

GUIDELINES FOR VICTIM-OFFENDER MEDIATION FOR PROBATION OFFICERS IN SOUTH AFRICA

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TABLE OF CONTENTS

SUMMARY	VI
OPSOMMING	VI
ACKNOWLEDGEMENTS.....	I
TABLE OF CONTENTS	II
SECTION ONE:.....	1
ORIENTATION AND METHODOLOGY.....	2
1 ACTUALITY OF THE STUDY	2
2 AIMS AND OBJECTIVES.....	4
3 CENTRAL THEORETICAL ASSUMPTION	4
4 DEMARCATION OF THE STUDY.....	4
5 METHOD OF RESEARCH.....	5
5.1. LITERATURE STUDY.....	5
6 EMPIRICAL STUDY.....	5
6.1. RESEARCH DESIGN	5
6.2. RESEARCH PARTICIPANTS	6
6.3. MEASURING INSTRUMENTS.....	6
6.3.1. RESEARCH PROCEDURES	6
6.3.2. DATA ANALYSIS	6
6.3.3. ETHICAL CONSIDERATIONS.....	7
7 DEFINITION OF TERMS	7
7.1. RESTORATIVE JUSTICE	7
7.2. VICTIM-OFFENDER MEDIATION	7
8 LIMITATIONS OF THE STUDY.....	8

9 CHOICE AND STRUCTURE OF RESEARCH REPORT	8
BIBLIOGRAPHY	10
SECTION TWO	11
ARTICLE 1 VICTIM-OFFENDER MEDIATION – A LITERATURE REVIEW	12
ABSTRACT	12
1 INTRODUCTION	12
2 THE MEANING OF JUSTICE	13
3 THE PRINCIPLES OF RESTORATIVE JUSTICE	18
4 RIGHTS OF VICTIMS AND OFFENDERS	24
5 VICTIM-OFFENDER MEDIATION (VOM)	25
6 THE PROCESS OF VICTIM-OFFENDER MEDIATION	26
6.1. PREPARATION	27
6.2. CONFERENCE OR MEDIATION SESSION	27
6.2.1. THE ENCOUNTER	27
6.2.2. OUTCOME	29
6.3. FOLLOW-UP OR MONITORING STAGE	29
7 SKILLS AND KNOWLEDGE NEEDED BY SOCIAL WORK PRACTITIONERS IN THEIR ROLES AS MEDIATORS	30
8 CONCLUSIONS	32
BIBLIOGRAPHY	34
ARTICLE 2 VICTIM-OFFENDER MEDIATION –THE PERCEPTIONS, EXPECTATIONS AND EXPERIENCES OF VICTIMS, OFFENDERS AND SOCIAL WORKERS	37
ABSTRACT	37
1 INTRODUCTION	37

2 THE COMPOSITION OF THE STUDY GROUPS	38
3 PROCEDURES	39
4 THE PERCEPTIONS, EXPECTATIONS AND EXPERIENCES OF THE GROUP OF VICTIMS.....	40
4.1. PROCEDURE.....	40
4.2. THE VIEWS AND EXPERIENCES OF THE VICTIMS REGARDING THE OFFENCE AND OFFENDER	41
4.3. THE VIEWS OF THE VICTIM REGARDING RESTORATIVE JUSTICE	42
4.4. THE VIEWS OF THE VICTIM ON UBUNTU	44
4.5. THE VIEWS OF THE VICTIM ON VICTIM-OFFENDER MEDIATION	45
4.6. PRACTICAL IMPLEMENTATION.....	46
5 THE PERCEPTIONS, EXPECTATIONS AND EXPERIENCES OF THE GROUP OF OFFENDERS	48
5.1. PROCEDURE.....	48
5.2. THE VIEWS AND EXPERIENCES OF THE OFFENDER REGARDING HIS OFFENCE AND THE VICTIM	49
5.3. THE VIEWS OF THE OFFENDER REGARDING RESTORATIVE JUSTICE	50
5.4. THE VIEWS OF THE OFFENDER REGARDING UBUNTU	51
5.5. THE VIEWS OF THE OFFENDER ON VICTIM-OFFENDER MEDIATION	51
5.6. PRACTICAL IMPLEMENTATION.....	52
6 PERCEPTIONS, EXPECTATIONS AND EXPERIENCES OF SOCIAL WORK PRACTITIONERS	53
6.1. PROCEDURE.....	53
6.2. PRACTITIONERS' EXPERIENCE AND VIEW REGARDING THE IMPLEMENTATION OF RESTORATIVE JUSTICE.....	54
6.3. PRACTITIONERS VIEW OF UBUNTU	56

7 PRACTITIONER'S VIEW ON VICTIM-OFFENDER MEDIATION:	57
7.1. WHO SHOULD BE INVOLVED	57
7.2. ROLE OF THE MEDIATOR	57
7.3. SPECIFIC TRAINING FOR PRACTITIONERS OF VICTIM-OFFENDER MEDIATION	59
8 CONCLUSION TO EMPIRICAL STUDY	62
BIBLIOGRAPHY	63
SECTION THREE	65
CONCLUSIONS, GUIDELINES AND RECOMMENDATIONS.....	66
1 INTRODUCTION.....	66
2 CONCLUSIONS ON RESTORATIVE JUSTICE AS AN ACCEPTABLE FORM OF JUSTICE.	66
3 UBUNTU AS A SOUTH AFRICAN MODEL FOR RESTORATIVE JUSTICE.....	68
4 THE NEEDS OF BOTH VICTIMS AND OFFENDERS REGARDING MEDIATION... 70	
5 SKILLS NEEDED BY PRACTITIONERS TO DO VICTIM-OFFENDER MEDIATIONS. 73	
6 GUIDELINES FOR THE IMPLEMENTATION OF VICTIM-OFFENDER MEDIATIONS FROM A UNIQUE SOUTH AFRICAN PERSPECTIVE	74
BIBLIOGRAPHY	76
ADDENDUM 1 GROUP DISCUSSION SCHEDULE: VICTIMS	80
ADDENDUM 2 GROUP DISCUSSION SCHEDULE: OFFENDERS.....	83
ADDENDUM 3 GROUP DISCUSSION SCHEDULE: PRACTITIONERS	86
ADDENDUM 4 SPECIFICATION TO AUTHORS FOR ARTICLES: SOCIAL WORK/MAATSKAPLIKE WERK	89

SUMMARY

VICTIM-OFFENDER MEDIATION – A SOUTH AFRICAN APPROACH

Background: Restorative Justice and Victim-Offender Mediation as one of its methods are relatively new and unknown concepts in South Africa. The viability of the principles of Ubuntu are investigated in order to form an acceptable and uniquely South African approach.

Objectives: The study is aimed at formulating guidelines for the implementation of Victim-Offender Mediations from a unique South African perspective.

Method: The method of the study consisted of an in-depth literature survey to formulate a sound theoretic background. The empirical study was done through the use of three focus groups consisting of victims of crime, offenders and practitioners. Pre-designed discussion schedules were used to manage the group sessions.

Results: The study showed that both victims and offenders are willing and interested in Restorative Justice and Victim-Offender Mediation. The principles of Ubuntu are also acceptable and can be used in the implementation of the method. Some basic guidelines were formulated

OPSOMMING

SLAGOFFER OORTREDER MEDIASIE – 'N SUID AFRIKAANSE BENADERING

Agtergrond: Helende Reg en die metode van Slagoffer Oortreder Mediasie is nog nie algemeen bekende konsepte in Suid Afrika nie. Die bruikbaarheid van die beginsels van Ubuntu word ondersoek ten einde 'n spesifiek Suid Afrikaanse benadering tot hierdie model en metode te kan bepaal.

Doelstelling: Die doel van die studie is om riglyne daar te stel vir die toepassing van Slagoffer Oortreder Mediasie vanuit 'n unieke Suid Afrikaanse Perspektief.

Metode: 'n In-diepte literatuurstudie is gedoen om 'n gebalanseerde teoretiese agtergrond vir die navorsing daar te stel. Die empiriese studie het bestaan uit drie fokusgroep sessies wat slagoffers van misdaad, oortreders en maatskaplike werkers in die praktyk betrek het. Vooraf opgestelde skedules is vir elke groep gebruik.

Resultate: Die studie het duidelik getoon dat beide slagoffers en oortreders belangstel in die moontlikheid van Helende Reg en Slagoffer Oortreder Mediasie. Die beginsels van Ubuntu kan toegepas word in die gebruik van die metode en basiese riglyne kan daargestel word.

FOREWORD

The article format has been chosen in accordance with Regulations A.11.2.5 for the degree MA (SW). Two articles will comply with the requirements of one of the journals in Social Work, entitled *Social work/Maatskaplike werk*.

SECTION ONE:

ORIENTATION AND METHODOLOGY

1 ACTUALITY OF THE STUDY

South Africa is currently struggling under the weight of an overwhelming wave of crime. Communities are being victimized by criminal offenders who are often teenagers. The youth of the day is often referred to as the lost generation. In the government's attempt to fight this onslaught, numerous laws have been implemented and bills been recommended. One of the directional documents in this regard is the proposed Child Justice Bill (Bower, 2001:6).

In an effort to save young persons in conflict with the law, Restorative Justice is the suggested theory of justice to be implemented. Programmes were to be developed to divert children from the criminal justice system. Social workers rendering services in this field had to adapt to this new approach.

