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ALTERNATIVE

Developing alternative understandings of security and justice through restorative justice approaches in intercultural settings within democratic societies

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Contents

Restorative justice models and their relevance to conflicts in intercultural settings

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Introduction

This report aims first to present some basic theoretical views on restorative justice. Second it seeks to identify and analyse some of the existing restorative justice models that operate in practice, such as mediation, conferencing, peacemaking circles. Lastly it will examine their potential application in the specific framework of conflicts in intercultural settings.

1. The context of the ALTERNATIVE project - Restorative justice approaches

1.1 Preliminary remarks on terminology

The emergence of restorative justice within the criminal justice field has implications on the terminology used in the literature. For example terms such as offender, victim, crime, offence etc. are legal terms, which may be understood differently within the restorative justice field. This may cause some confusion. In a restorative justice context, 'offender' can mean anybody, who caused harm through a wrongful act. The 'victim' is anybody, including the 'offender' and the community, who may have suffered harm and crime and that may be understood as a 'conflict'.

Following the literature on restorative justice in general, we will use here the 'victim' and 'offender' terminology as that is what restorative justice's connection to criminal justice implies. However these are legal terms, and are problematic for a number of reasons too. First, the application of restorative approaches does not have to be necessarily preceded by a criminal offence. Restorative practices can be used in any kind of conflict where a

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wrongful act caused harm to a person or a community and where preliminarily responsibility is taken by someone. Moreover, the action research, which will be carried out later in this project might be able to answer the following question: is it possible to use restorative justice approaches, when there are only tensions in an intercultural setting without any actual wrongful events (yet) – and therefore without identifiable victims and offenders?

Pranis (2003) criticises the terms 'victim' and 'offender' because she claims they reflect only one aspect of a person's experience. Christie (2013 forthcoming) also discusses the terminology (2013), and – besides criticising the use of terms such as 'restoration' and 'justice' – sees the terms 'victim' and 'offender' as problematic because he argues that the conclusions made about the role of a person in a given event comes frequently before the description and analysis of what actually happened. In addition it is a fact that in reality the roles of victims and offenders may not always be black and white. For example if the conflict has been lasting for a long time (which is often the case), all parties involved may both be 'victims' and 'offenders'. In the field of restorative justice, offenders may sometimes also be considered as victims, victims of social segregation, negative socialisation etc. It is also possible that a wrongful act may cause harm to those causing it.

In spite of these critics, although I aim to use here the more balanced terms of 'parties' or 'stakeholders' in order to refer to the people involved in a conflict, it is clear that the use of the terms 'victim' and 'offender' is sometimes inevitable. This also means that any time I am writing about victims and offenders, it is important to keep in mind that the conflict itself does not necessarily belong to the criminal justice sphere (Foss et al. 2012, 29). It might be an important outcome of the action research in the ALTERNATIVE project to identify alternative terminology for the stakeholders, possibly based on the terms used by participants of the conflict resolution processes themselves.

1.2 Definition of restorative justice

How does one introduce 'restorative justice'? Different approaches are possible to present a concept that is used worldwide nowadays by practitioners, policy makers and researchers alike. Is it a number of practices aimed at addressing harms and needs arising from a conflict by involving all stakeholders in a constructive dialogue? Is it a way

of repairing harms effectively? Is it an alternative to the retributive criminal justice systems? Is it a new paradigm dealing with crime and conflicts? Is it century old, ancient and traditional practices to resolve issues arising in communities? Is it a new way of life and coexistence? In a sense yes, it might be all of above. However, there does not exist a universally accepted definition of restorative justice to start with. There are several widely accepted and regularly cited ones, such as the ones by:

> Marshall (1999, 5) "Restorative justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future",

> Zehr (2002, 37) "Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs and obligations, in order to heal and put things right as possible",

> Braithwaite (2004, 28) stating restorative justice is "...a process where all stakeholders affected by an injustice have an opportunity to discuss how they have been affected by the injustice and to decide what should be done to repair the harm. With crime, restorative justice is about the idea that because crime hurts, justice should heal. It follows that conversations with those who have been hurt and with those who have afflicted the harm must be central to the process",

> or a more recent definition from Walgrave (2008, 21) explaining restorative justice as "an option for doing justice after the occurrence of an offence that is primarily oriented towards repairing the individual, relational and social harm caused by that offence", but almost all authors put their particular focus.

Restorative justice emerged both as a concept as well as a practice in criminal justice cases in the late 1970s. According to Zehr (2005, 270) the core elements of restorative justice – and this framework can be used outside the criminal justice field perfectly – are the following:

- It focuses on harms and consequent needs (of victims, but also of communities and of offenders);

- It addresses obligations resulting from those harms (offenders' but also communities' and society's);

- It uses inclusive, collaborative processes;

- It involves those with a stake in the situation (victims, offenders, community members, society);

- It seeks to put right the wrongs.

Restorative justice seeks to engage and empower involved and impacted parties of a conflict. It may include the offenders, the victims and in some practice models also a broader circle of individuals from their families and communities. Some practices involve also state officials in the processes.

The focus for a restorative justice practice is in the answers to the following questions:

- What harms have been done?
- Who has been hurt?
- What are the needs of those affected?
- What does it take to repair the harm (put things as right as possible?) and
- Who has a responsibility or obligation to participate in making it right?

Within a restorative framework there is a high value placed on the active involvement of those affected by the conflict, on the dialogue between them and on their inclusion in the process of restoration.

The terms mediation and restorative justice were used at the beginning of and even in the late 1990s sometimes as complementary or synonyms. Especially with 'new' models emerging in the western world such as conferencing and peacemaking circles – it crystallised later that restorative justice can be understood differently. Restorative justice is the umbrella term incorporating many different practices, which are built and share the same set of values and principles. A number of scholars and policy makers differ on the components required to define a practice as restorative.

1.3 Different concepts of restorative justice

Process or outcome focused conceptions

As mentioned above, there is no uniform definition of restorative justice, and the reason behind this is the fact that there are a large number of variations in the understanding and approaches to the main concepts. The most important difference within restorative justice lies in its focus. Namely, whether it considers the restorative process or the restorative outcome as central to its activities. The difference is clearly discussed in the debate between Walgrave and McCold[2], where they have called the two models respectively purist and maximalist. On the one hand, the purist definition of restorative justice concentrates on the practices in which people affected by an offence communicate, and try to resolve the issues raised by the wrongful act. Critics of this approach emphasise that a voluntary encounter between the most important stakeholders in a conflict is rarely achievable, and therefore this understanding of restorative justice firmly limits its scope. On the other hand, Walgrave (2008, 22), proponent of the maximalist approach states "a restorative process is valued, not because of the deliberation on its own, but because of the outcomes it helps to achieve". As Vanfraechem (2007, 74) describes:

> (...) maximalism conceives a restorative justice system in which the communication processes between the parties are regarded as being the most restorative, but restorative justice is not limited thereto. Coercion can be used and restorative solutions have to be found when a communication process is not achievable, e.g. when parties do not wish to meet or communicate, or when the offender is unknown.

Accordingly, within the maximalist approach, any kind of outcome which seeks to restore the harm is accepted as part of restorative justice, regardless of the process in which it was achieved.

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[2] See Bazemore and Walgrave (1999), Walgrave (2000) and McCold (2000).

Zernova and Wright (2007, 99) conclude that the conflict behind the debate lies in two competing value commitments:

> The process-focused model prioritizes the empowerment of stakeholders. However, attaching primary importance to the stakeholder empowerment could increase the risk of non-restorative outcomes, in particular punishment. The outcome-focused model avoids this danger by prioritizing restorative outcomes, imposed if necessary. The consequence is that the empowerment of stakeholders is restricted, as their decisions can be over-ruled or they may be left out of the process. So, arguably, this is a debate resulting from a potential conflict of two restorative justice values – empowering stakeholders and ensuring restorative outcomes.

They suggest that this conflict should be resolved in each particular situation taking into account the complexities and the relevant factors of each possible case. In line with this, in the ALTERNATIVE project we see both the dialogue process and the outcome equally important.

Encounter – reparative – transformative conceptions

Johnstone and Van Ness (2007) offer another framework which may help us to understand the different types of concepts and ideas behind the nature of restorative justice. They differentiate between the encounter, the reparative and the transformative concepts of restorative justice.

The 'encounter' conception of restorative justice

This understanding of restorative justice focuses on the active involvement of victims, offenders and other stakeholders in a conflict in order to discuss the problem and decide what to do about it. The restorative encounter itself gives them the opportunity to "speak openly but respectfully to each other about what happened, express their feelings and have a say in what is to be done about the matter." Proponents of this conception – who tend to use the term restorative justice as if it were interchangeable with mediation or conferencing – usually contrast restorative justice with criminal justice and argue that restorative justice is better than 'courtroom' responses to crime. In addition the process being restorative critics of this approach argue that the outcome of the encounter has to reflect on restorative values too. Citing Roche's critic of the encounter conception:

"Viewed simply in process terms, any punishment meted out by a victim on an offender, such as lynching and stoning, may potentially satisfy the definition of restorative justice" (Roche 2001, 344).

The reparative conception of restorative justice

When a person commits a serious wrong against another, a state of injustice arises which needs to be corrected. Proponents of this approach reject idea that to correct an injustice, the wrongdoer has to feel pain or suffering in proportion to the seriousness of the offence he/she committed. They focus on the manner to achieve for the harm which the crime has caused to be repaired either materially and/or symbolically. In this concept these goals are the most important even in the case when a face to face meeting between involved persons is impossible; therefore they understand reparative sanctions posed by the courts for instance as restorative justice, too.

The transformative conception of restorative justice

Under this conception, restorative justice is understood as a way of dealing with conflicts in general, or even – using the wording of Johnstone and Van Ness – "a life we should lead", and the ultimate goal of the restorative justice movement[3] should be to transform the way in which we understand ourselves and relate to others in our everyday lives. Within this conception, restorative justice can be understood as a general conflict resolution approach, in addition to the criminal justice system. Based on the assumption that we are all "relational" (Johnstone and Van Ness 2007, 17) human beings interconnected through networks, restorative justice`s main goal here is seen to transform these relationships, structures. Restorative justice is therefore seen to be applicable in any form of misconduct, such as in neighbourhood or family conflicts, schools or workplaces. To such misconducts proponents of this idea suggest to react by identifying who has been hurt, what their needs are and how things can be put right (referring to Zehr 2002, 38).

Johnstone and Van Ness acknowledge that all of these conceptions are just part of a dispute/debate over models but that all actually have the same aims: encounter, repair

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[3] It has to be noted, that restorative justice as a movement can be understood, again, many different ways: as a social movement, as a movement to create a new paradigm of dealing with conflicts, a movement to mainstream an alternative to (or of) punishment within the criminal justice system etc.

and transformation. The difference is rather in the emphasis placed. They also state that there are overlaps between the conceptions. "In fact, there is sufficient common ground to regard advocates of each conception as members of the same social movement, rather than as members of quite different social movements which have somehow become entangled" (Johnstone and Van Ness 2007, 17).

For the ALTERNATIVE project the transformative conception might be the most promising taking into account Pali and Pelikan (2010, 35) who define transformation as "the requirement to overcome taken for granted modes of thinking and of perceiving oneself and 'the other'" which can be done "through a dialogical process." Using restorative justice approaches in intercultural settings can, therefore, create an opportunity for non-adversarial, inclusive dialogue on common issues, harms or conflicts. This facilitates open communication process, puts emphasise on empowering affected participants and improves relationships. It is a question for our research, whether restorative justice really leads to transformation. After a restorative dialogue will parties be able to see each other as equal human beings and overcome their possible earlier stereotypes or prejudices towards the 'other'? Will they feel safer in general? Will they feel that justice has been done? Looking at restorative justice through the transformative conception also helps to emphasise the implications of these processes for the future. First, the dialogue process itself can lead to setting up common norms or formulating clear expectations based on needs and possibilities in the concrete situation. It is of particular importance when people in conflict have enduring relationships, e.g. being neighbours, colleagues etc. Second, this better understanding and release of prejudices may improve relationships– and, as we assume in this project, feelings of safety – in general.

Life-world – participation – reparation

Pelikan (2010, 11-12) offers a framework with the following three core elements which define restorative justice in her opinion: (1) the 'social' or 'life-world' element – implying that restorative justice focuses on the concrete experience of the persons involved in a conflict, (2) the participatory or democratic element – implying that restorative justice promotes active participation of those concerned and affected by the conflict and (3) the reparative element – implying that restorative justice seeks to meet the victim's real needs. In her report for this same project on alternative epistemologies of justice and

security, Pali (2013) argues that this framework might be the most relevant in a European context, as well as for this project, and explains the three core element more in depth (see Pali 2013, 20-31).

