing personal experiences of discrimination or victimization of the clients, since a lasting change in behavior can only be achieved if their injuries and experiences are also considered in the process.

Seventh module discusses discrimination and awareness, and it aims to sharpen clients' perceptions of negative discrimination. In addition, this should enable a theoretical and personal discussion of this subject and a reflection of behavior.

If needed, special modules can be added, like history lessons about fascism, juridical information about graffiti, or guided tours to memorial places.

The duration of the program is approximately six to twelve months. Of the people enrolled in the programme, 80 % completed it. 71 % of the people participating in the programme have been men and 39 % women. Most are 40-60 year old. 88 % of the people taking part in the programme have no criminal record. Many participants lack social involvement. Programme shows promising results: 70 % showed greater understanding after completing the programme.

Training professionals in working in a restorative way with victims of anti-LGBT hate crimes



L.C. (Lisa) Rosielle, LLM, MSc. lecturer in law and researcher at Avans University of Applied Sciences

Lisa Rosielle focused on the training programme that was developed in Let'sGoByTalking – project. It trains professionals working in a restorative way with victims of anti-LGBT hate crimes. Before designing the training programme, a research was conducted on the needs of victims and professionals.

The outcome of the research showed that victims do not generally know about restorative justice. Once informed about restorative justice and its possibilities, victims believed the pro of restorative justice is being heard and acknowledged by the perpetrator. Doubts were the fear for secondary victimization, doubts about restoration and self-resistance in believing in the forgiveness of the offender.

The research on the needs of professionals revealed a knowledge gap of restorative justice. In general, professionals had little knowledge about specific restorative justice programs and the use of restorative justice in anti-LGBT hate crime cases. Professionals identified training needs related to LGBT issues and terminology, but recognized less training needs when it comes to restorative justice.

To train professionals they have a B-learning system that is comprised of three different modules. Two modules are provided on-line, and the third face-to-face. The goal is to raise awareness, develop positive attitudes for restorative justice programs and practices for anti-LGBT hate crimes and provide knowledge on to how to apply a restorative approach in the work with victims of anti-LGBT hate crimes.

In module 1 the goal is to provide knowledge about the LGBT terminology and the needs of victims of anti-LGBT hate crime. The module explains the concept of hate crime and what impacts hate crimes have on victims and victim needs. In module 2, the goal is to provide knowledge about the principles and benefits of using restorative justice. In the module 3, which is the final module, the goal is to train the participating professionals to employ an LGBT sensitive and restorative approach on victims of anti-LGBT hate crime.

In the evaluations of the modules, modules 1 and 2 was seen as an effective way to raise awareness about restorative justice and hate crimes. For professionals that had already experience, the modules provided little extra or new information, but worked as a booster training on basics. Respondents were able to feel more equipped in terms of handling the situation in a more restorative way and being able to talk to victims about the option for restorative justice.



Hate crimes, Hate speech and restorative justice: the Belgian Experience

Jan Van Laer, Legal advisor, Unia (the Belgian Equality Body)

Unia is an independent public institution. They specialize in policy on equal opportunity and non-discrimination, and address discrimination and promote equality. They work by receiving individual reports, they inform, train and sensitize, and they provide advice and recommendations as well as support to victims.

In Belgium, there is no specific legal framework for hate crimes and restorative justice. There is instructions of prosecutor's office in discrimination and hate crime cases. It names restorative justice elements, like mediation and measures and option of victim-offender mediation. The alternative sanctions and restorative interventions in the level of public prosecutor's office are mediation, amicable settlement and praetorian probation. In the court level there are community service sanctions, autonomous probation penalty, learning measures and probation suspension and probation deferral. As alternative measures, there is also a voluntary victim-offender mediation and juvenile sanction law.

In mediations and measures, the public prosecutor's office takes initiative and is assisted by the Justice Houses. It focuses on the compensation or the repair of the damage. It focuses on the damage and it is possible that the prosecutor refers the offender to therapy. If there is an agreement, there is a discontinuance of criminal proceedings.

Victim-offender mediation is complementary to criminal proceedings and can happen at any stage of criminal proceedings. It is voluntary, confidential, and facilitated by an impartial mediator. It features a restorative justice approach. In the end, parties can sign an agreement that the court takes into account. Information can be given to judicial instances if parties agree (for example prosecutor's office or court).