Although probation services have been rendered by social workers in South Africa for many decades, a huge paradigm shift had to be made with the introduction of Restorative Justice as service rendering model. This model is based on the principle that services must be victim oriented. According to John Braithwaite, Restorative Justice means "restoring victims, a more victim centred criminal justice system, as well as restoring offenders and restoring communities" (Braithwaite, 1996). According to Smith (2000:24) this work is demanding and requires a high level of skills in balancing both the rights of the victim and the rights of the offender.

Restorative Justice can be defined as a process whereby all the parties with a stake in the particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future. As crime primarily affects human relationships and is secondarily a violation of the law, Restorative Justice recognises that crime is wrong and should not occur (Luyt, 1999:74). While Restorative Justice means treating many things, we presently treat as crimes, simply as problems of living, it does not mean abolishing the concept of crime (Braithwaite, 1996).

After an offence has been committed, several opportunities arise, but certain dangers also occur. Some of the dangers can include that the offender, the victim and the community can emerge from the crime alienated, more damaged and less co-operative. Among the opportunities could be the opportunity given to offenders to right their wrongs and to

redeem themselves in their own eyes, in the eyes of their victims and in the eyes of the community (Price, 1998).

Other dangers could be with regard to the victim's rights, the need for punishment and the possibility that this may be a soft approach to crime. Over the years, there has sometimes been an uneasy relationship between victims' rights advocates and the growing Restorative Justice movement. Victim advocates objected loudly when early victim-offender programs were overly persuasive or even coercive, in their well-meaning but misguided efforts to enlist the participation of victims (Price, 1998). It is of the utmost importance to ensure that the victims' need for justice has been met as well as giving the offender the opportunity to accept responsibility and to protect the community by preventing re-offences.

Although the principles of Ubuntu supposedly form the backbone of the culturally diverse South African community, not everybody is convinced that Restorative Justice and methods like Victim-Offender Mediation are appropriate. Due to the unacceptably high crime rate, the principles of Retributive Justice are widely accepted. The Restorative Justice and accompanying Victim-Offender Mediation are relatively new and unknown concepts in South Africa as the new democratic government and constitution has only started leading the way for their implementation since 1996. The question now remains whether the principles of Ubuntu could be used to form an acceptable and uniquely South African approach to Restorative Justice and, with it, a practical method for the implementation of Victim-Offender Mediation.

In view of the intricate balancing act that the mediator must accomplish between the rights of the victim, community and the offender, there is no question that specific and specialised skills are needed to manage effective and efficient meetings between victims and offenders. If any of these parties perceive the process to be a violation of their rights, they become more alienated and distanced and both the individuals as well as the community could then suffer irreparable harm. South Africa's wide variety of cultures complicates an already complex task even further. Effective guidelines would help to ensure protection and the maximum growth opportunity for all concerned. This study will be focused on formulating these guidelines. Presently Restorative Justice methods focus mainly on juvenile offenders and less serious crimes and this will therefore also be the focus of this study.

2 AIMS AND OBJECTIVES

Aims:

The study will be aimed at formulating guidelines for the implementation of Victim-Offender Mediations from a unique South African perspective.

Objectives:

This study will have the following objectives:

To explore the meaning of Restorative Justice.

To explore the possibility of UBUNTU as a South African model for Restorative Justice.

To determine the meaning of Victim-Offender Mediation.

To determine the needs of both victims and offenders regarding mediation.

To explore the skills needed by practitioners to do Victim-Offender Mediations.

3 CENTRAL THEORETICAL ASSUMPTION

This study will be based on the assumption that Victim-Offender Mediation is a difficult and potentially harmful method and specialised guidelines, which also take the diversity of cultures in South Africa into account, are necessary for the effective and efficient implementation of this method.

4 DEMARCATION OF THE STUDY

As social workers have numerous intervention methods at their disposal after a crime has occurred and numerous theories of justice play a role in these interventions, the study had to be limited. Even though it would be possible theoretically to use Restorative Justice as a theory and Victim-Offender Mediation as method in dealing with a wide variety of offenders and victims, the study was limited to minor property crimes and minor assaults committed by juvenile offenders. Numerous other methods could also be used to implement Restorative Justice but the study was limited to Victim-Offender Mediation in order to prevent the study from scratching only the surface of a number of methods without making a real impact.

5 METHOD OF RESEARCH

5.1. LITERATURE STUDY

The study was done through the use of an in-depth literature review that attempted to define Restorative Justice as theory in relation to the currently accepted and used theories of justice. This also implies a basic description of the theories of justice as restitution, correction and retribution. The commonalities as well as the differences in these theories were highlighted. The principles of Restorative Justice were broken down as they form the foundation of this theory and are essential to ensure that the rights of victims, offenders and communities are protected. As the focus of this study was the use of Victim-Offender Mediation as method to implement Restorative Justice, the method itself was discussed. Skills and knowledge needed by practitioners interested in the implementation of this method and theory have also been researched.

The African concept of Ubuntu is the philosophy of personhood underlying the traditional conception of justice and also forms the backbone of the current South African Constitution (1996:2). In order to find a commonly acceptable form of implementation in the cultural diverse community of South Africa, research was done on the philosophy of Ubuntu and its applicability for the implementation of Restorative Justice.

In order to find relevant literature resources, different databases were used. The library services of North West University, Potchefstroom Campus, were utilised in finding sources from the following databases:

Repertoire of SA Journals

EBSCOhost

Nexus DATABASE system

6 EMPIRICAL STUDY

6.1. RESEARCH DESIGN

Although much information on Restorative Justice and Victim-Offender Mediation is available internationally, little research has been done on specifically the South African context and approach. Both concepts are still relatively unknown to the majority of service deliverers and totally unknown to the general public. As such, an explorative study would be most appropriate (Neuman, 1997:18-21). The multi-group design was used (Grinnell, 1997: 53-138) in order to do a qualitative study through use of multiple focus group interviews.

6.2. RESEARCH PARTICIPANTS

Use was made of three identified focus groups consisting of practitioners, victims and offenders. Group members were selected as follows by means of an availability sample:

Practitioners: Experience mediators were enlisted from Restorative Justice, South Africa, situated in Pretoria, and some probation officers from North West Province also participated.

Victims: A group of ten victims of young offenders were identified from information gained from the magistrate's office, Potchefstroom.

Offenders: A group of ten young offenders were identified in the same manner as the group of victims. Only cases of minor property crimes and minor assault cases were used. Three groups were used to be able to do triangulation.

6.3. MEASURING INSTRUMENTS

The process comprised of one group session with each group and specific discussion schedules developed by the researcher were used for each group. The group of practitioners focused on the practical implementation of Victim-Offender Mediation and the appropriateness of Ubuntu, while the victim and offender groups focused on their specific needs and how they could realistically be met.

6.3.1. Research procedures

Each focus group discussion was started with an explanation of the purpose of the group meeting and how it would be conducted. After the topic has been introduced, a discussion framework was used to structure and stimulate the group discussions. The responses of the group members were used to elaborate on the issues of concern. Tape recorders were used to record the sessions, with the permission of the group members. Transcriptions of the discussions were made afterwards and the responses were categorised and systematized.

6.3.2. Data analysis

During the focus group sessions information was recorded electronically by means of audio tape recorders with transcripts made afterwards. The information gathered in these focus group interviews was then thematically ordered and categorised with the intent to identify needs and suggest specific guidelines to meet these needs within the South African context.

6.3.3. Ethical considerations

The following ethical considerations as set out in Grinnell (1997:79-90) were observed throughout the study:

- Consequences for human beings.
- Voluntary and informed consent.
- Protection from physical or mental harm.

As protection also forms part of the research question, the participants were thoroughly informed and prepared. Throughout the research, the information on every individual in the focus groups was treated with confidentiality and the groups were held at different venues at separate times. Care was taken not to include victims and offenders in the same case in the different groups in order to ensure that neither victims nor offenders could be identified as a result of the discussions.

The research project was also improved by the Ethics Committee of the Potchefstroom Campus of the North-West University (Project 04k01).

7 DEFINITION OF TERMS

7.1. RESTORATIVE JUSTICE

As Restorative Justice forms the basis of this study it has to be defined. It can be described as a view that crime primarily affects human relationships and is secondarily a violation of the law. It is built on the foundation of specific principles, namely:

- Focus on the victim
- Ownership of crisis
- Personalization of victim and offender
- Acceptance of responsibility
- Remuneration/Restitution
- Future centred (Luyt 1999:67)

7.2. VICTIM-OFFENDER MEDIATION

According to Nugent et al. (2001:2), one of the most commonly used approaches to Victim-Offender Mediation (VOM) is a guided face-to-face meeting between a crime victim or victims and the person or persons who victimized them. The goal of these meetings is to provide a safe environment where genuine dialogue can take place to meet the

emotional and informational needs of all parties and a plan can be developed for the offender to rectify his mistakes as far as possible.

8 LIMITATIONS OF THE STUDY

During the process of research, certain restrictions limited the study in the following way:

For the purpose of the focus group discussions with both victims and offenders, 10 respondents were identified and personally invited to attend the discussions. Unfortunately only six victims and six offenders actually attended the sessions. To make attendance more accessible for respondents, arrangements were made for the sessions to take place on a Saturday and the researcher provided transportation for those respondents living too far from the venues. She also sponsored the transportation costs for the respondents' return to their homes after the session.