1.4 Values and principles of restorative justice

What are the values and principles then, which are crucial in order to define any conflict resolution practice as restorative? Looking through the literature – e.g. searching for a universal definition –seems to be a Sisyphean task, even to simply attempt to give a clear list of those. National and international policy documents describe principles, such as the Restorative Justice Consortium's Principles of Restorative Processes from 2004 and the UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters from 2002. As Vanfraechem (2012, 14) points out, restorative justice literature does not differentiate between values and principles, but according to the UN Handbook on Restorative Justice (2006, 8), restorative justice process values include participation and empowerment, respect, consensual outcomes, flexibility and responsiveness, and community empowerment. Principles refer to guidelines and (legal) safeguards in order to set the parameters for the use of restorative justice.

The restorative justice scholar Braithwaite (2003, 9-13) suggests three sorts of values which would need to be attended to: (1) values that constrain the process to prevent it from becoming oppressive (non-domination, empowerment, respectful listening and equal concern to all stakeholders), (2) values that guide the process (restoration of property, emotional restoration, restoration of dignity, compassion, social support), and (3) values that describe certain outcomes of the process (remorse, apology, censure of the act, forgiveness, mercy).

Zehr and Mika (1998) call these values 'restorative signposts', listing, among others, the focus on the harm caused by crimes, in order to show equal concern, commitment and respect to victims and offenders. They also mention the need to work towards the restoration and empowerment of victims while supporting offenders and encouraging them to understand, accept and carry out their obligations, to provide opportunities for dialogue and encourage the reintegration of both victims and offenders. Most description of either values or principles are defined in contrast to the principles or

attributes of the traditional or retributive criminal justice system (such as Zehr [1990] offering the widely used 'restorative questions[4]').

Others use values as guidelines to place programmes on a continuum of 'restorativeness' such as Van Ness (2002, 136-37). He differentiates between the attributes of a restorative process (inclusion, balance of interests, voluntary practices, problem-solving orientation[5]) and restorative outcomes (encounter, amends, reintegration, whole truth[6]). He then at the same time confronts them with attributes of the traditional criminal justice system.

McCold and Wachtel (2002, 110-142) give a typology and evaluation of restorative practices based on the so called 'social discipline window' (see Figure 1).
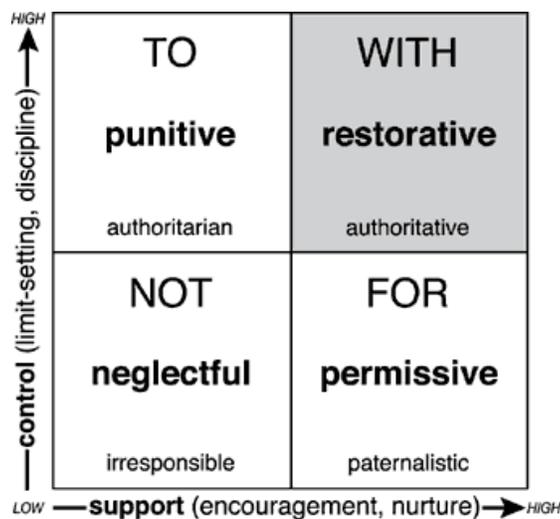

Figure 1 – Social discipline window – McCold and Wachtel (2002)

This framework shows different options for answering misbehaviour, according to the level of control and support applied. The four policy models they distinguish according to the model are the punitive, the permissive, the neglectful and the restorative. The restorative policy therefore combines high level of control with high level of support. McCold and Wachtel emphasise the collaborative and reintegrative factors of restorative practices and then combine it with an aspect of stakeholder involvement to differentiate

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[4] Who has been hurt? What are their needs? Who has the obligation to address the needs, to put right the harms, to restore relationships? (As opposed to: What rules were broken? Who did it? What do they deserve?)
[5] In contrast to exclusion, single interest, coercive and reprisal.
[6] In contrast to separation, harm, ostracism, legal truth.

between restorative justice practice models. They argue that the more stakeholders are involved, the more a practice model is restorative.

In the ALTERNATIVE project, especially because we aim to use restorative justice approaches instead of any existing and pre-defined restorative practice models, we place high emphasis on restorative values. The values and principles we consider highly relevant to our project have been described in the work document on operationalisation of the main concepts of the project by Vanfraechem (2012). She introduces restoration, respect, inclusion, dialogue, active participation, empowerment and transformation as the values most relevant to our context and therefore on which restorative justice approaches have to be based during the action research phase of this project (Vanfraechem 2012, 15-16, 21-22).

1.5 Restorative Justice and Restorative Practices

It is also important to discuss here the difference between restorative justice and restorative practices. Many share the idea of the need to widen the scope of restorative justice and propose its use beyond the criminal justice system. Their proposal is not simply restorative justice, i.e. not widening the justice field over other areas, but using restorative practices in other contexts (such as workplaces, schools or neighbourhood disputes) where conflicts occur. It would be an alternative to authoritarian dispute resolution, to prevent the escalation of the conflict, and avoid that it leads to further violence. For this broader application, the International Institute for Restorative Practices (Wachtel and McCold, 2004) suggests to use the term restorative practices, which they define as "processes where those directly affected and/or those in positions of responsibility respond to a misbehaviour with both limit-setting and social support by encouraging responsible cooperation". Similarly, Braithwaite and Strang (2001) state "(i)f the social movement for RJ is about more than changing practices of states, if it can have an impact on an entire culture, if it actually succeeds in changing families and schools towards more restorative practices, the effects on crime might be much more considerable." However, restorative practices differ from restorative justice per se also in the sense, that in the restorative practices framework, practices incorporate not only formal conflict resolution but also informal ways of communication. Restorative

practices range from basic communication techniques (like affective statements or questions[7]) to more formal processes, such as e.g. the restorative conference.

1.6 Restorative justice approaches

In the ALTERNATIVE project we have chosen to use restorative justice *approaches*, and not refer only to restorative justice in general. Therefore the question is: What are the differences between restorative justice and restorative justice approaches? First, the action research to be carried out in this project is not based on any existing, implemented and institutionalised practice of restorative justice. Second, as we have seen already, the scope of this project is wider than the field of criminal justice, the conflicts the action research will deal with might not have any relevance to criminal justice. Third, we see restorative justice approaches here as a set of principles and values instead of different, clearly defined practices. Although this paper will describe in depth the different practice models within restorative justice, it has to be acknowledged, that restorative justice itself is not to be equated with these set of practice models. In practice, attention has to be paid to finding the most appropriate and acceptable ways of dealing with conflicts, taking into consideration the nature of the conflict, the needs of the stakeholders, and the different cultural aspects being present in an intercultural setting. One of the main advantages of restorative justice approaches might as well be this flexibility in its practice(s).

2. Practice models of restorative justice – mediation, conferencing, peacemaking circles

In this part we will analyse different practice models within restorative justice. There are three basic models and many different practice styles or techniques within them. On the one hand, there are many different versions practiced within each practice models. On the other hand, although theoretically these practice models are different, in reality the practice itself can be very similar. However, it is still important to distinguish between the different practice models, although we might find out later, that the models

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[7] Which is close to the use of the Nonviolent Communication technique, as it is mentioned often as a source of restorative justice. See Rosenberg (2003).

themselves do not matter the most in this project, but rather the goals, values and principles behind them.

Although in this paper three main practice models are presented, some (see for example Bazemore and Umbreit 2001, Schiff, Bazemore and Brown 2011) consider community reparative boards (also called neighbourhood accountability boards) as a fourth main practice model of restorative justice. Based on the example of Vermont community reparative boards, Bazemore and Umbreit (2001) present this model mainly as a method of sentencing, growing from earlier experiences of neighbourhood boards. In reparative boards, trained community members conduct face-to-face meetings with offenders of minor crimes. The presence of offenders is ordered by the court and victims participate rarely. The board discusses the offence and its impact with the offender and then proposes obligations for the offender (focusing on reparation as well as applying measures to avoid future reoffending). The offender can decide whether to accept these conditions or not. I share the criticism of McCold (2004) stating that this model is part of a different paradigm, namely that of community justice, which is in theory sometimes erroneously merged with restorative justice. According to McCold (2004, 29), community reparative boards are "pseudo-restorative" as they fail to meet the true needs of victims, offenders and their communities. Accordingly, in the next part of this report mediation, conferencing and the peacemaking circle model will be further explained, followed by a short explanation of other practice models might be close to, as well as influential for restorative justice approaches.

2.1 Mediation

From the emergence of restorative justice in the 1970s in European criminological discourse, the most important restorative practice was mediation. Mediation is a method for conflict resolution in which an impartial third person [the mediator(s)] help(s) two (or more) disputing parties to engage in a constructive dialogue and reach an agreement. It is important, that the parties involved in the conflict work out the terms of the agreement themselves, and not the mediator (Liebmann 2007). Mediation as a conflict resolution process in general is used in many different fields from business disputes to divorce cases the world over. In the field of restorative justice a special type of mediation is practiced, which is called: victim-offender mediation. It is used in the case where a conflict leads to or arises from a wrongful act which is defined by law as a criminal act,

therefore the offender and the victim of this crime are the two parties involved in the process. The main difference from any other mediations is that here – although the emphasis is on the equal positions of participants – people participate in a certain, pre-defined role as victim or offender. In victim-offender mediation the agreement is about the reparation of the harm(s) (material, physical, symbolical and /or emotional) caused by the offence and also about the steps to be taken by and obligations of the offender to prevent future reoffending.

The mediation process offers victims and offenders an opportunity to meet in a safe, structured setting and engage in a mediated discussion of the crime (which is understood generally as a conflict). With the assistance of a trained mediator, they are able to share their stories and views on what has happened, and the crime's physical, emotional, and financial impacts. They may receive answers to their questions and be directly involved in developing a restitution agreement. This plan or agreement might focus primarily on the reparation of harms caused by the act to the victim, as well as steps to be taken by the wrongdoer to help his life to move on or prevent future offending.

The main goals of mediation

According to Bazemore and Umbreit (2001), the goals of victim-offender mediation include the following:

- Supporting the healing process[8] of victims by providing a safe, controlled setting for them to meet and speak with offenders on a strictly voluntary basis;

- Allowing offenders to learn about the impact of their crimes on the victims, and take direct responsibility for their behaviour;

- Providing an opportunity for the victim and the offender to develop a mutually acceptable plan that addresses the harm caused by the crime.

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[8] Some find the word of `healing` too strong in this sense, others highlight the empowerment of victims (and offenders) by the mediation process.

Mediation practice models and mediation styles

Mediation is practiced in different forms and in different styles. One aspect is whether the parties meet face-to-face (direct mediation), or not (indirect mediation):

Indirect mediation (or shuttle mediation) - in this form, victim and offender do not come together physically, but communicate indirectly through an impartial third person (facilitator or mediator). The interaction can take place through letters, videos or verbal communication when the mediator communicates the message to the other party. Raye and Roberts (date) consider programmes in favour of this method as more outcome than process driven, however in some very sensitive cases – in family or relationship issues, where there is a strong power imbalance between the two sides – this might be the best option to avoid further harms or having the chance of any kind of communication between involved parties at all. Although the mediator's role is to transmit the messages (this is also the case in direct mediations), the way in which he/she presents these messages may influence the content of the communication and the final outcome.

Direct mediation: In this format, parties interact directly with the assistance of a mediator who creates an environment conducive to effective communication. The face-to-face meeting is usually preceded by separate preparatory meeting(s) or communication with both sides. A face-to-face mediation can be arranged in case both parties agreed to do so. In the mediation session in some practices the presence of support persons is allowed (family members, friends, lawyers etc.), but they are not actively involved in the discussion. Their support mainly amounts to their physical presence.

Besides the direct and indirect mediation, there are other practices such as the **Surrogate Victim-Offender Dialogue** (Umbreit *et al.* 2007, 33). This model provides an opportunity for dialogue between victims and offenders where one of them or both are not associated with a particular offence and representatives are used instead. This process is an effective method for offenders to acknowledge the consequences of their offending behaviour to someone not directly involved in the crime while representatives for victims may address the concerns and questions as expressed by victims. It may also mean that victims are given the chance to tell a person, representing

an offender about the impact of the crime and to understand the factors that contributed to (a similar) crime.

The mediated dialogue itself can take many forms, as there are different mediation styles. Based on Zumeta (2000) they can be summarised as follows.[9]

Facilitative is the most structured style of mediation. The facilitative mediator, who is neutral, "asks questions; validates and normalizes parties' points of view; searches for interests underneath the positions taken by parties; and assists the parties in finding and analysing options for resolution" without giving advice, recommendation or opinions.