In juvenile sanction law, there is mediation and family group conferences. There cannot be a denial of the offence and the victim needs to be identified. An impartial mediator facilitates the process and if an agreement is signed, court considers it. Participants in the mediation are the perpetrator (minor), victim and their parents or guardians and the goal is to respond to relational and material consequences. In the family group conferences, the participants are the perpetrator, victim, social environment, like parents, friends, and other useful persons, like police or school. The goal is to develop in group a solution for the conflict, taking in account the relational and material consequences.

Studies made in 2012, 2013 and 2017 show that in Belgium, the use of alternative measures is very limited. In files of hate crimes or discrimination, it's only 5-6 %. There is not enough attention to the hate elements and they are not always taken in account. Attention needs to be paid to the specific



nature of hate crimes and the profile of the offender needs to be taken in account. There needs to be awareness of the risk of secondary victimization because of power imbalance.

Victims of Hate Crime accessing Restorative Justice

Mark Smith, 'Restorative Justice Coordinator' for Why me?

Why me? is a national charity that delivers and promotes access to restorative justice for everyone affected by crime and conflict. Why me? aims to increase access to restorative justice for people who are affected by crime and conflict in England and Wales. This is done by promoting good practices, highlighting gaps and working with decision-makers and practitioners and conducting research.

Restorative justice measures can be used for any crime. A safe environment is important and the possibility for participants to choose, whether they want to engage in a restorative process. Both parties need to know their roles and the perpetrator needs to take responsibility.

Restorative justice gives victims or survivors more of a say. It is an opportunity that enables people to change. It takes victims and survivors seriously and it can challenge the person who hurt or harmed the victim.

In his presentation, Mr. Smith brought up practical considerations about proxy victims, experience, terminology, micro aggression, working on-line, supporters, observers and translators, location and acceptance of responsibility, which is maybe the most important thing. The proxy victims were explored in the LGBTQ+ hate crimes.

Bridging the divide between restorative justice and community organisations: experiences from Catalonia and the Basque Country

Dr. Ignacio Elpidio Domínguez Ruiz, researcher and lecturer at the European Social Research Unit, Departament d'Antropologia Social, Universitat de Barcelona

Experiences presented are based on the development work done in LetsGoByTalking project that had partners from six countries (Belgium, Bulgaria, Italy, the Netherlands, Poland, and Spain). Main goal of the project was to bridge the gap between LGBT organizations and professionals working with restorative justice and criminal process.

LGBT organizations and other civil society organizations can have contrasting perspectives on restorative justice with restorative justice practitioners, victim support professionals, and other practitioners within the justice system. The aim of the project activities was to bridge that gap.



Anti-LGBTQ+ hate crimes have common features, like underreporting and mistrust in public authorities. Approach needs to be focused on assessing victim's needs, and to custom processes for each case and adapt to the needs on the particular victim. Facilitators/mediators have a key role in assessing the needs and making adaptations. LGBTQ+ organizations may have doubts about restorative justice, but they are important supporters and possible proxy victims.

Also other actors in the justice system have important role in supporting victims, and informing on restorative justice measures. It is important to provide a victim-centered first point of contact for hate crime victims, to provide information about the existence of restorative justice services and refer cases in needed. For creating a more restorative culture, training is needed.

There are many potential ways for cooperation between LGBTQ+ organizations and restorative justice services, including indirect or proxy victims, victim support and advocacy work.

Presentation included three examples from Spain, which feature restorative justice measures in bias motivated cases. The first was a case with homophobic graffiti and damage. In this case the victim wished not to meet the offender, but offenders wrote a letter to the victim, and cleaned and repaired the damages.

The second case concerned anti-Roma hate speech in a digital newspaper, and did not have a specific victim. Instead it had a collective group of victims wishing to avoid lengthy court procedures and contribute to changing the offenders' attitudes. A circle was organized with people from the newspaper and people that commented the article with anti-Roma slurs. Comments included derogatory expressions, and portrayed Roma as inferior to other people.

The third example featured an anti-LGBT hate crime, where the victim did not want to participate in restorative process. This process featured a restorative interview with the aim of discharging stress and exploring the possibility for participation in restorative process at a later stage.