Originally the intention was to enlist social workers from the whole of the North West Province and the Restorative Justice Project in Pretoria. Due to logistical problems this was not possible and in the end all the social workers acting as probation officers in the Southern District of the North West Province were included in the discussion group for practitioners. This has a negative effect on generalising the results of the study.

9 CHOICE AND STRUCTURE OF RESEARCH REPORT

The results of the research will be reported on in the format of two articles according to Rule A.11.5.3 and A.11.5.4 of the Yearbook of the North West University (2005). The articles will be written according to the specification of the South African professional journal, *Maatskaplike Werk/Social Work* (see Addendum 4). The first article will report on the literature review on Victim-Offender Mediation while the second article will report on the perceptions, expectations and experiences of victims, offenders and social workers in relation to Victim-Offender Mediation.

The research report will consist of four sections that would include the following:

Section one consist of a description of the methodology that was used during the study. It considers the actuality of the study and identifies the aim of the study by making an assumption that can be tested.

Section two consists of the two articles titled: "Victim-Offender Mediation – a literature review" and "Victim-Offender Mediation – the perceptions, expectations and experiences of victims, offenders and social workers."

Section three consists of the results and conclusions of the study and includes basic guidelines that could be used by social workers in the implementation of the Restorative Justice theory through the method of Victim-Offender Mediation.

The last section includes addendums like the discussion schedules for the different groups.

A combined bibliography is provided for the report as a whole, although each section will have its own bibliography as well.

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SECTION TWO

ARTICLE 1

VICTIM-OFFENDER MEDIATION – A LITERATURE REVIEW

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ABSTRACT

The new constitution of South Africa has been leading the way for the implementation of Restorative Justice since 1996. This new way of dealing with people in conflict with the law has required a paradigm shift by social work practitioners working in the field of criminal justice in South Africa. One of the consequences of this development was a demand that new skills be acquired by these practitioners. This article identifies and describes the required specialised skills needed for implementing this approach to justice within the culturally diverse community of South Africa.

1 INTRODUCTION

In South Africa the new democratic government and constitution has been leading the way for the implementation of Restorative Justice since 1996. The Inter Ministerial Committee on Young People at risk (1995:3) supports Restorative Justice as an approach to deal with young people in trouble with the law. This has to include resolution of conflict, family and community involvement in decision-making, diversity as well as community based interventions. This new way of thinking about dealing with young people in conflict with the law represents a radical paradigm shift in the conventional way of dealing with young offenders. Although probation services have been rendered by social workers in South Africa for many decades, Restorative Justice constitutes a new approach in the broader field of probation services and social workers have to develop new perspectives regarding the application of justice to young people who have had brushes with the law.

2 THE MEANING OF JUSTICE

To clearly understand the context of Victim-Offender Mediation, it is necessary to also determine the meaning of justice. The concept of justice differs from person to person and it is difficult to determine at which point justice can be considered to be served. Some forms of justice require the wrongdoer to be punished, while others expect the victim to be reimbursed. Justice can also mean that issues relating to the healing of the victim and the community need to be addressed. All these issues, and more, need to be taken into consideration in ensuring that justice is served.

The conventional approach towards crime is mainly built on three theories of justice namely restitution, correction and retribution or corrective action. All three these theories share common ground with Restorative Justice. These theories are described below.

Justice as Restitution implies that justice has been done when the wrongdoer repays or returns what he/she has taken from the victim. It would mean that the wrongdoer has enriched himself at the expense of the victim (Llewellyn, 1998:14). The focus for restitution is therefore mostly on the sufferer and the physical damage he has sustained.

Restorative Justice shares this focus on the actual harm done by the wrongdoer but does not confine itself to the victim. The primary obligation is on the part of the one who caused the harm. When someone wrongs another, he or she has the obligation to rectify the mistake (Zehr, 1990:197). Restorative Justice therefore expands its focus to the offender and the community in an attempt to respond to the harm that was done. It does not only focus on restoring the physical loss but also on restoring the relationships between the victim, the offender and the community (Braithwaite, 1996:4).

Corrective Justice versus justice as restitution acknowledges that the harm done is more than just material and attempts to compensate for the failure of restitution. It then seeks to correct the inequality created through the interference with the victims' rights with a material transfer from the offender to the victim. This would imply that by disadvantaging the offender, the victim would be better off (Llewellyn, 1998:10). An offender is rarely able to make up completely for the harm he or she has caused and many of the needs that the victims and the community have as a result of the offence, is beyond the means of the offender to restore.

Restorative Justice supports the view that offenders should make amends as far as possible but also acknowledges that harming the offender would increase the imbalance

in the relationship between the community, offender and victim even more and will thereby increase the harm to all the parties. (Llewellyn, 1998:11; Zehr, 1990:199)

Retributive Justice, as the third theory of justice, focuses on punishment to achieve social equality. Crime is seen as a violation against the state and its laws. Retributive justice describes justice as revenge and attempts to restore the social inequality through punishment of the offender. The goal is to make the perpetrator and victim equal by giving the perpetrator his just reward. The justification is that the harm done was not only against the victim and his family, but also against the community. The wrongdoer may therefore be regarded as a public enemy. Punishment should then be meted out according to the harm done (Llewellyn, 1998:19-23; Zehr, 1990:211). The wrongdoer then only needs to endure his punishment. However, this can actually serve to let him avoid responsibility for what he/she has done by giving him/her the opportunity to focus on the injustice he/she is suffering in the form of punishment (Llewellyn, 1998:22).

Restorative Justice requires that the wrongdoer face both his victim and himself with what he has done. Crime is a community problem and the community should therefore be involved in solving the problem (Dunlap, 2000:8). Through its emphasis on healing the harm of crime, with a balanced focus on the offender, victim, and community, Restorative Justice creates the foundation for a set of practices the current retributive system cannot achieve, because it is based on law and punishment (Cavanagh, 2000:1).

Restorative Justice as an approach thus encompasses elements of all three main theories. It recognises that crime is primarily harmful to human relationships and secondarily a violation of the law. The community is building on a collection of finely balanced relationships and the occurrence of a crime disturbs this balance. Restorative Justice attempts to draw upon the strengths of both offenders and victims. Restorative Justice therefore encourages responsibility for past behaviour by focusing on the future, on problem solving and on the needs and obligations resulting from the offence. While denouncing criminal behaviour, it emphasizes the need to treat offenders with respect and to reintegrate them into the larger community in ways that can lead to lawful behaviour. By doing this, an attempt is made on restoring the imbalance caused by the crime (Luyt, 1999:67; Amstutz & Zehr, 1998:41; Umbreit, 1998:8).

The dominant approach to criminal justice, Retributive Justice, focuses on determining what law was broken, who broke it, and how they will be punished (Cavanagh, 2000:1) In contrast to this, Restorative Justice acknowledges that crime cause damages to victims, offenders and communities and is far more concerned with restoration of the victim and

victimized community than the costly punishment of the offender. It elevates the position of the victim in the criminal justice process and requires that offenders be held directly accountable to the person and/or community that they victimized. In the end it encourages the entire community to be involved in holding the offender accountable and promoting a healing response to the needs of victims and offenders. Especially in the case of minor offences, the state should allow the response to the crime to move to those who are directly affected, namely the victim, the offender and the community (Neser, 2001:47; Umbreit, 1998:9).

Restorative Justice forms the foundation of the framework and principles to be used during the implementation of Victim-Offender Mediation. It is therefore necessary to describe the concept of Restorative Justice as a background for the implementation of Victim-Offender Mediation. Victim-Offender Mediation gains its unique significance against the background of Restorative Justice, and can be regarded as a function of Restorative Justice.

Llewellyn (1998:15) describes Restorative Justice as a process through which the aftermath of an offence is collectively dealt with by all the parties involved in the particular offence. Through this approach, crime is defined as an injury to victims and the community. It focuses on addressing the injuries to personal relationships experienced by all the parties, including the disruption of peace within the community as well as on the financial and legal obligations of offenders. This approach is committed to involve all parties in response to the crime.

Although Albert Eglash is generally credited with coining the term "Restorative Justice" in his 1977 article "Beyond Restitution: Creative Restitution," the conception of justice to which he referred was not new (Llewellyn 1998:1). This is similar to the views of Considine (1999:173-175) and Braithwaite(1996:9) who claims that Restorative Justice is not a "new wave" movement on the fringe of legal practice but has been the dominant model of criminal justice throughout most of human history for all the world's people. Restorative conceptions of justice claim their roots in both Western and non-Western traditions as it actually formed the dominant background for all criminal justice processes throughout most of human history, (Llewellyn, 2002:7), and it can be found in most indigenous cultures all over the world.

The Victim-Offender Mediation model is mostly based on the traditions of the indigenous people of Canada while another method of Restorative Justice, family group conferences, is based on the Maori traditions in New Zealand. In problem solving among the herding

tribes of the Khoikhoi in Southern Africa mediation was the key element and compensation was the aim, although a person could be sentenced to death for something as serious as murder (Consedine, 1999:174; Umbreit, 1998:4).