In the **evaluative** mediation style the mediator – who sometimes is also an expert on the topic in question – intervenes more and less neutral than the facilitative mediator by making recommendations or providing opinions. A mediator using this style may also point out strengths and weaknesses of the positions proposed by the parties. This mediation style is mainly used in civil law cases or business disputes as it is outcome-driven and relatively short and effective in reaching an agreement. As victim-offender mediation deals with harms, needs and emotions, this mediation style is less effective in this context, as it does not focus on emotional issues or on the relationship between the parties.

The **transformative** mediation style puts a greater emphasis on the empowerment of the parties. While the transformative style still keeps the structure of the facilitative style, it also seeks to empower each of the parties and encourage each party to recognise the other party's point of view. The goal of this style is to transform the relationship between the two disputants during the mediation through empowerment and recognition. This style focuses on interaction and communication between the disputants and acknowledges the importance of, and therefore ready to deal with emotions. A successful mediation is described as one which produces improved understanding or more clarity – even when parties cannot reach an agreement (See Foss *et al.* 2012, 35).

The **narrative** mediation has its roots in narrative therapy. According to Linden (2001), this style of mediation presupposes that "the position each party brings to the mediation

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[9] There are other categorisations of mediation styles, like the one by Hans Boserup (2004), who differentiates between the Generic style, the Settlement driven style, the Cognitive, systemic style, the Transformative style, the Humanistic style and the Narrative style of mediation.

is a product of their life's discourses. The Narrative style tries to use conversation and discussion to get the disputants to disclose, often unwittingly, the true nature and perception of the conflict. It is done through "story telling" which in effect, allows disputants to express how and why they feel the way they do." The mediator encourages the parties to create a new story where the conflict is replaced by an agreement leading to resolution. Linden also states that this style works well when the disputants have had an on-going relationship prior to the mediation.

These styles are relevant for all the territories where mediation is used to resolve disputes. However in victim-offender dialogue, although it grew from the facilitative style, mostly the transformative and the narrative style can be considered as promising. It seems therefore clear that the main difference between these various styles lies in the role and the different communication techniques of the mediator. Boserup (2004) calls attention to the fact that by not adjusting the method of communication to the style of mediation one wishes to adopt, might indeed lead to confusion.

The process of victim-offender mediation

The process of mediation differs according to the practice model, style of mediation and to the different programme or scheme applying it. As a general outline (based on Wynne 2000), the process of victim-offender mediation starts usually with the referral of a case, either from agencies (police, prosecutor etc.), or from one party in conflict.

In the *preparatory phase* the mediator meets the parties separately (in some practices it is in their own homes), explains to them the process, the goals of mediation, and listens to their stories and interpretations of what happened or how they perceived the conflict. As the participation in the mediation process has to be fully voluntary, all parties are asked to give their consent at this stage to continue the dialogue in a mediated process.

In case the direct mediation process is chosen, the parties meet at a neutral place, and are usually seated in a circle or around a square table at an equal distance from the mediator(s) and from each other. The *meeting* starts with the introduction of the mediator who also explains the ground rules and asks the parties to agree with those. The next phase is the uninterrupted time, when each party has the possibility to tell their story of what happened without letting the other party interrupt or ask questions. Some

mediation programs prefer to clearly limit the time frame for each party. In the case of other mediation programs this phase can be as long as the parties need it. In this phase, parties usually speak to the mediator and not directly to the other party. The mediator listens carefully and takes note on the issues and possible needs which may arise. In the next phase exchange of information and negotiations take place, guided by the questions, summaries and use of other communication techniques of the mediator (based on the mediation style used). This is the phase of trust building and understanding, and the parties tend to communicate increasingly directly to each other. After arriving to a common understanding on what has happened and how it has affected the parties (with other words, after the closure of the emotionally significant issues), focus turns towards the future and tothe question of restoration. In this phase parties are encouraged to share their ideas, needs and offers concerning the possible elements of the restoration process. The role of the mediator here is to help parties to find creative ideas and solutions which reflect the needs of all and make sure, that the final agreement is formulated to be `SMART` (specific, measurable, agreed, realistic and time-framed). During the whole meeting there is possibility for the mediators to separate the parties and proceed with shuttle mediation until the moment the direct dialogue can continue. In some cases more consecutive meetings might be necessary. After everybody has signed the final agreement or parties have agreed not to agree, mediators acknowledge their active participation and close the session.

According to the style, programme and scheme, mediators might have a role in the *follow-up phase*, but it mostly concentrates on the fulfilment of the points of the agreement and usually less attention is given to the follow-up of the emotional state of the parties.

The process of mediation is described in detail in Liebmann (2000), Umbreit (2002) and in Aertsen *et al.* (2004).

The mediator

The most important characteristic of a mediator is his/her 'impartiality' and 'neutrality'. However the meaning of these terms is often understood in the same way. Neutrality on the one hand, means that the mediator does not give advice, does not take any decision, and does not judge the parties or the case itself. Impartiality on the other hand, means

that the mediator has to be objective, unbiased and cannot have a stake in the conflict itself. Practices when the mediator has a hierarchical or other power-based relationship with any of the disputants in a conflict are criticised as not being impartial. Being neutral does not exclude that the mediator seeks to balance between the parties in case of power or communication imbalance between them. This is the reason why the concept of impartiality/neutrality is challenged and many suggest to use the approach of multi(directed)-partiality or equidistance instead. Multi-directed partiality is an approach from contextual psychotherapy developed by Boszormenyi-Nagy (1986) and emphasises the attitude of the therapist as being empathetic towards all (family members in therapy) without taking sides. This entails concern not only for the interests of all family members in therapy, but also for the welfare of all people and systems with which the family members are involved. Applying this approach in the context of conflict resolution, multi-partiality differs from impartiality in that the mediator 'favours all' instead of 'favouring none' by tending to diverse needs, so that all stories may be told and trust maybe built first between the parties and the mediator. Cobb and Rifkin (1991) concluded their analysis on third-party neutrality of dispute resolution cases stating, that multi-partiality or equidistance might be a more appropriate standard for third parties than neutrality.

The responsibility for the outcome, for its content and its form should lie on the parties. The mediator is responsible for creating a safe space for a constructive, respectful and empowering dialogue, and to guide the participants with (mostly open-ended) questions and other communication techniques.[10] The aim is to remove the parties from their disempowered/power positions and engage them in a needs-based dialogue.

Some programmes work with voluntary mediators, which may be understood as an expression of the involvement of the community to the conflict resolution process (however it can be true on a systemic level, on the case level a neutral and impartial mediator can hardly represent the community itself). Other models work with paid mediators being full time employees or contracted on a case by case level. Mediation, when practised outside the criminal justice field, might be facilitated by any trained teacher, social worker, police officer or citizen who meets people in conflict situations and may offer a neutral, mediated dialogue. There are a growing number of peer or

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[10] See for example Boserup (2004).

street mediation programmes, especially in schools, where trained mediators help to resolve the conflicts arisen between their peers. The training of mediators and trainers of trainers varies throughout Europe and according to restorative practice (Delattre and Willemsens 2004). Although it is not uncontested, it is more and more accepted that mediators – either volunteers or paid professionals - has to be trained for different roles, and work following standards according to the practice model applied. In this respect, over-professionalisation of mediation may be seen in the literature as an issue of concern (Christie 1977, 12).

The mediation model is usually described with one mediator, however many programmes involve two mediators and in some cases it has a special importance (such as in domestic violence cases, where mostly a male-female mediator team works to keep the gender balance).

2.2 Conferencing

Conferencing as a restorative justice model has emerged more recently than mediation in Europe. Today it is also a widely practiced method in conflicts that arise from criminal acts , but is also used beyond the criminal justice field such as in schools, neighbourhood conflicts etc. This model also has its roots in different indigenous practices, and is now being used mostly in Anglo-Saxon and Nordic countries. The establishment of Family Group Conferencing (FGC) from 1989 in New Zealand is most frequently cited as the starting point of the practice of conferencing in criminal matters. In New Zealand, the practice was based on the Maori traditions and emerged as an answer to the phenomenon of Maori youngsters being overrepresented among offenders. This model is also the first one fully inserted in the criminal justice system, as in New Zealand it is obligatory to make an attempt to organise a conference in all criminal cases in which a young offender is involved (Zinsstag 2012, 12). However the practice of conferencing is not limited to criminal cases, but can also be used in cases of family problems, schools, workplaces, neighbourhoods etc. (Zinsstag, Teunkens and Pali 2011, 69-75). In Australia it has developed also from the 1990s, having the special characteristic of involving police officers in the conferences. The conferencing model is now being used in the United States, Canada, in some Latin American and African countries and in Europe (for example in England and Wales, Northern-Ireland, Belgium, The Netherlands, Norway) (Zinsstag 2012, 11, Zinsstag, Teunkens and Pali 2011, 173-321).

The definition of conferencing diverges. There is still a need to distinguish different conferencing practice models (such as restorative conferencing, police or Wagga Wagga conferencing model, family group conferencing) and also to differentiate more strictly between mediation and conferencing.

In the framework of the research on conferencing done by the European Forum for Restorative Justice in 2009-2011, the following definition of conferencing was suggested:

> (...) conferencing is a restorative justice process which, with the help of a facilitator, brings together the victim(s) of a crime (directly or not), the offender(s) and their support persons, who may include family members and friends. In a conference a number of other persons may participate such as a police officer, a lawyer, a community worker, or a social worker. They come together in order to find an acceptable resolution for all parties to the above mentioned crime (Zinsstag 2012, 12).

This definition, as well as others, focuses on who the people attending the meeting are, and this is considered as the main characteristic of conferencing. See e.g. the one by Walgrave:

> (...) a restorative conference is facilitated by an impartial moderator and consists of an inclusive process that brings together the victim, the offender and their "supporters" in order to find a socially constructive solution to the problems and harms caused by the offence (Walgrave 2008, 34).

Or Shapland:

> (...) conferencing – involving a face-to-face meeting between offender and victim, with one or more mediators or facilitators, and including one or more supporters of the offender and victim also invited to attend (Shapland *et al.* 2011, 9).

Although it is true that conferencing aims to enable offenders, victims as well as their support persons to come together and deal with the conflict and the effects of it together in a restorative manner, Shapland (2012, 51) found in her research on different restorative schemes in the UK, that the average number of participants in a conference is not very much higher than in mediation. Crawford and Newburn found in 2003 that in

15% of the conferences they examined, there was no support person present on the offender's side and at an additional 68% of those conferences only one support person was present. The New Zealand practice is criticised for the fact, that in a large number of cases, victims are not present (Maxwell and Morris 1993, McCold 2001, 45-46). As Shapland (2012, 52) concludes, "(...) large conferences seem to be rare and concentrated on neighbourhood matters and disputes. The more typical criminal justice restorative conference seems to contain only a few participants and centres around the victim and the offender". Many argue that any process without the participation of a victim might not be considered as restorative. Although restorative justice seeks to restore the victim, as well as the harmed social bonds, the great advantage of conferencing compared to mediation can be the fact, that it is also possible to apply in cases, where no exact victim is identified. In this case, the public or the harmed community can be represented and the case can be resolved according to restorative principles.

Different conferencing practice models

As stated above, conferencing is practiced in many different versions. Here we will outline some of the different practices and describe the different steps or processes of the restorative conferences.

I. *Family Group Conferencing (FGC)*

This is the original model of conferencing practiced in New Zealand. According to Bazemore and Umbreit's (2001) description, in family group conferencing a trained facilitator brings together the people most affected by the crime as well as their family members, friends or other supporters. They discuss how they and others have been affected and how the harm might be repaired.

Walgrave (2012) describes its main characteristics compared to other conferencing models and mediation as follows:

- in New Zealand, FGC is fully integrated in the court proceedings, thus not used only as a diversionary practice. This allows it "to have a broader scope than most other conferencing models" (Walgrave 2012, 36).

- the second particularity is that police officers are present in the conference in the role of informant and guardian of public order. "The position of the police

presence in its proper role brings in the public dimension of the issue to be debated. It makes clear to all participants that the state also has a stake in the consequences of the offence and has an interest in finding a constructive solution to the injustice committed."

- the third characteristic is that lawyers are also invited to attend the conference, which may be especially important when dealing with serious cases.