Looking at the historical and cultural background of justice in Africa would, therefore, be appropriate when aiming to find and formulate a unique South African approach to Restorative Justice and Victim-Offender Mediation. Consedine (1999:175) is of the view that traditional African Justice has much to contribute to modern South Africa.

One of the most prominent cultural views used in community living in South Africa is Ubuntu. It is derived from the Xhosa proverb: *umuntu ngumuntu ngabantu* that translates as, a person is a person through persons. The African concept of *Ubuntu* is the philosophy of personhood underlying the traditional conception of justice and also forms the backbone of the current South African Constitution. It describes a sense of humanity, and the natural connectedness of people. Humanity is an organic whole that realises itself through other people. *Ubuntu* is commonly described through the saying "I am because you are" or "my humanity is tied up with your humanity" (Llewellyn, 1998:7). Llewellyn (1998:7) explains the effect such an understanding of humanity has on one's understanding of justice as follows. "If one's humanity is tied up with the humanity of all others what makes others worse off also brings harm to oneself. Thus, responses to wrongdoing must aim to repair the damage, to make the wrongdoer better off for it is only in doing so that one can address the harm the victim(s) suffered. In other words, restoration requires attention to each part that suffers, for restoration is impossible if a part of the whole is harmed".

This could also be described as the philosophy of common good that is grounded in the health of the family and in the belief that relationships are the essence of personhood. The key concept is that people exist only in relations with each other. American researchers, who believe that much crime occurs due to alienation from meaningful participation in the processes of life, endorse this theory. Isolation leads to a breakdown of social bonding and the loss of a collective responsibility for the safety and welfare of others. Isolation leads to unfamiliarity, which culminates in a loss of trust and increased. This cycle creates fertile ground for crime to grow, thus accelerating a spiralling effect (Bromley, 1997: 70). Pranis (1997: 1) is of the opinion that the closer the connection between community members are, the less likely they will be to indulge in impulses which would lead to disapproval by their community.

In practice the implementation of Ubuntu would imply that when a child has committed an offence, the parents of the child would accompany the child to apologise to the victim and the community. If property was damaged or stolen, negotiations would take place between the parents of the offender and the offended family and decisions will be made on how to correct the problem. In situations where the families are unable to resolve the problem, the case is taken to a higher authority within the community. This process allows the families to bond rather than dividing and alienating opposing parties (Consedine, 1999:176). This would allow the offender and his family to again become connected to the community. The process would also lead to the strengthening of the community as constructive conflict resolution is an important building block of strong relationships (Pranis, 1997:1).

The fact that crime can be regarded as injury to victims and the community may give rise to potential dangers, but it may also present opportunities. Some of the dangers can include that the offender, the victim and the community can emerge from the crime alienated, more damaged and less co-operative. If young people are placed in a powerless situation where they experience themselves as pawns in a world where others control their destiny, then they will be scarred by alienation and often seek alternative sources of power through membership in a counterculture (Cavanagh, 2000:4; Consedine, 1999:176-177). Among the opportunities could be the opportunity given to offenders to right their wrongs and to redeem themselves in their own eyes, in the eyes of their victims and in the eyes of the community (Price, 1998). This opportunity opens the door for Victim-Offender Mediation as a method of implementing Restorative Justice.

Problems in the implementation of this approach could be with regard to the victims' rights, the need for punishment and the view this is a soft approach to crime. Over the years, there has sometimes been an uneasy relationship between victims' rights advocates and the growing Restorative Justice/Victim-Offender Mediation movement. Victim advocates objected loudly when early victim-offender programs were overly persuasive or even coercive in their well meaning, but misguided efforts to enlist the participation of victims (Price, 1998). It is of the utmost importance to ensure that the victims' need for justice has been met and that the offender has been given the opportunity to accept responsibility in order to protect the community by preventing re-offences (Zehr, 1990:208).

Restorative Justice attempts to restore the relationship that was damaged through the offence. It is, however, important to understand that although Restorative Justice begins from the disequilibrium of a relationship in society, it does not aim at ultimately restoring the relationship to its original state but rather to an ideal of a relationship. According to Llewellyn (1998:4) the ideal it aims at is a state "where basic rights such as security of the person are respected even within a basically unjust context of social equality." As crime is viewed primarily as an offence against human relationships and secondarily as a violation of the law, Restorative Justice ends up treating many things that we presently treat as crime simply as problems of living, but it does not mean to abolish the concept of crime. It realises that crime is wrong and it should not occur (Braithwaite, 1996; Luyt, 1999:71).

Through its commitment to involve all parties in dealing with a specific offence Restorative Justice is built on the principle that services must focus on the rights and needs of both the victim and the offender. To balance these rights requires a high level of skills from the service provider (Smith, 2000:3). One of the suggested methods to implement Restorative Justice is a process whereby victims and offenders are brought together in a guided face-to-face meeting, in order to provide a safe environment where genuine dialogue can take place. Through these meetings an attempt is made to meet the emotional and informational needs of all parties and to develop a plan through which the offender could right his wrong as far as possible. (Nugent, W.R. & Paddock, J. B., 2001: 2)

3 THE PRINCIPLES OF RESTORATIVE JUSTICE

The greatest risk to the acceptability of Restorative Justice is implementation, which fails to be true to the values underlying it (Pranis, 1997:1). It is, therefore, important that these values and principles be known, understood and implemented to ensure that restoration is done. Without this, Restorative Justice can easily become ensnared by impressive sounding practices without any real restorative value. These principles refer to the process of renewing and mending personal and community relationships after an offence has occurred. The goal is to tend to the victims' physical, emotional and mental well-being and involve deliberate acts by the offender to regain dignity and trust. This is essential to restore both personal and community relationships (Melton, 2001:2).

If an intervention is not grounded in Restorative Justice values, and its procedures are not designed to maximize the use of those values, it can easily be compromised to meet only the traditional needs of the retributive justice system, rather than the needs of those most affected by crime - the victim, victimized community, and the offender. A seemingly restorative practice could then remain a primarily punitive exercise, that keeps offenders

in passive roles and stigmatises them, rather than respectfully allowing them to take responsibility and earnestly make amends (Balanced and Restorative Justice Project, 2000:28).

Principles like accountability, competency development and community safety should be ensured throughout all the phases of the process (Balanced and Restorative Justice Project, 2001: 34). Identifying the victim, determining the loss and preparing the victim, if he/she is willing to participate could ensure *accountability*. Victim empathy training could be conducted to raise the offenders' level of understanding for the harm the victim and the community suffered thereby ensuring that the offenders' attitudes are appropriate for Victim-Offender Mediation. *Competency development* would consist of determining whether the offender is employed or about to be employed. If not, the offender's skills needs are to be identified in order to be able to involve him/her in a competency development program, should it be needed. *Community safety* would entail evaluating the risk for re-offence, should the offender remain in his or her home. This could be limited by empowering the family to control the offender's movements through the use of supervised home detention, if needed, or with the help of extended family members or neighbours. Helping the offender to develop a greater sense of belonging to his or her community would also serve this purpose (Balanced and Restorative Justice Project, 2000:34; Zehr, 1990:202).

The following specific principles of Restorative Justice can also be identified:

- Focus on the victim

According to Zehr (1990:200) the victim's need must form the starting point for Restorative Justice in the aftermath of crime. Restorative Justice is a victim-centred response to crime that provides opportunities for those most directly affected by crime - the victim, the offender, their families, and representatives of the community - to be directly involved in responding to the harm caused by the crime (Umbreit, 2000:1). Many victims do not experience justice through the conventional retributive justice system. They are only involved as witnesses when needed and are not given the opportunity to make an input in decisions regarding sentences. They are not even kept informed on the proceedings of their cases, while being a victim of a crime is most likely a life-changing event. This distance causes feelings of alienation and powerlessness (Balanced and Restorative Justice Project, 2000: 24). Unless the victim is primarily involved in the response to the crime it would be assuming too much to claim that justice has been served.

Umbreit (1993:69) encapsulates the problem when he explains that both crime victims and offenders are placed in a passive position by the criminal justice system, and, often neither receives basic assistance or information. He explains that anger and frustration increase as the victim and offender move through this highly depersonalised justice process. Victims often feel powerless and vulnerable. Some even feel twice victimised, first by the offender and then by an uncaring justice system that does not have time for them. Offenders are rarely confronted with the human dimensions of their criminal behaviour and seldom understand that victims are real people and not only objects to be abused. Offenders have many rationalisations for their actions. This problem is aggravated in contemporary South Africa with its high crime rate and overloaded justice system. Llewellyn's (1998:24) solution to the problem is that justice must take connection as its goal over alienation and separation.

- Ownership of crisis

According to the retributive justice system currently used in most countries, including South Africa (Meintjies van der Walt, 1996:166), a crime is committed against the state and is primarily a violation of the law. A case is presented to the court or judicial system by a prosecutor for the state, the victim's only role is to act as witness while the inactive role of the offender denies him the opportunity to be accountable for the harm he has done. A judicial officer sentences him for the court and he has to serve the sentence meted out to him. By complying with this, he is seen as forced to be accountable on paper while he never has to deal with it emotionally. He can now develop the view that he is also a victim of the system (Llewellyn, 1998:19-23). According to the Balanced and Restorative Justice Project (2000:34), punishment and adherence to rules do not facilitate moral development at a level that is achieved by taking full responsibility for behaviour.

With Restorative Justice the focus moves back to those individuals, groups or communities that are first and foremost influenced by the crime. Crime creates, among other things, a break in relationships between the victim and the offender and to resolve this, they must be involved in resolving the situation. Therefore one of the underlying beliefs of Restorative Justice is that not only government, but also victims, offenders and communities should be actively involved in the criminal justice process (Luyt, 1999:67; Zehr, 1990:203).

- Personalization of victim and offender

By introducing the victim to the offender he/she gets the opportunity to understand the impact of the damage done to another human being. The offender also gains a better understanding of the victim in whose mind he/she has taken on monstrous proportions. This is endorsed by Llewellyn's (1998:32) explanation that bringing people face to face with one another dispels the myths and stereotypes each has of the other. It allows the perpetrator to see the victim, hear his/her story and experience in his/her own words. It also allows the victim to see the wrongdoer as a person instead of some evil or heartless criminal; and it allows the community to see the truth that both victim and wrongdoer are not separate from the community. In practice, this means that stereotypes should be replaced by faces (Zehr, 1990:204). An encounter is, therefore, fundamental to reintegration as it challenges the stereotypes that justifies segregation (Llewellyn, 1998:32). It is hoped that an encounter will help to instil a sense of empathy in the offender for the victim. This empathy, along with the process of restitution, may function to deter future offences (Neser, 1996:2)

- Acceptance of responsibility

One of the key principles of Restorative Justice is that the offender accepts responsibility for the offence and the harm done. It is not a debate to establish blame but rather to decide on what harm has been done and finding ways to make amends (Zehr, 1990:197).

Taking full responsibility for behaviour requires understanding and acknowledgment of the harmful effects that behaviour can have on another human being. This implies acknowledgment of the fact that the behaviour resulted from a choice that could have been made differently, and taking action to repair the harm where possible and making the necessary changes to avoid such behaviour in the future (Balanced and Restorative Justice Project, 2000:12).

Accountability has traditionally often been viewed as compliance with program rules or as "taking one's punishment" but it is now clear that crime is most effectively sanctioned when offenders take responsibility for their crimes and the harm caused to victims. Zehr (1990:201) is of the opinion that simply telling offenders what is going to happen actually lets them off the hook and is encouraging further irresponsibility. Offenders need to make amends by restoring

losses and communities and victims should take active roles in the sanctioning process (Balanced and Restorative Justice Project, 2000:13).

- Remuneration/Restitution

Restitution seeks to send the message: "Don't commit offences because it harms someone. Those who harm others will have to make it right" (Zehr, 1990:198). It forms a part of accountability or acceptance of responsibility. It can be done through financial restitution to the victim, services to the victim or community service. It is formalized through a written restitution agreement or plan during the mediation, but is secondary to a discussion of the full impact of the crime on those affected, often in the presence of the juvenile offender's parents (Braithwaite, 1996:4).

- Future centred

Restorative Justice is focused on reparation and reintegration. Decisions are made on how to deal with the future and the effects of the crime. Attention is given to the history of the case and how it happened, but the main focus is on healing and building towards a better future. Problem solving for the future is seen as more important than simply establishing blame for unacceptable past behaviour. Offender reintegration and rehabilitation is best accomplished when offenders build competencies and strengthen relationships with law-abiding adults that increase their ability to become contributing members of their communities (Luyt, 1999:67).

To evaluate whether the Victim-Offender Mediation is restorative in nature, the following guidelines could be identified:

- The primary focus should be on providing an opportunity for victims and offenders to talk directly to each other, to allow victims to express the full impact of the crime upon their lives and to receive answers to important questions they have. It should allow offenders to grasp the real human impact of their behaviour and to take direct responsibility for making things right. The entire focus should not be upon determining the amount of financial restitution to be paid, as restitution is normally secondary to talking about the impact of the crime (Umbreit 2001 a :1; Zehr, 1990:200; Barron County, 2002:29).
- Victims should be empowered by being continually given choices throughout the process, such as where to meet and whom they would like to have present (Balanced and Restorative Justice Project, 2000:17).

- Separate preparation meetings should be held with victims and offenders prior to bringing them together, with emphasis upon listening to how the crime has affected them, identifying their needs, and preparing them for the mediation or conference session. Victims should not receive only a written notice to appear for mediation on a set date and time without being prepared (Hayes, H., Prensler, T. & Wortley, R., 1998: 24; Balanced and Restorative Justice Project, 2000:17).
- Aim for reintegration of victim and wrongdoer into the community (Llewellyn, 1998:47).
- A nondirective style of mediation or facilitation should be used, with the mediator not talking much and with a high tolerance for silence. There should also be a high tolerance for the expression of feelings and the full impact of the crime should be explored. A lot of direct dialogue between the victim and offender should take place (Gehm, 1998:19).
- Both the victim and the offender should attend the mediation voluntarily with the offender taking responsibility for his actions. Forced encounters will be good for neither the offender nor the victim. Offenders cannot develop responsibility without voluntarism (Luyt, 1999:74; Zehr, 1990:198).
- The process would normally last about an hour. (Balanced and Restorative Justice Project, 2000:17).
- Trained community volunteers could serve as mediators or co-mediators along with practitioners (Balanced and Restorative Justice Project, 2000:17).

Without practicing the above-mentioned principles, it would be difficult or even impossible for the victim to become empowered, and will place both the victim and the offender back in a situation where they have no control or ownership of the conflict. It would only focus on the outcome and not on the emotional impact that such a session could have on the future of both the victim and the offender. If Victim-Offender Mediation is done according to Restorative Justice principles the victim will be enabled, with the assistance of a trained facilitator, to let the offender know how the crime affected him or her, to receive answers to their questions, and to be directly involved in developing a restitution plan for the offender (Balanced and Restorative Justice Project, 2000:19).

For most victims, this will fulfil most of their needs. Research has consistently found that the restitution agreement is less important to crime victims than the opportunity to talk directly with the offender about how they felt about the crime (Barron County, 2000:29). The offenders will be able to take direct responsibility for their behaviour, to learn the full

impact of what they did, and to develop a plan for making things right with the person/s they violated. In Victim-Offender Mediation the issue of guilt or innocence is not mediated. One of the parties has committed an offence and has admitted to doing so. The other party has been victimized. The emphasis of Victim-Offender Mediation is upon victim healing, offender accountability, and restoration of losses. (Balanced and Restorative Justice Project, 2001:20; Zehr, 1990:202).

4 RIGHTS OF VICTIMS AND OFFENDERS

According to Meintjies-van der Walt (1998:159) the legitimacy of a justice system lies in its ability to protect the human rights of all citizens. The victim has the right to protection against crime, violence and intimidation, the right to be informed, the right to the return of property, the right to the protection of honour, the right to be heard and the right to be compensated for loss, pain and suffering (Moolman, 1997:67-73). These rights go hand-in-hand with the needs of the victims.

According to Zehr en Mika (1997) "the needs of victims for information, validation, vindication, restitution, testimony, safety and support are the starting points of justice". This could be translated into needs to feel safe and secure and in control again. By being victimised, people experience themselves to be controlled by the offender through fear and powerlessness. Victims need to feel valued, to be heard and to know what is going on. They also have a need to feel more trusting in their relationships again as they are released from fear and anger and to once more experience peace (Umbreit, 1998:26). The victims' need for safety should always be an immediate and ongoing priority and victims can be empowered by maximising their input and participation in the process. Although the offenders' rights are not of secondary importance, it is paramount that the victims are protected and their needs are of primary concern.

The offenders' rights include the right not to be arrested unless certain procedures were followed, the right not to be detained without a trial and the right to refrain from giving information that can infringe them. The offender or accused also has the right to legal representation (South Africa, 1996:16). For the use of Victim-Offender Mediation, the offender's right to refuse guilt is of paramount importance. No unnecessary duress may be placed on him to convince him/her to take responsibility. The offender's needs would include the need to be treated with respect; the need to take responsibility for his or her actions, the need for an opportunity to rectify the situation and the need to be reintegrated in society after the crime has been dealt with. They may also need emotional support, help in dealing with guilt and to learn more appropriate ways to channel anger and

frustration. They need to have their stereotypes and rationalisations about their victims and the events challenged as accountability encourage responsibility. Unless the needs of both victims and offenders are met, closure is impossible.(Llewellyn, 1998:30; Umbreit, 1998:26; Zehr, 1990:200,210). The needs of offenders could be met through the Victim-Offender Mediation process by involving them as far as possible in repairing the harm they have done. By recognising that offenders have been harmed themselves, healing and integration into the community could be started.