Process of the FGC

According to Bazemore and Umbreit (2001), the facilitator contacts the victim and offender to explain the process and invite them to the conference. The facilitator also asks the victim and offender to identify key members of their family or communities who are also contacted by the facilitator and invited to support them. In some practices, the conference begins with the offender describing the incident, and then other participants speak about the impact of the incident on their lives. Other programmes invite the victims to speak first.[11] Some argue that it is preferable to allow the victim to start the discussion, if he or she wishes to do so (Umbreit and Stacy 1996). Through these narratives, the offender is faced with the impact of his or her behaviour on the victim, on those close to the victim, and on the offender's own family and friends. The victim has the opportunity to express feelings and ask questions about what happened. After a thorough discussion of impacts, the victim is asked to identify desired outcomes from the conference. All participants contribute to the problem-solving process of determining how the offender might best repair the harm he or she has caused. In case of reaching a consensus, the conference ends with participants signing an agreement that outlines their expectations and commitments. MacRae and Zehr (2004) mention, that when appropriate (when the participants wish to do so, as agreed in the preparatory phase) the conference can start and end with a common prayer.

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[11] See for example the description of the conferencing model used in Northern Ireland by Tim Chapman (2012, 77).

One of the main characteristic of the FGC conferences is that family members of the offender can have a special private time on their own (a so called family caucus) to discuss the consequences of the act and the reparation and support they can offer (Froestad and Shearing, 2005). This is shared with the participants of the meeting, and besides its acceptance by the victim it has to be approved by the professionals present, too. In other models, the plan or agreement has to be approved by the representative of the criminal justice system after the conference.

II. *Police-led conferencing (Wagga Wagga)*

According to Bazemore and Umbreit (2001) in South Australia, family group conferencing is used in a modified form known as the Wagga Wagga model(as it was developed by the Wagga Wagga Police Department).In this model police officers or school officials set up and facilitate family group conferences, which are mainly used as a diversion tool.

This model uses predetermined script, a list of questions used by the police officers facilitating a conference. Froestad and Sherman (2005, 6) describe some of the main critical issues concerning the Wagga Wagga model, such as its potential for 'net-widening', the likelihood of an extension of police powers over young people and its emphasis on the theory of 'reintegrative shaming'[12] (Braithwaite 1989).The Wagga Wagga model was renounced in New South Wales in 1995. However, police-run conferencing was introduced into the Australian Capital Territory in 1993. It has since then been exported both to the US, UK and also e.g. to Norway (Hydle 2012).

III. *Real Justice conferences*

The Real Justice conference is a form of restorative conferencing practiced mainly in the United States (as a brand of the International Institute of Restorative

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[12] According to Braithwaite, shame plays a key role in the regulation of social behaviour. To answering offending, shaming can take on two forms. A person can be shamed when their behaviour is labelled criminal and in this process, they are socially excluded. Reintegrative shaming in contrast focuses on responsibility, repentance, forgiveness, apology – it works by playing on a person's conscience, and building a relationship of respect and approval. Reintegrative shaming is about labelling the act criminal rather than the person, and so excluding the act, not the person. While some see reintegrative shaming as a core element of restorative justice, others regard it as being in opposition to the basic philosophy of restoration.

Practices).[13]   It is described as a tool that allows those who have been most affected by an incident to come together to share their feelings, share how they have been affected and develop a plan to repair the harm done and prevent recurrence. Real Justice Conferencing is described as a victim-sensitive approach to address wrongdoing. It is also reintegrative, allowing the offender to make amends and avoid stigmatization. This type of conferencing also works with a predetermined script of questions[14] and everybody present can share their thoughts, feelings and take part in the elaboration of an agreement or plan.

Process of a Real Justice conference

According to the above mentioned script, the offender is first asked to answer question similar to these:

• "What happened?"
• "What were you thinking about at the time?"
• "What have you thought about since the incident?"
• "Who do you think has been affected by your actions?"
• "How have they been affected?"

Then, the victim should try to answer to the following questions:

• "What was your reaction at the time of the incident?"
• "How do you feel about what happened?"
• "What has been the hardest thing for you?"
• "How did your family and friends react when they heard about the incident?"

Following the offender's and victim's contribution, supporters – first on the victim's side - are asked to answer these questions:

• "What did you think when you heard about the incident?"
• "How do you feel about what happened?"
• "What has been the hardest thing for you?"
• "What do you think are the main issues?"

Then the offender has the possibility to react and the focus of the conference turns to the elaboration of a plan or agreement on the restoration and duties of the offender.

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[13] This script is also used in conferences in e.g. the Norwegian Mediation Service.
[14] For example, see a detailed script for facilitators of restorative conferencing in school setting:
http://cms.skidmore.edu/campusrj/upload/Skidmore-Restorative-Conferencing-Apprentice-Script-4.pdf,
or the IIRP`s Real Justice script: http://www.iirp.edu/article_detail.php?article_id=NjYy

After reaching an agreement and the closing of a conference, it is common to serve refreshments and let the participants mingle and interact. This part is an important methodological part of this type of conferencing and serves as a transitional phase back to everyday life after an emotional and deep discussion.

This type of conferencing is intended to be used not only during the criminal procedure, but also in prisons, and beyond the criminal justice field, like in schools, workplaces, university dormitories, etc.

The role of the facilitator

The role of the facilitator(s) is not very different from the role of mediators described above. They invite and prepare participants to the conference, create a safe atmosphere for dialogues and facilitate the conversation. At the preparation phase their role is crucial to identify all those whose presence is important on the conference, and inform and invite them. The preparatory phase of a conference is therefore much more time-consuming than in a mediation, and the decision on who to invite can have an impact on the dynamics of a conference later. Chapman (2012, 75) states that in this phase "the skill is to identify and clarify what is the key question for each party and to explain that these questions can only be fully answered at the conference". On the conference meeting the most important role of the facilitator is to create a safe, just and controlled space free from domination which enables participants to share their stories and listen to each other (Chapman 2012, 77). Facilitators set the ground rules, but do not control the participants in any other sense and – according to their impartiality/multipartiality – never share their views or ideas about the conflict or the outcome. Whether following a script or not, their role can be seen as less directive than that of mediators. According to Chapman (2012, 73) the facilitator stages a conference "(p)rimarily by being in control of the process, (but not of the participants), which comprises three stages: inclusion, participation, and transformation." In some models, facilitators have a role in the follow-up phase and monitor the fulfilment or realisation of the plans or agreements.

Main goals of conferencing

According to Bazemore and Umbreit (2001) goals of conferencing include the following:

- Providing an opportunity for the victim to be directly involved in the discussion of the offence and in decisions regarding appropriate sanctions[15]for the offender.

- Increasing the offender's awareness of the human impact of his or her behaviour and providing the offender an opportunity to take full responsibility for it.

- Engaging the collective responsibility of the offender's support system for making amends and shaping the offender's future behaviour.

It can be noted, that from these goals only the third one seems to be different from the goals of mediation listed above, but this point is still lacking to mention the support on the victim's side.

For the ALTERNATIVE project, use of the conferencing model can be beneficial when a conflict caused harm to a wider group of people. Its added value to the possible positive effects of mediation is that the process helps people to better see that acts might have extensive consequences. In addition to affecting the harmed person, those around him/her, as well as those who care for the person responsible for the harm may also be affected. The model helps participants to be considered not only as affected persons, but also as possible source of support for the future. Working together on an agreement or plan might enhance cooperation between participants.

2.3 Peacemaking circles

A third model of restorative practice which has recently been introduced to Europe is peacemaking circles (or sometimes called, though not totally synonymous, sentencing circles or healing circles).

This model has its roots in the indigenous practices of First Nations from North America, where people started to use this model based on traditional peacemaking practices to deal with wrongful acts committed by mostly indigenous young people. At present, however, the model also serves as an alternative to criminal procedure in any kind of cases when considered appropriate. In the literature the terms peacemaking circle and sentencing circle are used interchangeably. The reason for this is that in North America circles are used to develop a sentence plan which can be approved by the judge. This sentence plan may contain elements of restoration, requirements for the offender to

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[15] Decision on formal *sanctions* depends on the model and on the legal framework the model used in.

undertake personal development and to desist from further offending, deprivation of liberties and possibly tasks for the community to help all these being achieved and support the victim and offender. From a legal perspective, in common law systems (such as England) it is possible for the sentence to be influenced by the outcome of the circle. In civil law systems (such as those of continental Europe) only the judge has the right and power to determine a sentence and it has to be in line with possible applicable sanctions defined by the law. Whilst the circle model might be used in civil law countries to achieve different outcomes according to the framework of each justice system, circles cannot generally be used in these countries to determine the content of a sentence. Therefore we suggest to use the term of peacemaking circles instead of sentencing circles in the European context. Moreover, in the context of the ALTERNATIVE project, the conflict does not have to be defined as a crime and the outcome of a circle does not necessarily have to be part of any sentence.

Although peacemaking circles seem to be a new way in modern Western communities to resolve conflicts, the idea of gathering in a circle to speak about issues which have an importance to the whole community is an ancient tradition in many different cultures. As Pranis *et al.* (2003) state in the preface of their book on using circles in criminal cases: "the essence of Circles *(sic)* isn't new but tested over millennia and in many different cultures'" Whilst the use of circles began as part of, or at least in relation to, the criminal process, community volunteers working in these early projects recognised that the process would be helpful in many other situations, which were not necessarily crime related. Therefore, the circle model quickly became used in contexts as varied as schools, neighbourhoods, workplaces and social services. The many different forms of circles are defined according to their main purpose. In addition to the above mentioned healing and sentencing circles, there are also talking circles, information circles, understanding circles etc. Here we will focus on peacemaking circles as a way of dealing with conflicts or criminal offences.

In relation to the criminal justice system, peacemaking circles "offered a way to include those harmed by crime, those who commit crime, and the community in a partnership with the justice system to determine the most effective response to a crime that would promote healing and safety for everyone" (Pranis 2005, 9). As highlighted above, the most important difference between the circles model and conferencing or mediation is

that in addition to communities of care, members of the wider community and state officials (police, prosecutors, probation officers etc.) are also present. Justice system representatives participate in the circle on equal footing with everybody else, as equal members of the community, without a special role or function. They share their personal views and contribute to the compilation of a restitution and reintegration plan in the same way as the other people affected by the incident. Moreover, community members who are not personally affected by the offence but who may have a stake in the issue or can contribute to a restorative outcome may also be included.

According to Pranis (2005), the goals of the peacemaking circle used in criminal settings include:

- developing support for those harmed by crime;

- deciding the sentence for those who commit crime;

- supporting those, who commit crime in fulfilling their obligations and

- strengthening the community to prevent crimes.

Main characteristics of the peacemaking circle model and role of the circle keeper:

1. Main underpinning philosophy - In this model there is a great emphasis on the interconnectedness of all humans. Circles are also based on a holistic approach and "consciously engage all aspects of human experience – spiritual, emotional, physical, and mental" (Pranis 2005, 12).

2. Seating arrangement - Participants sit in a circle of chairs without tables. Sometimes an object which has a meaning for participants, such as a candle or plants are placed in the middle of the circle to remind participants of shared values and common ground. The circle as a physical form symbolises shared leadership, equality, connection, and inclusion.

Pranis (2005) differentiates between five important structural elements of circles which aim to create a space in which participants feel safe and encourages them to share their experience:

1. Ceremony – Opening and closing ceremonies give a frame in time and space of the circle. Opening ceremonies (like reading, a story, music, prayer) help participants to shift from the ordinary life to the tone and pace of the circle. "Closing ceremonies acknowledge the efforts of the circle, affirm the interconnectedness of those present, convey a sense of hope for the future, and prepare participants to return to the ordinary space of their lives." (Pranis 2005, 33)

2. Using a talking piece - Another characteristic of this model is to use a talking stick or talking piece during the dialogue, which is passed around enabling the person holding it to speak, while others give attention to the one who holds it without the burden of thinking about what to answer. The talking piece itself can be any object but might have a symbolic meaning to the group or can refer to the issue of the circle. The use of a talking piece has multiple functions: (1) it regulates the dialogue as the talking piece is given consecutively from person to person; (2) it slows down the pace of conversation and encourages thoughtful and reflective interactions between participants; (3) the person holding the talking piece has the undivided attention of everyone else and can speak without interruption; (4) "allows for full expression of emotions, deeper listening, thoughtful reflection, and an unhurried pace" (Pranis 2005, 12); (5) the talking piece is a powerful equaliser, as it gives space for people to contribute, who may find it difficult to speak; (6) the talking piece never requires the person holding it to speak, but raises the attention for those, who can not contribute with their words; (7) for the talking piece to being passed physically, creates a connecting thread among the members of the circle.

3. The keeper – The circle process is facilitated by a keeper, whose main task is to set up a respectful and safe place, and to engage participants in sharing responsibility for this space and for their work. The keeper is the only one who can speak without holding the talking piece, but usually he or she rarely does so. An important difference with the role of a mediator or conference facilitator is that the keeper is not as neutral. He or she is part of the circle and may contribute with his or her experiences and stories. The keeper also serves as a role model of constructive and respectful communication. Concerning the

rules or guidelines of the circle, the keeper does not enforce but monitors the rules and in case of disrespect in the circle, starts a dialogue on the guidelines again. Usually two keepers facilitate a circle. "One of the most important characteristics of an effective keeper is the ability to let go of control, to share responsibility for both the process and the outcomes with the participants of the Circle" (Pranis 2005, 37).

4. The guidelines – Guidelines are set up by the participants of the circle with the aim of creating a safe space for their dialogue. It is important therefore, that it is not the facilitator who introduces the rules or guidelines of the circle, but the people present. In the first phase of the circle they are asked what they expect for themselves from the others in the circle or how could they contribute to create a safe and comfortable space for everyone. In case of disagreement, the keeper facilitates a discussion over the guideline proposed, its purpose and the concerns it raised. This process means that each circle has its own set of guidelines. However the practice shows that respect, honesty, speaking from the heart and confidentiality appear as the most common elements.

5. Consensus Decision-Making – In case the circle has to take decisions, the participants have to reach a consensus. "Consensus decision-making is grounded in a deep commitment to understand the needs and interests of all participants and to work toward meeting all of those needs" (Pranis 2005, 37). It does not mean that everybody has to be fully happy with the decision, but the minimum requirement is that they can live with it and can support its implementation. Although reaching a consensus is time consuming, it has the potential to reach a more democratic result, of which the implementation requires less time as people are already committed to act according to it. However, it has to be noted, that consensus decision-making is not a unique characteristic of circles as all restorative justice models are based on the idea of consensus.

Beyond these five structural elements Pranis (2005) highlights two more key elements of circles:

> - The importance of storytelling – "Circles are a storytelling process. They use the history and experience of everyone in the Circle to understand the situation and to look for a good way forward – not through lecturing or giving advice or telling others what to do, but through sharing stories of struggle, pain, joy, despair, and triumph." (Pranis 2005, 39) Participants, sharing individual stories find their way to understand each other, to connect to each other and with listening to those stories it becomes much harder to see somebody as the distant 'other'. Telling stories also helps people's self reflection and their understanding of what happened and how they have been affected. Being listened to also has an empowering effect on the storyteller.

> - Focusing on relationships – In a circle as much time is spent creating trust and connectedness between people and building understanding as on speaking about the issue or conflict itself and finding a consensus. Experience shows that without building trust and relationship between people, consensus possibly will not be able to be achieved or plans will fail to be realised.

The process of peacemaking circles

1. Is the issue or conflict suitable for a circle?

   The first step is to reflect on the conflict or issue and consider whether a circle would be the appropriate restorative justice model to handle it. One has to consider if all key parties are willing to participate, if there is a trained circle keeper available and whether there is enough time to organise and run the circle process on the issue. Another key element is to reflect on the conflict itself, as if there is not any community effect of the conflict (for example in case of a clear interpersonal conflict), or the issue is too sensitive to be shared openly with other members of the community. First of all, the need of the key parties has to be considered.

2. Preparation

   In this phase the possible participants have to be identified, prepared (information about the topic, the purpose of the circle and the nature of the process) and invited. Practical arrangements have to be made to have a suitable, big and accessible room available during the time of the circle.

   The keeper has to decide on a talking piece which has a meaning for the participants and plan an opening ceremony according to the envisaged participants.

   It is possible that not everybody involved in the conflict is ready to take part in a circle or it is hard for them to identify support people. In this case a healing circle for the victim and a circle of understanding or support for the offender might be helpful before convening the peacemaking circle (Stuart 2001).

3. Convening all parties in a circle

   The circle meeting has four different phases.

   I.   *Meeting and getting acquainted* – In this phase the keeper invites everybody to take a seat, welcomes the participants and thanks them for coming. After the opening ceremony he or she shares the purpose of the circle and introduces the talking piece.

   II. *Building understanding and trust* – This is the phase for developing guidelines to follow in the circle to create a safe and open space for the discussion. It is done by passing the talking piece and collecting promises or expectations of the participants concerning the way they want to be and communicate in the circle. After having a consensus on the guidelines, in the next round everybody is asked to introduce themselves and the keeper usually invites participants to share some positive personal experiences or stories together with their introduction. It might take time, but helps people to feel connected and helps them to move themselves from the roles they might have in the original conflict.

III. *Addressing Vision/Issues* – It is only in the third phase that the focus is turned towards the issue or conflict. People are invited to share their thoughts and feelings about the issue and in a second round to answer or react to what has already been said. Depending on the topic, more rounds might be necessary. During the last round, people are asked to share their experiences of the circle and give their closing comments on the issue.

IV. *Developing Plan, Sense of Unity* – The last phase of the circle is about finding solutions or a plan for the future (or developing a sentence in case it is a sentencing circle). Participants are invited to share their ideas for addressing harm and resolving the conflict. Decisions are made based on a consensus. When developing a plan, it is important to clarify responsibilities and time limits. A last round is dedicated to closing words of all, and a closing ceremony marks the end of the circle.

4. Follow-up

This phase is as important as the previous ones and has many goals. The model emphasises paying attention to the needs of the keeper as well, therefore for the two facilitators it is important to debrief after the circle meeting. Concerning the follow up of the issue and the participants, a follow up contact with the participants helps them to feel supported in the realisation of the plan. In case of failure, a new circle can be offered to define the obstacles, offer more support or create a new plan. It is also a phase when the keeper can learn about what worked and what did not for the participants. In some cases a circle can be convened to celebrate success.

Peacemaking circles in Europe

In Europe, there's a new and still on-going project[16] piloting to implement peace-making circles in criminal justice cases. The EU funded project happens in 3 European countries: Belgium, Germany, and Hungary. Through action research, in every country 10 to 15 circles are organised, observed and evaluated. The evaluation focuses

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[16] An EU funded pilot project on the application of peacemaking circles in Europe has been started in November 2011. More information:
http://www.law.kuleuven.be/linc/english/research/additionresearchpeacemakingcircles.html

particularly on satisfaction and the experience of all participating actors (victim, offender, support persons, community members, judicial actors).

The main research question of the project is: How can peacemaking circles be implemented in countries governed by the principle of legality?

However, it is not only the legal framework which makes the implementation of this practice challenging. It might be a challenge to implement a model which is strongly rooted in existing and well defined communities in Europe, where the borders and existence of such communities are not as clear anymore. This may raise the question of the need for preliminary community building methods to be used, or using the circle method to build communities before applying circles to resolve conflicts within intercultural settings in Europe. The first findings of the pilot project do demonstrate indeed, on the one hand, the challenges of defining 'community' (broader than the community of care) and to identify community members to be invited to the circle. On the other hand, the possible role of public prosecutors and/or judges in the circle process has to be clarified; there seem to be both practical (time restrictions) and legal obstacles in some countries.

Relevance of the circle model for the ALTERNATIVE project

Pranis (2005) emphasises the community building impact of the circle process. She considers communities as a weave made of relationships, and storytelling as a way to create and strengthen relationship. Using a metaphor she explains it as follows: "Relationships are like threads in the fabric of a community, and the shared values of the culture and community create the framework, or loom, for weaving the relationships together" (Pranis 2005, 59). As she points out, circles' most important contribution is that they strengthen relationships. Creating guidelines together for the circle can have an effect on agreeing on common values of desired behaviour and on respecting these values outside of the circle. The connections created in a circle process "increase the community's capacity to take care of all its members and to find solutions when problems arise" (Pranis 2005, 60).

3. Comparison of the main practice models

"What's in a name? That which we call a rose
By any other name would smell as sweet."
Shakespeare: Romeo and Juliet (II, ii, 1-2)

To summarise the description of the three main restorative justice practice models, in this paragraph we will highlight the common elements, as well as the main differences of the models.

Common features of the three models are: bringing together people affected by a harmful conflict with the aim of building on their capacities to resolve the issue; establishing responsibility and trust between participants and helping them to find a solution together for the future; restoring the victim and preventing the harmful conflict escalate or happen again. The dialogue is facilitated by one or two neutral third persons (mediator, facilitator or circle keeper), who do not make decisions in the case but organise and lead the process. The involvement of the people present is based on the principle of voluntary participation and they are encouraged to participate actively in the process of the resolution of the conflict. All practice models reflect on a set of restorative values such as respect, collaboration, empowerment and voluntariness (see Raye and Roberts 2007, 217).

As the dialogue seems to be a fundamental element of all restorative justice practice models, as well as for our framework of restorative justice approaches in the project– Raye and Roberts (2007) call dialogue the spirit of restorative justice – the following part highlights the similarities of the practice models mentioned in the literature according to the concept of dialogue.

> In the literature of management and conflict resolution, the term "dialogue" has been given special meaning, contrasting with the terms "debate" and "discussion". In debate and discussion, we try to persuade others to accept our views. The model is one of competition in which one view defeats others. Dialogue has a different aim and dynamics. The goal isn't for one side to win but for a wider understanding to emerge. Hence dialogue invites a shared journey which enriches everyone. As William Isaacs notes, a dialogue is "a conversation with a center, not sides". This center – what's held in focus – involves an expanded appreciation of

ourselves and others, of each other's interests, and of our connectedness (Pranis 2003, xvi).

Umbreit and Armour (2011, 76-77) summarise the common features of the three main restorative practice models from the dialogue point of view as follows:

> All have in common the following: the inclusion of victims and offenders in direct dialogue, nearly always face-to face, to address a specific offense or infraction; the presence of at least one third party who serves as mediator, facilitator, convener, or circle keeper; and usually, advance preparation of the parties so that they will know what to expect. The focus of the encounter nearly always involves naming what happened, identifying its impact, and coming to some common understanding, which often includes reaching an agreement as to how any resultant harm will be repaired.

Van Ness (2001, 76-78) writing about the encounter as a main component of a restorative justice system, lists the meeting, the narrative, the emotion, the understanding and the agreement as its main elements. He does not use the term dialogue, however emphasising the importance of the meeting of the parties, the possibility to talk about what happened, about how it affected them and how to address the harm done, the openness of the process towards showing emotions which helps to reach a better understanding of each other, the crime and its implications. Later he argues, that restorative justice offers the victim, the offender and the affected community the opportunity to participate meaningfully in the justice process, especially in comparison with the traditional criminal justice processes, where the victim may participate only as a witness for the interest for prosecution, and the offender's participation is limited by the defence lawyer's strategies.

Raye and Roberts (2007, 217) discuss the similarities and differences of the three restorative practice models from the perspective of the dialogue. They state that

> common characteristic among all restorative processes is the use of narrative, or storytelling, as a means to communicate thoughts and feelings among the group members. (...) This type of interaction draws participants into the conversation and increases the likelihood that they will be fully present – physically, emotionally, intellectually and even spiritually.

They also highlight that practices in all three models give the opportunity to participants to tell their stories, to discuss issues and to come to a common understanding. In each of the models introduction, explanation of the process and closing part can be found, however they might differ in their forms.

The clearest difference between conferencing and victim-offender mediation is the number of participants. In conferencing, not only the victim and the offender are present, but also their support persons (also considered as their community of care), and in some conferences people from the larger community. The latter is also true for circles, where these particular participants are not the main stakeholders in a conflict, and are not identified as support persons. This enables them to focus better on the issue and support the process rather than any participant. Although consensus decision-making is a common characteristic in all models, the dialogue process 'until reaching a consensus' is different, as it was described in the descriptions above.

Table 1. summarises the comparison of the three main practice models according to different aspects.

Table 1. – Comparison of mediation, conferencing and circles.

	Mediation	**Conferencing**	**Peacemaking Circles**
Facilitator	Mediator	Facilitator (in some models police officers, called coordinators)	Circle keeper (usually two)
Role of the facilitator	Impartial and neutral, sets the rules and creates structure	Impartial and neutral, sets the rules and creates structure	Impartial but not neutral
Participants	Mediator, victim, offender are standard participants. Parents of minors are often involved. Others occasionally present but not always involved in the dialogue.	Facilitator identifies key participants. Close kin of victim and offender invited. Police, social services, or other support persons also invited. Broader community not encouraged to participate.	Judge, prosecutor, defence counsel participate in serious cases. Victim(s), offender(s), service providers, support group present. Open to entire community.