5 VICTIM-OFFENDER MEDIATION (VOM)

Victim-Offender Mediation is a process that provides interested victims of primarily property crimes and minor assaults, the opportunity to meet the offender in a safe and structured setting, with the goal of holding the offender directly accountable for his or her behaviour while providing important assistance and compensation to the victim. With the support of a trained mediator, genuine dialogue can take place to meet the emotional and informational needs of all parties. Victims get the opportunity to let the offender know how the crime affected them, and to be directly involved in developing a restitution plan for the offender to be accountable for the losses they have incurred. Offenders are able to take direct responsibility for their behaviour, to learn the full impact of what they did, and to develop a plan for making amends to the person(s) they violated. Most VOM sessions result in a written restitution agreement although this is not the primary focus of the meeting. Very often, the victims only want an explanation – they want to know why they were victimised. In addition to “victim-offender reconciliation”, some Victim-Offender Mediation programs are called “victim-offender meetings,” “victim-offender conferences,” or “victim-offender dialogues.” (Balanced and Restorative Justice Project, 2000:26)

Nugent et.al (2001:2) describes Victim-Offender Mediation (VOM) as a guided face-to-face meeting between crime victims and the people who victimized them. The goal of these meetings is to provide a safe environment where genuine dialogue can take place to meet the emotional and informational needs of all parties and a plan can be developed for the offender to make things right as far as possible (Hayes et al., 1998: 24). The written agreement might require the offender to do volunteer work for the victim or the community. It could also include paying the victim for the damage caused. The offender could be expected to attend counselling, write an essay related to the offence, or any other activity acceptable to all the parties involved. If the agreement is successfully completed, the offender is cleared of any further responsibility of the offence (Government of Saskatchewan, 2001: 4) As stated earlier, Victim-Offender Mediation can be described

as a function of Restorative Justice. A dynamic view of Victim-Offender Mediation would be that it is the operationalisation of Restorative Justice. Numerous methods could be used in the implementation of Restorative Justice, for example: crime repair crews, victim intervention programs, and family group conferencing. Other methods also include dialogue, peacemaking circles, victim empathy classes for offenders, victim directed and citizen involved community service by the offender, community-based support groups for crime victims, and, community-based support groups for offenders (Umbreit, 1998:15).

Victim-Offender Mediation is the oldest; most widely disseminated, documented and empirically grounded Restorative Justice practice throughout the world (Umbreit, 2001:2). The Victim-Offender Mediation process humanises the criminal justice experience for both victim and offender. It empowers participants, challenges misattributions, provides for an exchange of information and encourages actions aimed at restoration. It encourages accountability on the side of the offender and provides for community participation. It also provides a ritual for closure. Victim-Offender Mediation is seen as fully compatible with a restorative approach to justice. (Umbreit, 2001:5; Zehr, 1990:205-209). In an earlier contribution Umbreit (1993:69) describes Victim-Offender Mediation programs as a conflict resolution process that is meant to be fair to both the victim and offender. He reminds his readers that the Victim-Offender Mediation process draws on old-fashioned principles that recognize that crime is fundamentally against people, and not only against the state. He explains that instead of placing the victim in a passive role and reinforcing an adversarial dynamic that often results in little emotional closure for the victim and little, if any, direct accountability by the offender to the victim, the mediation process actively facilitates personal conflict resolution.

6 THE PROCESS OF VICTIM-OFFENDER MEDIATION

For the process to succeed, some basic principles have to be followed. This includes the belief that every human being possesses the necessary inner resources that can be accessed and utilized to resolve problems and issues. To access these resources an environment conducive to meaningful dialogue is needed. Such an environment could be provided through a neutral facilitator, procedural guidelines, pre-established ground rules and an intentional seating plan (Umbreit, 2001:14). The facilitator should use specific techniques and strategies to create such a safe and respectful environment. One of the most effective techniques in this regard is meeting in person with all the primary parties prior to the mediation session. According to the Restorative Justice Centre the process of Victim-Offender Mediation consists of three basic phases namely preparation, the

conference or mediation session and the follow-up or monitoring stage (Umbreit b, 2001; 15).

6.1. PREPARATION

Restorative action can only take place if the process is voluntary. For the offender this can be achieved by requiring the offender to acknowledge the offence from the start. For the victim it would require a thorough understanding of what could be expected in terms of the process and whether he/she would be safe. To prevent the use of coercion and manipulation, pre-meetings have to be held with both the offender and the victim. These meetings would give both the victim and the offender the opportunity to be heard, for the facilitator to gain an understanding of the event and to determine who should be involved in the process. It is important to ensure that all the parties involved have enough information and tools required to make informed choices about participation (Hayes et al., 1998:24; Llewellyn, 1998:43). The nature of the conflict and possible power imbalances need to be determined to be able to make arrangements in order to counteract them. Addressing imbalances could require that both parties have support people who are fully included and empowered to participate in the process. A survey in the United States (Umbreit, 2001:15) found that in 92% of the programs surveyed, parents or a support person were present.

6.2. CONFERENCE OR MEDIATION SESSION

The mediation session will include the victim, the offender, the mediator, and often, family members or other support people of the victim or offender. The mediator's task is to facilitate a discussion between victim and offender so that their questions and issues may be dealt with. If a restitution plan emerges, the mediator will often write up the details in a contract for the participants.

6.2.1. The encounter

The encounter is the event that brings the parties face-to-face with each other. It provides an opportunity for them to confront and challenge one another's stories of the event and, as such, forms a key element of Restorative Justice practice (Llewellyn, 1998: 40).

At the onset of the encounter, the parties must form part of the decision making for the setting of ground rules for the process. These rules refer to the way they would relate to each other during the session, for example no yelling, threats or name-calling. It could also require the parties to remain seated during the session. The goal of the rules is not

to limit emotions but to create a safe environment for the expression of emotions. During this part of the process the facilitator could play a directive role.

The first real component of the restorative process can be identified as "truth telling". This element contains the establishment of the facts surrounding the event of the offence. It is important to note that the goal of this part of the process is not to establish guilt with the intent to lay down punishment, but rather to determine what went wrong and to find a way to address it. It is, however, of the utmost importance that truthfulness is not only limited to the offender, but that the victim must also relate his/her experience of the incident fully and honestly to enhance the quality of the restoration. Truth telling alone, however, is not enough to meet the requirements of the restorative process. It must also be heard by the other parties involved. It is necessary as truth is always someone's interpretation of reality. The truth that this process is concerned with is the truth that stems from the relationship between the parties. The focus in the end stays with the restorative goal of ruling out the conflict generated by the crime and balancing the inequality created by the offence (Llewellyn, 1998;38 -39.).

The second component of the restorative process is emotions or feelings. Encounter provides the opportunity for both victims and offenders to express emotional experiences related to the offence. It is for this reason that ground rules need to be set from the outset of the session. This narrative entails the engagement between the victim and offender and "is achieved when both parties tell their stories, relay their experiences and are listened to with respect" (Llewellyn,1998:41). This is often the only way to determine the real harm done and experienced and indicates where restorations need to take place. This phase of the process provides the opportunity for remorse, forgiveness and reconciliation (Zehr et.al.,1997).

For encounter to be true to restorative principles, the following rules should be observed:

- The session must be driven by the participants and not the facilitator. The facilitator's role is to bring the parties together, help set guidelines and structure the discussion. When the discussion is driven by the participants and their needs, the danger of falling into an outcome focussed process is limited.
- While family members and other support people of either the victim or offender are also encouraged to participate, their direct verbal involvement in the conference should never overshadow the needs and involvement of the specific victim and offender (Gehm, 1998:19-22; Umbreit, 2001:14).

- The facilitator must ensure that the restorative needs of the wrongdoer and the victim are balanced. Social equality must also be ensured. As discussed, this can be done through involvement of support people but the facilitator still has to concentrate on it during the process of the encounter as he or she is not emotionally involved with either parties and would be able to bring a more balanced view into the discussion.

The facilitator should help the parties to move towards an outcome without directing the content of the outcome. This would give the participants the opportunity to develop a plan to address the specific wrongs in their own situation (Llewellyn, 1998:41).

6.2.2. Outcome

The final stage of the mediation session can be described as the outcome. This stage provides an opportunity for a future plan in the form of a mutual agreement to ensure restitution. The agreement must be the result of the restorative process and not the goal of the process. Encounter should not be rushed to get to the outcome. This process allows the victim to describe what he/she requires as restitution. This however is not the sole aim of Restorative Justice. The main aim is restoration of the relationship to social equality. Harming the offender through an agreement of revenge would not serve this purpose. Justice cannot be achieved through violence as it would again breed violence. Furthermore, it would aggravate the social inequality that leads to the offence in the first place. On the other hand this does not mean that the offender should not suffer. To restore or pay back the damage is often painful but it would be in context with the offence. Such an agreement could require the offender to do voluntary work or repay damages, which would require him/her to give up time or money. Suffering would then be the result of the offender's work to repair the harm that has been done (Llewellyn, 1998:45).

However, the most important outcome is that the victim and offender, and other family members or support people, can talk about the impact of the crime upon their lives (Hayes et al., 1998: 24; Umbreit, 1998:19). According to Zehr et.al. (1997), personal change is more important than compliant behaviour in the process of ensuring justice.

6.3. FOLLOW-UP OR MONITORING STAGE

This last stage of the process is of the utmost importance as Restorative Justice would be of little to no value if the offender does not need to keep to the agreement. If a future centred agreement did result from the mediation session, compliance should be monitored, as it would help the offender to reach accountability, thereby being empowered

and encouraged towards responsibility (Cavanagh, 1998:26; Zehr, 1990:201). The facilitator would now play an important role in monitoring the performance of the task stipulated in agreement. After finalisation of the task spelled out in the agreement, a report should be written and returned to the prosecuting authority for withdrawal of the criminal charge.