	Mediation	**Conferencing**	**Peacemaking Circles**
Process and protocols	Usually the victim speaks first. Mediator facilitates but encourages victim and offender to speak, does not adhere to script. Consensus decision-making.	Australian Wagga Wagga model: facilitator follows script in which offender speaks first, then victim and others. New Zealand: model not scripted, usually the offender speaks first, allows consensus decision-making after private meeting of family members.	Keeper opens session and allows for comments from judge. Prosecutors and defence present legal facts of case (for more serious crimes). All participants allowed to speak when "talking piece" (e.g. feather or stick) is passed to them. Consensus decision making.
Preparation	Face-to-face or phone call/letter preparation with victim and offender to explain process.	Phone, letter or face-to-face contact with all parties to encourage participation and explain process. New Zealand model requires face-to-face visits with offender, offender's family, and victim.	Extensive work with offender and victim prior to circle. Invitation and preparation of community members. Explain process and rules of circle.
Who sets the rules	Mediator – participants have to agree	Facilitator – participants have to agree	By consensus of the circle participants
How the dialogue is managed	Mediator manages with open ended questions	Facilitator manages, in some models following a script of questions	After keeper initiates, dialog managed by process of passing talking piece.
Understanding of the conflict in general	Interpersonal	Interpersonal with affected family and community members	Community issue
Primary outcome(s) sought	Allow victim to relay impact of crime to offender, express feelings and needs; victim satisfied with process; offender has increased awareness of harm, gains empathy with victim; agreement on reparative plan.	Clarify facts of case. Denounce crime while affirming and supporting offender; restore victim loss; encourage offender reintegration. Focus on "deed not need" (i.e. on offense and harm done, not offender's needs). Some emphasis on collective accountability.	Increase community strength and capacity to resolve disputes and prevent crime; develop reparative and rehabilitative plan; address victim concerns and public safety issues; assign victim and offender support group responsibilities and identify resources.
Other aspects		- Some models give time for the offender and his/her family for private discussion. - In some models an informal refreshment section follows the conference	Community members are not present as supporters – they can either support any sides (balancing role) or give a voice to the community implications of the issue
	Mediation	**Conferencing**	**Peacemaking Circles**

| Elements of particular importance for intercultural settings | Intense dialogue between a few people; safe environment; confidentiality strictly respected | Active role of extended family and community of care; support by social services, schools, ...; involvement of police might offer security but might also hinder communication | Starting point: 'it is *our* problem', fundamentally a community approach; initiated by a search for common values (and differences); presence of public prosecutor/judge a strength or a weakness |

Based on Bazemore and Umbreit (2001) and Ehret (2012).

4. Broader models of a restorative justice approach

4.1 Zwelethemba

The Community Peacemaking Programme in South Africa was started in 1997 as an experiment. The program aims to help local communities to develop and run community based conflict resolution process by setting up local peace committees. The first experiment started in Zwelethemba (which means 'the place of hope' in the Xhosa language), a township 120 km outside Cape Town of mostly poor, black inhabitants. The model developed here is now used in many other towns in South Africa and has also been piloted in Argentina Canada, Australia, Brazil and Uganda.

Peacemaking and peace-building

The model has two different aspects. As Shearing (2001) describes, one aspect is concentrating on problem-solving, while the second aspect of the model is concerned with sustaining the processes over time. The problem solving aspect also has two directions, namely peacemaking and peace-building. Peacemaking, which will be discussed in more detailed later, concentrates on resolving disputes and conflicts between individuals whilst peace building attempts to identify and resolve generic issues to prevent and reduce certain prevalent problems in the community. The latter is enhanced by the funding system of the model: 30% of the funding received for each peacemaking gathering is made available for peace building activities (such as creating a children`s playground, addressing poverty and a/the lack of basic amenities or addressing unemployment providing micro-credit to enable small business start-up). As Jenneker and Cartwright (2006) note, the peace building process broadens the Zwelethemba model from a conflict management model to a governance model. Roche

(2002) sees the attempt to address the structural conditions that underline offending as the most important difference between Zwelethemba and other restorative justice programs.

With respect to the process of peacemaking applied in this model, the focus is on local capacity and knowledge being brought together to find a solution to a specific conflict. There is no specific requirement in terms of the form and the content of the outcome. Various kinds of conflict are brought, mainly by the harmed party, to local peace committees. These committees are comprised of lay local people acting as peacemakers who follow a brief Code of Good Practice[17] . According to Roche (2002, 524) "peace committees use a collective deliberative decision-making process involving the people immediately affected by an incident". At the start of peace gatherings the disputing individuals are separated and members of the peace committee take written statements from each party. Peace committee members then present these statements to the gathering, which consists of the disputants, their families and other interested members of the community (Roche 2002). According to Shearing (2001, 38) this "procedure brings together what may be thought about as not simply as what John Braithwaite calls a "community of care" but a "community of life" - that is, a community drawn from the collectivity within which one lives one's daily life". Peace committee members guide the gathering towards finding a solution for the problem. They are not allowed to use any kind of force, however they are free to give advice. Once a solution has been reached, the group appoints a member to monitor the agreement.

As there are no eligibility criteria settled, the model can tackle conflicts in an early stage (minor conflicts, which are not serious enough to be reported to the police or to initiate any legal procedure) and prevent their escalation process in time. This model does not require the wrongdoer to make any admission before or during the gathering. As Froestad and Shearing (2005, 18) observe, on the gathering strong emotions can be displayed, however emotional transformation is not the goal of the process. The key question guiding the process is "how do we make a better tomorrow?" As peace gatherings are held usually within five days of the offence, this model offers a prompt reaction to wrongdoing (Roche 2002, 524).

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[17] http://www.ideaswork.org/ourcode.html

Roche (2002, 514) argues that the Zwelethemba peace committees display the core elements of restorative justice, while pursuing a more ambitious agenda (referring to the fact that the program tackles underlying problems of the communities).

For the ALTERNATIVE project the Zwelethemba model might be interesting example of a long term strategy for enhancing self-government and using local capacities and restorative justice approaches to tackle conflicts in communities in a sustainable way.

4.2 Social mediation/ community mediation/ neighbourhood mediation

The action research within the ALTERNATIVE project extends beyond the field of criminal justice and intervenes in micro-, meso- and macro levels of conflicts (see Foss et al. 2012). In addition to the main restorative justice practice models presented above, it should be noted that restorative justice approaches (mainly mediation) have been already practiced in this area. The terms found in the literature to refer to these conflict resolution practices include among others social mediation, community mediation, neighbourhood mediation and community conflict resolution. These practices have in common an aim to resolve interpersonal conflicts that occur mostly in people's life-worlds (e.g. in their neighbourhood, workplace, school etc.) mostly outside the legal system, with a help of a third party mediator who encourages disputants to participate peacefully to resolve their conflicts. Social mediation has a general goal of improving the quality of life within communities. Not only the term used, but the scope of these practices are differ across Europe. Mestitz and Ghetti (2005, 322) refer to social mediation in an Italian context as new field of mediation practice from the late 1990s, dealing with parental disputes in divorce, conflicts among students at schools or among neighbours. Albrecht (2008, 69) mentions school mediation and "inter-cultural neighbourhood mediation" as social mediation in the Scandinavian context. She explains the term being used "for mediation in inter-personal or relational conflicts in contrast to mediation in legal cases (criminal and civil cases)." Liebmann (1998, 3) uses the term "'generalist' mediation service" for community mediation services in the UK, referring to the fact that they deal with a very wide range of conflicts from the interpersonal level (neighbourhood of family disputes) to disputes over wider community matters as well as conflicts between larger groups and organisations.

Peper and Spierings (1999) evaluate experiments with community mediation in the late 1990s in the Netherlands.[18] They define community mediation as "a form of mediation designed especially for neighbours (and other community members) to resolve their mutual conflicts outside the legal system and inside the local community". They name these conflicts "lifeworld conflicts" and describe them as ongoing struggles stretching over long periods of time, usually beginning with a lifestyle difference, which is merged with class and/or race differences. These conflicts may have minor financial impact, but are not minor conflicts from a socio-psychological perspective as these 'nuisances' "can intrude physically on a person's sense of privacy and safety". Peper and Spierings bring attention to the difference between neighbourhood problems (meso-level) and problems with neighbours (micro-, or interpersonal level). They claim that "neighbourhood problems are mostly socio-economic problems, while problem between neighbours are mostly lifestyle conflicts" (Peper and Spierings 1999, 502). The authors suggest that ignoring this difference might affect the success of implementation of community mediation.

New trends in Scotland may be sign of attention to the distinction of neighbour (interpersonal) and neighbourhood conflicts. In Scotland, community mediation is reported by McDonough (2013) as being well-established and widely used. A recent trend there is that community mediation services widen their scope and start to work with larger groups of people, even with whole streets. As McDonough argues, while mediation as an interpersonal conflict resolution method sometimes fails to resolve the deeper conflicts and the social issues behind them, this new approach of community mediation may contribute to the strengthening and development of disadvantaged groups and communities through making their views heard.

Social mediation as such cannot be described as a practice or intervention model, but rather as a context of conflict resolution. Although under different names, mostly mediation is used as a practice model in this area to resolve conflicts within neighbourhoods, schools, workplaces and other communities. As a new direction, social mediation might turn its focus to work with larger groups of people, however practices used in this area still have to be investigated.

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[18] The model of the experiment was based on the practice of San Francisco Community Boards in the United States developed from the 1970s. The core element is a representative board of volunteering community members who are trained to work as mediators to resolve neighbourhood conflicts.

4.3 Nonviolent Communication

Marshall B. Rosenberg, creator of Nonviolent Communication explains the four components of nonviolent communication as (1) observations free from judgement and from interpretations; (2) expressing feelings based on the observation; (3) communicating needs and values that are creating those feelings and (4) sharing clear requests of actions to meet the needs (Rosenberg 2003, 7). This method concentrates, on the one hand, on self-expression based on the four components above and, on the other hand, on active listening and empathy. Rosenberg (2003, 8) notes that nonviolent communication is not a set formula, but a process, or language, which can be adapted, e.g. to different cultural styles. Itcan be used for self-reflection as well as in many communication situations, referring to conflicts among them. This way of communication helps people to connect with each other and develop feelings of compassion. Further, Rosenberg (2003) argues that compassion is blocked by moralistic judgements, making comparisons, denial of responsibility and expressing demands, which in turns leads to being violent towards ourselves and towards each other. The method of nonviolent communication helps to recognise, unlearn and replace these forms of communication.

Rosenberg sees violence as an expression of one`s unmet feelings and needs. As Dickinson (1998, 57), a trainer and practitioner on the field of nonviolent communication explains, its main aim is to encourage people to "listening empathetically to the feelings and needs underneath violent messages, rather than concentrating upon the words themselves." According to Rosenberg (2003, 148-154) blaming and punishment are superficial expressions of anger. Behind the feelings of anger, there are again unmet needs and in a conflict situation it is more constructive to express those needs instead of blaming or punishing. While he accepts the protective use of force, especially to prevent injury or injustice, the punitive use of force "tends to generate hostility and to reinforce resistance to the very behavior we are seeking" (Rosenberg 2003, 169).

What is the connection between restorative justice approaches and nonviolent communication? In his booklet on using this method in conflict resolution, Rosenberg (2005, 1) refers to himself as a mediator resolving conflicts for more than 35 years both between individuals and between smaller and larger groups of people. Explaining how

nonviolent communication is used to resolving conflicts peacefully, he distinguishes between two steps of the process. First, the goal is to create a caring and respectful quality of connection between people. Just after this phase people can be engaged in the second level, which is a search for strategies to resolve the conflict. The third element he emphasises is the nature of the resolution. Instead of looking for a compromise, although he does not use the word consensus, he explains the outcome as of being everyone's complete satisfaction. Referring to the role of the 'mediator' Rosenberg (2005, 2) states that it is not about "getting people to do what we want", but about creating conditions whereby everyone's needs can be met.

It can be easily seen the parallel between nonviolent communication-based conflict resolution and the values and goals of restorative justice approaches. There are many common points, such as creating a safe environment for a respectful dialogue, engaging affected conflict parties on a voluntary basis, focusing on needs, looking for consensus, and the multipartial, non-judgemental role of the mediator. Moreover, some nonviolent communication practitioners offer a new mediation approach, called NVC[19] mediation (see Lasater 2009, Lasater and Kinyon 2010).

Without explaining nonviolent communication more in depth here, I conclude that it might be a useful approach for restorative justice practitioners, as well as a technique worthy of being taught for people in conflict situations, especially based on the transformative conception of restorative justice explained above. For the specific context of the ALTERNATIVE project, the emphasis on needs it is highly relevant. Rosenberg states that needs are universal, "regardless of gender, educational level, religious beliefs, nationality" (Rosenberg 2005, 4). The difference between individuals lies in their strategies for fulfilling these needs, and making a conscious separation of needs from strategies facilitates conflict resolution. Rosenberg believes that when people listen to other's feelings and needs, they no longer see the other as "monster". Moreover, he states that the more one empathises with the other party, the safer he or she feels (Rosenberg 2003, 115). Responding to the criticism on mediation as an approach based on Western culture, Lasater (2009, 7-8) states that NVC mediation has proved to be a useful method in various cultural contexts.

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[19] NVC is the common abbreviation for Nonviolent Communication.

5. Using restorative justice approaches in conflicts in intercultural settings

The Report on conflicts in intercultural settings (Foss *et al.* 2012) in the ALTERNATIVE project[20] has already dealt with, among others, the concepts of conflict, culture, intercultural settings and ethnicity, and how they can be understood within the framework of our project. We consciously and deliberately decided to conceptualise our scope as the application of restorative justice approaches in conflicts in intercultural settings rather than using the formulation 'intercultural conflicts'. According to Foss et al. (2012, 24) "'Intercultural settings' is the broader concept – it includes conflicts around issues other than those pertaining to 'culture', and does not presuppose that difference in 'culture' is a primary problem in itself." They state that "ideas about 'culture' are often mobilised during the escalation of a conflict between people from different backgrounds and perceived as a representative of 'cultural differences', whereas the root of the conflicts may not have anything to do with differences in culture in itself". Although people in conflict may frame their conflict as intercultural, in reality the conflict may have very different roots, like differences in gender, class, generation, economic situation, values etc. Restorative justice approaches are usually needed when the conflict escalated to a level at which parties are unable to resolve their own conflict with dialogue anymore. As Foss *et al.* (2012, 34-35) explain the escalation process of conflicts and the role of culture plays in:

> A further escalation of conflict normally implies that the dialogue between the parties ends at a certain level, hence the need of a neutral third party facilitator/mediator. Further up the 'conflict escalator', polarisation and enemy images come into play, legitimising violence and destruction of 'the other'. Here 'culture', religion, ethnicity and other identity markers are mobilised as legitimizing means in physical, psychical, cultural or structural violence. People mobilised into a polarised conflict on a higher conflict level may be unaware of the former 'root-conflict', hence adopting the enemy images and concerns of the conflicting groups.

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[20] The report can be downloaded from: http://www.alternativeproject.eu/publications/public-deliverables

Restorative justice processes address "the hurt feelings and unmet needs of the parties in conflict, where they themselves define these needs and feelings" (Foss *et al.* 2012, 35). What we have to take into consideration is that interpretations of intentions and caused effects, as well as considering an act violent "to a certain extent may be culturally relative" (Foss *et al.* 2012, 38).

Albrecht (2009) presents research conducted in Norway and Finland by interviewing mediators about their experiences mediating cases involving immigrant or refugee parties. In general mediators agreed that mediation is an effective means of conflict resolution in cross-cultural cases. In line with Foss *et al.* (2012) this research found that interpretations of concepts such as justice, guilt, shame, reconciliation and forgiveness, as well as the grade of significance of these, does differ according to different cultural backgrounds of disputants. She argues that restorative justice might be an appropriate tool for conflict resolution for immigrants or refugees for more reasons. First, in some cases it is closer to the traditional conflict resolution methods of some cultures, than legal procedures (however she notices that is not always true). Second, mediation is more understandable and flexible than legal conflict resolution possibilities. Third, it aims to balance differences in power, reducing the effects of power imbalance in the court room through, for example, differences in financial resources. Concerning cases when cultural difference itself appeared to be a cause of conflict, Albrecht (2009, 73) mentions cases when the participants had motivation to resolve their specific conflict, in spite of ongoing or historical violent conflicts between their nations or countries of origin (e.g. between Serbs and Albanians, or between Kurds and Iraqis). It appears that individual motivation of the parties to resolve the conflict had an important role in successfully mediated cases.

Albrecht (2009, 73) also found that restorative justice is not practiced in cases of racist or hate crime in Scandinavia. Considering that the Nordic countries have been pioneers of restorative justice it shows that in the area of hate crime and racism the use of restorative justice approaches in Europe are still exceptional. Gavrielides (2012) considers hate crime treated as a 'grey area' for restorative justice practices due to the power imbalances in these specific conflicts and because of hate crime is more and more seen as part of inter-community tensions rather than only individual conflicts. However, there are some interesting examples to refer to. Gavrielides (2012) briefly explains seven

different cases from the UK, the US and beyond in which restorative justice practices (mainly, but not exclusively mediation) were used in case of hate incidents. He concludes that a restorative justice dialogue may help to break down the fears, stereotypes and causes of hate crime. Walters and Hoyle (2011) explore hate crime and community mediation from the experiences of victims in these cases. They argue that while hate crime was originally conceptualised as acts of hatred committed by strangers, there is an "everyday world" of hate conflicts between people known to each other (neighbours, colleagues etc.). As these conflicts tend not to be isolated incidents but rather to be ongoing during the conflict situation, both parties can be responsible for harmful behaviour. Therefore, in some cases, it is impossible to identify a clear victim or offender. They argue (Walters and Hoyle 2011, 9) that restorative justice responses have to focus on the context and the relationship that exists between the parties, rather than only on the narrower focus on the cause and effect of a single incident. After observing mediation cases[21] and conducting interviews with participants they conclude that "for many participants the process provided emotional benefits including reductions in levels of anger, anxiety and fear." Additionally, in most cases after the mediation process incidents did not occur again.

Umbreit *et al.* (2003) present a successful two year community peacemaking project conducted in the USA. In this project different restorative justice practices were used to respond to hate crimes, hate incidents, intolerance and violence. Umbreit *et al.* find dialogue the most important common point of their practical approaches, including the use of mediation and circles from interpersonal conflicts to huge community meetings. Their report provides valuable descriptions of the different steps taken during the project as well as describes the challenges. Further it outlines useful approaches to engaging and working with different community members and organisations on the different conflict sites. This project offered restorative dialogue not only to resolve interpersonal conflicts, but also as a tool for prevention of conflict escalation in situations of general tensions. They also show how different restorative justice approaches might be usefully combined to serve different needs around the same conflict issues.

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[21] The research was carried out within the Hate Crimes Project at Southwark Mediation, South London.

Restorative justice practice and cultural differences

According to LeBaron (1998), who writes about how cultural differences influence the practice of mediation, mediation practiced without attention to the cultural values of the parties will unconsciously reflect the values of the system from which it is conceived. She argues that parties' values are more than just interests, they are complex worldviews. Furthermore suggests that the exploration of these values should be a legitimate part of the mediation process as in this way "they become part of the discourse out of which a solution comes rather than an invisible part of the fabric subject to delegitimation by those who have the most resources or those who can fit their narrative best into a culturally-bounded mediation process." She advocates for effective multicultural mediation practice, which consists of flexible models and also practitioners who are responsive, creative, innovative, and who have a deep awareness of culture (both of the self and of others). While LeBaron argues for including dialogue on possible differences of values in the restorative justice processes, Albrecht (2009, 75) mentions some arguments against it: "(...) interviewees at the mediation offices agreed that it would be wrong to make cultural differences a matter of discussion since all people are supposed to be equal in the mediation, regardless of their cultural background." Interviewed mediators saw it as a potential danger of emphasising 'otherness' and possibly creating a wider gap between participants. On the contrary, in the context of hate motivated conflicts Walters and Hoyle (2011, 16) see the discussion of the causes and effects of prejudice as crucial both for repairing the harms as well as for generating more tolerant attitudes.

It might be interesting for the ALTERNATIVE project to consider the two-mediator model, in order to aim at representing and balancing between people from different cultural backgrounds present in the conflict situation.[22] One additional value of this can be that the cooperation between the mediators of different cultural backgrounds may serve as a model for the disputants and for the communities. In the meanwhile, focus on 'mixed mediator teams' based on their cultural background might be contra-productive[23] in a sense that it emphasises the cultural differences between parties (while we argue that the root conflict might not has anything to do with the cultural difference).

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[22] See for example Mason and Kassam (2011) or Bercovitch and Foulkes (2012).
[23] See for example Albrecht (2009).

Experiences gained during the action research in this project might be able to show how useful this approach in practice might be.

Concerning the cultural appropriateness of dialogue in restorative processes suggestions from Umbreit and Armour (2010, 274) are in line with LeBaron (1998):

> To repair or restore relationships, personal or communal, damaged by criminal or delinquent acts is a challenging goal in any circumstance. When participants – including victims, offenders, family members, support people, and program staff – are of differing cultures, typical patterns of communicating and expressing values can lead to confusion if not complete disruption of the process. In order to arrive at a just and healing response to the crime by those most directly affected by it, the views of all involved parties need to be considered. However, the likelihood of repair and restoration of relationships is increased by the extent to which facilitators take the time to know and understand the differing communication styles and worldviews of the participating individuals.

Maxwell (1993), writing about the New Zealand family group conferencing, states some elements of a culturally appropriate (restorative justice) practice. According to her, being culturally appropriate means on the one hand *culturally appropriate process* (in the New Zealand case allowing families to choose their own procedures and the time and place of meetings) and, on the other hand, *culturally appropriate ways of providing services* (developing and funding a range of services to suit different cultural needs and wishes, operated by people sensitive to that culture).

In the ALTERNATIVE project restorative justice approaches will be applied in four different intercultural settings through action research. Regardless of the practice model or approach, the research has to reflect on how and to what extent the interventions applied are based on restorative justice values.

In using restorative justice approaches in intercultural settings we have to keep in mind that in addition to the meaning of concepts like conflict, harm, restoration, apology and forgiveness, the ways in which they are expressed and communicated might differ according to different cultural backgrounds. The action research, therefore, might be able to reflect on these possible differences and how facilitators experience and address them. This raises questions about how facilitators can work towards helping the parties

to better understand each other. Whether it is appropriate and helpful to include the topic of cultural differences in the dialogue? Whether it is possible to engage people in meaningful dialogue about the resolution of their conflict? What are the experiences of having one or two mediators/facilitators dealing with a conflict? What are the effects of representing the different cultural backgrounds present on the practitioners side as well? Reaching a formal agreement during the dialogue is not necessarily essential in this project. More important is the question of whether we can, through the use of restorative justice approaches, encourage reparation of harm and attempts to agree on norms of peaceful coexistence. Furthermore, there is also a question around whether achieving this through restorative justice approaches can lead to the empowerment of participants, strengthen communities and bring understanding, safety and peace to everyday lives.

Bibliography

Aertsen, Ivo, Robert Mackay, Christa Pelikan, Jolien Willemsens and Martin Wright. 2004. *Rebuilding community connections - mediation and restorative justice in Europe*, Strasbourg: Council of Europe Publishing.

Albrecht, Berit. 2008. "The Cultural Dimension of Restorative Justice: The Case of Immigrants Refugees in Norway and Finland" In *CPS working papers No.11*. 68-77. Tromsø: Centre for Peace Studies (CPS), University of Tromsø.

Bazemore, Gordon and Lode Walgrave. 1999. "Restorative juvenile justice: In search of fundamentals and an outline for systemic reform". In *Restorative juvenile justice: Repairing the harm of youth crime*, edited by Gordon Bazemore and Lode Walgrave, 45-74. Monsey: Criminal Justice Press.

Bazemore, Gordon and Mark Umbreit. 2001. "A Comparison of Four Restorative Conferencing Models" *Office of Juvenile Justice and Delinquency Prevention Bulletin* February:1-20.

Bercovitch, Jacob and Jon Foulkes. 2012. "Cross-cultural effects in conflict management: Examining the nature and relationship between culture and international mediation." *International journal of cross cultural management*, 1:25-47.

Boserup, Hans. 2004. "Advanced techniques and dilemmas in mediation, the issue of autonomy and social control in particular." Paper presented at the Third Conference of the European Forum for Victim-Offender Mediation and Restorative Justice "Restorative Justice in Europe: Where are we heading?", Budapest, Hungary, 14-16th October 2004

Boszormenyi-Nagy, Ivan and Barbara R. Krasner. 1986. *Between give and take: A clinical guide to contextual therapy*. New York: Brunner/Mazel.

Braithwaite, John. 1989. *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.

Braithwaite, John. 2004. "Restorative Justice and De-Professionalization." *The Good Society* 13(1):28–31.

Bush, Robert A. Baruch and Joseph P. Folger. 1994. *The promise of mediation: responding to conflict through empowerment and recognition*, San Francisco: Jossey-Bass.