7 SKILLS AND KNOWLEDGE NEEDED BY SOCIAL WORK PRACTITIONERS IN THEIR ROLES AS MEDIATORS

Most authors agree that Victim-Offender Mediation need to be facilitated by a trained mediator. As indicated by Pranis (1997 b :1), implementation that fails to be true to the underlying values of Restorative Justice could be of danger to all parties involved and risk the acceptability of Restorative Justice as a theory. It is then clear that, due to the sensitive and volatile nature of Victim-Offender Mediation, specialized skills and knowledge are needed.

The following skills could be identified through the literature review.

- Active listening, which would imply listening to understand the interest of everyone involved in the process. He or she needs to be able to relate to scared and angry victims and offenders. By doing this, the mediator proves himself to be trustworthy (Scottish Mediation Network, 2005.; Mediation UK 2005).
- Finely developed communication skills would be needed to allow the mediator to establish the required rapport with the victim. These skills are also needed to solicit input from victims in order to determine the nature of the harm done and possible ways of repairing it (Scottish Mediation Network, 2005; Mediation UK, 2005).
- The mediator must be able to engage the parties through questioning, reframing and the use of neutral language. It could further be achieved through the seeking of diversity of opinion and trying to involve everyone- this increases the chances of finding good solutions. (Scottish Mediation Network, 2005; Mediation UK, 2005)
- Effective summarising of the needs of all the parties and the process is necessary. An assumption of winning and losing if discussions reach an impasse should be avoided. The mediator should do a thorough search of all the available options (Scottish Mediation Network, 2005; Mediation UK, 2005).
- Young offenders are often used to experiencing alienation and rejection from their families and communities and are in urgent need of acceptance. The ability to stay

objective and act impartially even while working with strong emotions and challenging behaviour could not be overstressed. Empathy would be needed to prevent the mediator from becoming emotionally involved in the harm the victim has suffered.(Scottish Mediation Network, 2005; Mediation UK, 2005)

- The young offender often needs to be led towards taking responsibility for the crime and understanding the harm he/she has done. It is, therefore, imperative that the mediator is able to separate facts and feelings. This would also support the process of identifying the position of all the parties in order to help them develop realistic expectations (Scottish Mediation Network; 2005; Mediation UK, 2005).
- The mediator should keep the focus on common interest for the future and keep in mind that consensus is not meant to overpower any party (Scottish Mediation Network, 2005; Mediation UK, 2005).
- The family of the offender also need support and guidance on dealing with their child. The mediator would therefore need knowledge on youth development as well as parental guidance in terms of relationship building and discipline (Scottish Mediation Network, 2005; Mediation UK, 2005)

Well developed communication, conflict management, resolution and mediation skills form the basis of the mediation session itself. As the mediation session often includes support people for both the victim and the offender, good group communication skills would be needed. The mediator also needs to be able to focus the discussion without taking over, and stimulate participation by all parties. He needs to ensure that all views are heard and prevent the process from being rushed towards the outcome. This would be done through the use of facilitation skills. Eventually the mediator would need to facilitate the process of apologies to victims and communities by the offender. This could be done in different forms and the mediator would be required to assist the offender in identifying the most appropriate way.

In order to ensure a satisfying and realistic outcome, the mediator would need knowledge of the community members and organizations that could provide support and opportunities for community service to the offenders. In the absence of such resources the mediator would need to be able to develop sites for this purpose, preferably where work could be done that is highly valued by the community. The ability to identify extended support networks for victim and young offenders would improve the success of the mediation (Balanced and Restorative Justice Practice, 2002).

8 CONCLUSIONS

Restorative Justice is the implementation of conflict resolution skills and processes in matters that are described as crimes by the current justice system. When normal life problems and conflicts occur, involved parties should deal with it and resolve the matter. Restorative Justice allows those influenced by criminal action to deal with it and aims at balancing the rights and needs of victims, offenders and the community through interventions that include all parties affected by the conflict. The process itself is intended to bring healing to the victim as well as the offender. Through the help of trained professionals, all parties can be helped to use crime as an emotional and spiritual growing experience. It also brings a greater sense of satisfaction in the course of the justice process to the victim and reduces fear of being re-victimised.

The ultimate aim of Restorative Justice is to heal relationships that were damaged by the offence. The ideal relationship is the goal and not necessarily the relationship that existed before the incident. The ideal relationship and community exist where all members are interconnected. Isolation and alienation lead to feelings of powerlessness and vulnerability that increase the possibility of crime. By using community values of connectedness, as found amongst others, within the African culture of Ubuntu, both victims and offenders can be healed and reintegrated into communities. Through these principles, offenders can become free to take responsibility for their actions without being outcasts.

It would then seem as if the rich and diverse cultural background of South Africa offers numerous ways of integration that could be implemented into a unique South African approach towards Restorative Justice and Victim-Offender Mediation.

Through Restorative Justice processes such as Victim-Offender Mediation victims and offenders are humanised which lead a better understanding on both sides. Victims realise that offenders are not super beings that cannot be overcome, and offenders realise and understand the impact of the harm they have done. It also prevents the offender from seeing himself as a victim of the system and thereby sidestepping his responsibility.

Throughout the whole process the rights of victims, offenders and communities should be protected and the Restorative Justice ideology should not be used to make the retributive justice system more acceptable. Social work practitioners could be empowered to make a paradigm shift from the philosophy of justice as punishment toward restoration for all involved. For these reasons, this process should not be attempted without training.

Specialised skills and knowledge would be required from those practitioners aiming to implement Restorative Justice and Victim-Offender Mediation. These specific techniques and skills should be developed to enhance the restorative value of interventions.

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ARTICLE 2

VICTIM-OFFENDER MEDIATION –THE PERCEPTIONS, EXPECTATIONS AND EXPERIENCES OF VICTIMS, OFFENDERS AND SOCIAL WORKERS

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ABSTRACT

In an effort to save young persons in conflict with the law, Restorative Justice is a suggested theory of justice that could be implemented. Methods have been developed to divert children from the criminal justice system. One such method is "Victim-Offender Mediation" where victims and offenders are brought together to solve the problems resulting from the crime. An explorative study was done to determine the perceptions of victims, offenders and practitioners towards this method. It was found that this method is acceptable to victims and offenders and of value to practitioners.

1 INTRODUCTION

This article reports on an empirical investigation on the views and expectations of victims, offenders and social workers regarding Victim-Offender Mediation. The previous article is an account of a literature review on the topic in which Restorative Justice is conceptualised and its principles identified and it is indicated how Restorative Justice serves as a theoretical background for Victim-Offender Mediation with specific reference to the South African situation.

In the empirical study, the qualitative method of research has mainly been used within an exploratory framework (Grinnell, 1997; 53-138). The research participants consisted of three groups made up of six victims, six offenders and six social workers involved in Victim-Offender Mediation. The members of the different groups were selected by means of availability sampling. The victims as well as the offenders were identified from police dockets and in both cases 10 participants were invited, although only six eventually

attended each group. Due to logistical problems only social workers working in the field of Restorative Justice in the Southern District of the North West Province could attend the focus group session for practitioners. Seven social workers were invited and again six attended. The focus group method was used with each of these groups to obtain the empirical data for the research. The measuring instruments were developed from a literature review, tested and improved before they were used as discussion frameworks in the focus groups. Three groups were used to be able to do triangulation.

2 THE COMPOSITION OF THE STUDY GROUPS

The members of all three groups were selected by means of availability sampling (Berg, 2004:35).

The group of **victims of crime** consisted of six victims of different crimes. Victim one was a white, female, aged 40, who chose to relate an incident where she was the victim of housebreaking and theft. Victim two was also a white female, aged 28, who was the victim of the theft of a cellular phone. Victim three was an African lady, aged 43, who was the victim of an assault with intent to do grievous bodily harm. Victim four was a white male, aged 32, the victim of theft out of a motor vehicle. Victim five was an African woman, aged 27, the victim of assault with the intent to do grievous bodily harm and victim six was a white female, aged 34, the victim of car theft. The average age of the victims is 34, but it does not have any significance for the study.

The group of **offenders** consisted of six young men between the ages of 13 and 20 who were arrested and charged on cases of assault with the intent to do grievous bodily harm and theft out of motor vehicles. Their average age, although not accurately calculated, is significantly lower than that of their victims.

The third group consisted of six **practitioners** in the field of probation services. All six were qualified social workers and their experience ranged from six months to twenty-five years. It could thus be expected that their views would vary in terms of years of experience. This could not be tested, though. These six persons are employed as probation officers by the Department of Social Development within the Southern District of the North West Province. The original intention was to also include practitioners from other districts in the province but due to the constricted time schedules of the available practitioners and long distances between offices, a group session could only be successfully arranged within the Southern District probation officers.

The discussion group of victims was held first and their positive attitude towards their young offenders were remarkable. Although they suffered different kinds of losses and were each traumatised to a different degree, all of them wanted the offenders to learn from the experience and become productive members of society. All of them viewed themselves as parents who also have a responsibility towards other children in the community, including their offenders. Only one victim was still angry enough to want revenge through punishment.

The discussion group of offenders was held later the same day. The most noticeable element of this discussion was the offenders' lack of thought for their victims. All the offenders quickly became aware of the harm that the victims suffered due to their actions. A sense of shame started to develop amongst the group members and then all of them wanted an opportunity to repair the harm they have done and to ask their victims' forgiveness. Another noticeable characteristic of this group was all the group members' feelings of alienation from their communities.