Chapman, Tim. 2012. "Facilitating restorative conferences" In *Conferencing and restorative justice - International Practices and Perspectives* edited by Estelle Zinsstag and Inge Vanfraechem, 65-82. Oxford: Oxford University Press.

Christie, Nils. 1977. "Conflicts as property." *British Journal of Criminology* 1:1-15.

Christie, Nils. 2013 (forthcoming). "Words on words." *Restorative Justice: An International Journal* 1(1).

Cobb, Sara and Janet Rifkin. 1991. "Practice and Paradox: Deconstructing Neutrality in Mediation." *Law and Social Inquiry* 16:35-62.

Delattre, Regina and Jolien Willemsens. 2004. *"Working towards the creation of European training models for practitioners and legal practitioners in relation to restorative justice practices."* Final Report JAI/2003/AGIS/129. Leuven: European Forum for Victim-Offender Mediation and Restorative Justice

Dickinson, Trish. 1998. "Non-violent communication, compassionate communication" *Medicine, Conflict and Survival*, 14:1, 56-62. http://dx.doi.org/10.1080/13623699808409372

Ehret, Beate. 2012. "Peacemaking Circles - A Restorative Justice Approach to Extrajudicial Conflict Resolution." Presentation held in Leuven on the 6th December 2012

Foss, Espen Marius, Sarah Cicilie Hassan, Ida Hydle, Marie Louise Seeberg, and Bettina Uhrig. 2012. *Deliverable 2.1.: Report on conflicts in intercultural settings*. Oslo: NOVA.

Froestad, Jan and Clifford Shearing. 2005. "Practicing Justice - The Zwelethemba Model of Conflict Resolution." In *Justicia Restaurativa, Brasilia*, edited by Catherine Slakmon, Renato Campos Pinto de Vitto and Renato Sócrates Gomes Pinto, 79-123. Brazil: Ministero da Justica do Brasil.

Gavrielides, Theo. 2012. "Conceptualising and contextualising restorative justice for hate crimes" In *CRIMSOC* I/1.

Hydle, Ida. 2012. "Youth Justice and Restorative Justice in Norway" in *Restorative justice today: practical applications* edited by Katherine Van Wormer and Lorenn Walker, 63-74. California: SAGE Publications.

Jenneker, Madeleine and John Cartwright. 2006. "Mobilising local knowledge and capacity through safety and security", In *Justicia Restaurativa, Brasilia*, edited by Catherine Slakmon, Renato Campos Pinto de Vitto and Renato Sócrates Gomes Pinto, 747-762. Brazil: Ministero da Justica do Brasil.

Johnstone, Gerry and Daniel W. Van Ness. 2007. "The meaning of restorative justice" In *Handbook of Restorative Justice* edited by Gerry Johnstone and Daniel W. Van Ness, 1-23. Cullompton: Willan Publishing.

Lasater, Ike with Julie Stiles. 2009. "What is NVC Mediation: A Powerful Model for Healing and Reconciling Conflict." http://wordsthatwork.us/site/resources/articles/ Accessed 20th January 2013.

Lasater, Ike and John Kinyon, with Julie Stiles. 2010. "Mediation and Mediator Self-Care: A Nonviolent Communication Approach". http://wordsthatwork.us/site/wp-content/uploads/2010/11/lasater.i.pdf Accessed 20th January 2013.

LeBaron, Michelle. 1998. "Mediation and Multicultural Reality." *Peace and Conflict Studies* 5:1.

Liebmann, Marian (ed.). 1998. *Community & Neighbour Mediation*. London: Cavendish Publishing

Liebmann, Marian (ed.). 2000. *Mediation in context*. London: Jessica Kingsley Publishers.

Liebmann, Marian. 2007. *Restorative Justice - How it works*. London: Jessica Kingsley Publishers.

Linden, Jon. 2001. "Mediation Styles: The Purists vs. The "Toolkit"." http://www.mediate.com/articles/linden4.cfm Accessed 5th September 2012.

MacRae, Allan and Howard Zehr. 2004. *The little book of Family Group Conferences, New Zealand Style*. Intercourse: GoodBooks.

Mason, Simon J. A. and Sabrin Kassam. 2011. "Bridging Worlds: Culturally Balanced Co-Mediation." *Politorbis* 52:2. http://www.css.ethz.ch/publications/pdfs/Politorbis-52-69-74.pdf

McCold, Paul. 2000. "Toward a Holistic Vision of Restorative Juvenile Justice: A Reply to the Maximalist Model." *Contemporary Justice Review* 3(4):357-414.

McCold, Paul and Ted Wachtel. 2002. "Restorative Justice Theory Validation." In *Restorative Justice: Theoretical Foundations* edited by Elmar G. M. Weitekamp and Hans-Jurgen Kerner, 110-142. Cullompton: Willan Publishing.

McCold, Paul. 2004. "Paradigm Muddle: The Threat to Restorative Justice Posed by Its Merger with Community Justice." *Contemporary Justice Review: Issues in Criminal, Social, and Restorative Justice* 7:1:13-35.

McDonough, Ian. 2013. "A Guide To Community Mediation in Scotland." http://mediationdigest.com/index.php?option=com_content&view=article&id=208:ian-mcd&catid=8&Itemid=101 Accessed 25th January 2013.

Mestitz, Anna and Simona Ghetti. 2005. "Victim-offender mediation and youth offenders: the Italian experience" In *Victim-Offender Mediation with Youth Offenders in Europe* edited by Anna Mestitz and Simona Ghetti, 321-345. Springer.

Morris, Allison and Gabrielle M. Maxwell. 1993. "Juvenile Justice in New Zealand: a New Paradigm." *The Australian and New Zealand Journal of Criminology*, 26/1:72-90.

Pali, Brunilda. 2013. "Alternative epistemologies of justice and security." Project work document.

Pali, Brunilda and Christa Pelikan. 2010. *Building Social Support for Restorative Justice - Media, civil society and citizens*. Leuven: European Forum for Restorative Justice.

Peper, Bram and Frans Spierings. 1999. "Settling disputes between neighbours in the lifeworld: an evaluation of experiments with community mediation in the Netherlands." *European Journal on Criminal Policy and Research* 7:483-507.

Pranis, Kay. 2005. *The little book of circle processes: a new/old approach to peacemaking*. Intercourse: Good Books.

Pranis, Kay, Barry Stuart, and Mark Wedge. 2003. *Peacemaking Circles, from crime to community*. St. Paul: Living Justice Press.

Raye, Barbara E. and Ann Warner Roberts. 2007. "Restorative processes." In *Handbook of Restorative Justice* edited by Gerry Johnstone and Daniel W. Van Ness, 211-227. Cullompton: Willan Publishing.

Restorative Justice: An Overview. 1999. London: Home Office Research Development and Statistics Directorate.

Roche, Declan. 2001. "The evolving definition of restorative justice." *Contemporary Justice Review* 4:341-53.

Roche, Declan. 2002. "Restorative justice and the regulatory state in South African townships." *British Journal of Criminology* 42:514-533.

Rosenberg, Marshall B. 2003. *Nonviolent communication: a language of life*. Encinitas: PuddleDancer Press.

Rosenberg, Marshall B. 2005. *We Can Work It Out: Resolving Conflicts Peacefully And Powerfully*. Encinitas: PuddleDancer Press.

Schiff, Mara, Gordon Bazemore and Martha Brown. 2011. ˝Neighborhood Accountability Boards: The Strength of Weak Practices and Prospects for a "Community Building" Restorative Model." *Washington University Journal of Law & Policy*. 36:17-46.

Shapland, Joanna, Gwen Robinson and Angela Sorsby. 2011. *Restorative Justice in Practice - Evaluating What Works for Victims and Offenders*. London: Routledge.

Shapland, Joanna. 2012. "Comparing conferencing and mediation – some evaluation results internationally" In *Conferencing and restorative justice - International Practices*

and Perspectives edited by Estelle Zinsstag and Inge Vanfraechem, 47-64. Oxford: Oxford University Press.

Shearing, Clifford. 2001. "Transforming Security: A South African Experiment". In *Restorative Justice & Civil Society* edited by Heather Strang and John Braithwaite, 14-34. Cambridge: Cambridge University Press.

Stuart, Barry. 2001. "Guiding principles for peacemaking circles" In *Restorative community justice* edited by Gordon Bazemore and Mara Schiff, 219-241. Cincinnati: Anderson Publishing.

Umbreit, Mark S. 2002. *The Handbook of Victim Offender Mediation*. San Francisco: Jossey-Bass.

Umbreit, Mark S., Robert B. Coates and Betty Vos.2003. "Community Peacemaking Project: Responding to hate crimes, hate incidents, intolerance and violence through restorative justice dialogue." Final project report https://cehd.umn.edu/ssw/RJP/Resources/Research/Hate_Crimes_Community_Peace making%20_Final_Report.pdf Accessed 10th January 2013

Umbreit , Mark S., Robert B. Coates and Betty Vos. 2007. "Restorative Justice Dialogue: A Multi-Dimensional, Evidence-Based Practice Theory." *Contemporary Justice Review: Issues in Criminal, Social, and Restorative Justice* 10(1):23-41.

Umbreit, Mark S. and Marilyn Peterson Armour. 2011. "Restorative Justice and Dialogue: Impact, Opportunities, and Challenges in the Global Community." *Washington University Journal of Law & Policy* 36:65-89.

UNODC. 2006. *Handbook on Restorative Justice Programmes*. New York: United Nations.

Van Ness, Daniel W. and Karen Heetderks Strong. 2001. *Restoring Justice*. Cincinnati: Anderson Publishing.

Van Ness, Daniel W. 2002. "Creating Restorative Systems." In *Restorative Justice and the Law* edited by Lode Walgrave, 130-149.Cullompton: Willan Publishing.

Vanfraechem, Inge. 2007. "Community, society and state in restorative justice: an exploration" In *Images of restorative justice theory* edited by Robert Mackay, Marko Bošnjak, Johan Deklerck, Christa Pelikan, Bas van Stokkom, and Martin Wright, 73-91. Frankfurt am Main: Verlag für Polizeiwissenschaft.

Vanfraechem, Inge. 2012. "Work document on operationalisation of theoretical concepts." Project work document.

Walgrave, Lode. 2000. "How pure can a maximalist approach to restorative justice remain? Or can a purist model of restorative justice become maximalist?" *Contemporary justice review: issues in criminal, social, and restorative justice* 3:415-432.

Walgrave, Lode. 2008. *Restorative Justice, Self-interest and Responsible Citizenship*, Cullompton: Willan Publishing.

Walgrave, Lode. 2012. "The need for clarity about restorative justice conferences." In *Conferencing and restorative justice - International Practices and Perspectives* edited by Estelle Zinsstag and Inge Vanfraechem, 33-46. Oxford: Oxford University Press.

Walters, Mark Austin and Carolyn Hoyle. 2011. "Exploring the everyday world of hate victimization through community mediation." *International Review of Victimology* 1-18.

Wynne, Jean. 2000. "Victim-offender mediation in practice." In *Mediation in context* edited by Mariann Liebmann. 126-139. London: Jessica Kingsley Publishers.

Zehr, Howard and Henry Mika. 1998. "Fundamental Concepts in Restorative Justice." *Contemporary Justice Review*, 1:47-56. also In *Restorative Justice: Critical Issues* edited by Eugene McLaughlin, Ross Fergusson, Gordon Hughes and Louise Westmarland. 2003. 40-43. London: SAGE.

Zehr, Howard. 2002. *The Little Book of Restorative Justice*. Intercourse: Good Books.

Zehr, Howard. 2005. *Changing lenses – a new focus for crime and justice*. Scottdale: Herald Press. (third edition, first published in 1990)

Zernova, Margarita and Martin Wright. 2007. "Alternative visions of restorative justice." In *Handbook of Restorative Justice* edited by Gerry Johnstone and Daniel W. Van Ness, 91-108. Cullompton: Willan Publishing.

Zinsstag, Estelle, Marlies Teunkens, and Brunilda Pali. 2011. *Conferencing: a way forward for restorative justice in Europe*. Leuven: European Forum for Restorative Justice.

Zinsstag, Estelle. 2012. "Conferencing – A developing practice of restorative justice." In *Conferencing and restorative justice - International Practices and Perspectives* edited by Estelle Zinsstag and Inge Vanfraechem, 11-32. Oxford: Oxford University Press.

Zumeta, Zena 2000. "Styles of Mediation: Facilitative, Evaluative, and Transformative Mediation". http://www.mediate.com/articles/zumeta.cfm Accessed 8th August 2012.