After a period of six weeks the discussion group with the probation officers eventually realised. The session was characterized by the group members' common experience in the implementation of Restorative Justice even though only two members had actual experience in the use of Victim-Offender Mediation as implementation method. During this group session training needs for practitioners in this field were identified. Even though training would be similar to training for social work, the feeling of the group was that rendering services from a Restorative Justice view is a specialized service and training should therefore be more focused on the principles of justice and other topics related to services towards offenders and victims.

3 PROCEDURES

Each focus group discussion was started with an explanation of the purpose of the group meeting and how it would be conducted. After the topic has been introduced, a discussion framework was used to structure and stimulate the group discussions. The responses of the group members were used to elaborate on the issues of concern. Tape recorders were used to record the sessions, with the permission of the group members. Transcriptions of the discussions were made afterwards and the responses were categorised and systematised (Grinnell, 1997; 53-138).

A focus group discussion framework was used with all three focus groups to secure the necessary empirical data. Similar frameworks (Addendums 1 – 3) were used with all three of the groups in order to make a comparison of data possible.

The focus of the group discussions with the victims and offenders was identical with the experiences, needs and rights of victims of crime as well as young offenders as an introduction. As Victim-Offender Mediation is built on the concept of Restorative Justice and its principles, the acceptability of these principles had to be tested before Victim-Offender Mediation could realistically be discussed. The principles of Restorative Justice were therefore very basically explained and the views of both groups on this were tested.

During the literature survey that preceded this study it was found that native African philosophies like Ubuntu have a lot in common with Restorative Justice (Llewellyn, 1998:7; Consedine, 1999:174, Umbreit, 1998:4). In the search for a uniquely South African approach towards the implementation of Victim-Offender Mediation, the possibility to use some elements from these philosophies had to be investigated. The acceptability of Ubuntu and other African philosophies and the possibility to engage victims and offenders in mediation sessions were then included in the discussion schedule.

The focus group with practitioners differed from the first two groups as two other themes were included, namely whether in their experiences the principles of Restorative Justice could be practically implemented and whether it has been done by any of them. A specific discussion at the end of the focus group session dealt with capacity building needs as identified by the practitioners.

Preliminary studies were done on the schedules to determine whether the schedule could be successfully used. During this study three social workers were involved and the schedule was successfully used to stimulate discussion and to lead the discussion towards the training needs of practitioners.

4 THE PERCEPTIONS, EXPECTATIONS AND EXPERIENCES OF THE GROUP OF VICTIMS

4.1. PROCEDURE

The session was held on a Saturday morning and the process was managed according to a discussion schedule designed previously. The researcher gave an introduction to the theme of the group discussion. Every group member started by introducing him or herself and relating the incident of crime where he or she was the victim. They were also

encouraged to relate their feelings at the time of the crime and their current feelings towards the offender and their experience of the criminal justice system. A discussion on Restorative Justice, its meaning and implication as well as possible implementation followed. The discussion then moved to Ubuntu and other philosophies as a view of life and how the principles guiding care in a community could be used to implement Restorative Justice. Lastly the discussion focused on Victim-Offender Mediation. The group members were asked how they would feel about meeting the offender/s in their cases, what they would like to ask and to say, who they think should be present and how they would prefer to be prepared for such an encounter.

4.2. THE VIEWS AND EXPERIENCES OF THE VICTIMS REGARDING THE OFFENCE AND OFFENDER

During the focus group session with the victims of crime the following dominant emotional experiences were identified: Each had a strong feeling that their personal space has been violated and defiled, that the crime was their own fault and they, therefore, experienced anger towards themselves as well as anger towards the offender. They also reported feelings of loss and insecurity that were followed by feelings of powerlessness. Even though the loss of replaceable items, like video machines were intense, all victims experienced more serious losses on an emotional level as the result of the loss of irreplaceable items with high sentimental value like an inherited coin collection, or other losses, which the offender could not know about or did not value, like phonebooks stored on a cellphone simcards. Depending on the severity of the offence and the time lapse since the offence, feelings ranging from irritation to a need for revenge were also reported.

The victims also identified feelings of a lack of power to protect themselves or their property. It seemed as if the offenders couldn't be stopped through efforts of the victims or the police. According to literature, victims who meet their offenders are significantly less fearful of being victimized, as it allows the victim to see the wrongdoer as a person instead of some evil or heartless criminal (Llewellyn, 1998:32). Without this experience it seemed to all the victims that offenders have more rights and are better protected. This is further indicated by the victims' unanimous feelings of being failed by the justice system, mostly by not being involved during the course of the case. They also experienced that their losses were not important unless it had great financial value and their cases did not receive the attention they would have wanted. The fact that offenders could not be kept in custody due to their young age only served to strengthen this experience. These

experiences and feelings of loss and a lack of control in their lives are also confirmed by Umbreit (2001: 24 –25).

Expectations expressed by the victims' concur with findings by Bright (1997). Specific expectations entailed that the offenders initially be kept in custody and in some way are made aware of the harm they have done. Victims should then be informed on the prosecuting process and get the opportunity to address the court. They also expect to be informed about the end result of the process.

One victim expressed the need to meet the offender face-to-face, even if he was sentenced to imprisonment. She would like to ensure that he is made aware of what he has done, and the fact that he has violated her dignity. She would also have liked to know why the crime was committed. All the victims expressed their need for the offenders to apologise for their behaviour. Even the offenders' own proclamation to abstain from recurrent offences would make them feel more secure.

From the above, the need for an opportunity to express feelings related to the offender and the offence committed against them is clearly reflected. This need is intensified as the result of a lack of proper channels to express these feelings. It also correlates with findings in Barron County (2000) that victims who met their offenders are more satisfied with the justice system and its response than victims who did not get this opportunity.

Despite the victims' feelings of anger, powerlessness and violation, every member of the group also expressed positive emotions towards offenders. All the group members felt that the offenders are children and should be helped to accept responsibility in order to stop them from continued crime. Their generosity, however, had limits. They would not want to endanger themselves, their families or their property to support the offender. In the words of one victim: "as die persoon die vermoë het om 'n motor te steel sal ek onveilig voel as ek op Saterdagoggend hom in my tuin moet hê. Ek sal hom met spitvurk teen muur wil hou".

4.3. THE VIEWS OF THE VICTIM REGARDING RESTORATIVE JUSTICE

The opinions of the respondents on this issue are of particular importance because their attitude towards the philosophy of Restorative Justice will also influence their attitude towards Victim-Offender Mediation.

All the victims thought that young offenders should be made to understand the severity of their actions. Everyone wanted the offenders to learn from their experience and to be prevented from committing crimes again. The victims hereby assume that the

understanding of the severity of their wrongdoings will be a learning experience and would lead to prevention. By expressing this need, it also became clear that justice has to be future centred.

The feelings of goodwill towards the offenders also differed in terms of depth from member to member. All members, however, did not have the same view on the methods to be used to lead the young person to more acceptable behaviour. Two members wanted the offenders to be punished and two members doubted whether any intervention would make a difference. One of the victims of assault felt that corporal punishment would have made a difference in ensuring disciplining young offenders. She felt it would make them think twice before hurting another person again. The need for corporal punishment of the offender supports the view of justice as retribution whereby justice is seen as revenge and that social inequality must be restored through punishing the offender (Llewellyn, 1998:19-23; Zehr, 1990:211). Punishment could, however, form part of Restorative Justice as it could be attained by the suffering the offender has to go through in order to restore the harm done.

The other assault victim was not very interested in the development of the offender, but wanted the offender to pay monetary restitution. This expectation expressed by the victim corresponds with the view of justice as restitution where the offender must pay back the damages that the victim has suffered. Justice as restitution forms part of the broader view of Restorative Justice that does not only focus on restoring the physical loss but also on restoring the relationships between the victim, the offender and the community (Braithwaite, 1996:4; Zehr, 1990:197).

As the time lapse between the group session and the offence increased for the individual victims, their feelings of goodwill towards the offenders increased and they expressed more interest in the possibility of Restorative Justice. One of the members even explained that a victim would need time to heal from the physical and emotional hurts he or she suffered due to the crime. One assault victim's crime happened only two weeks before the focus group session and she was still very angry and was not at all ready to forgive the offender, even if the offender had remorse. Her words "Ek is nog te kwaad, ek het nog tyd nodig om oor dit te kom" demonstrates that the crime and the events were still fresh in the memory of the victim. These expressions by the victims make it clear that Restorative Justice has to focus on the victim and the victim's needs before embarking on reconciliation.

One victim also expressed the possibility that other victims of crime could be of value here and that support group sessions for victims of crime would improve the value of Restorative Justice interventions. This brings to mind the Ubuntu philosophy where every human being's humanity is tied up with those of other human beings (Llewellyn, 1998: 7). It would create an opportunity to help victims reintegrate into the community as alienation is often the result of crime.

Two members expressed the firm belief that somebody, maybe even the victim himself, should speak to the offender. This natural view of the victims is endorsed by Llewellyn (1998:32) in his explanation that bringing people face-to-face with one another dispels the myths and stereotypes each has of the other. This would benefit the offender by giving him/her the opportunity to hear the victim's story and experience in his/her own words, and be confronted by the impact of what has been done (Zehr, 1990:204).

The male victim remained sceptical of the idea of Restorative Justice. He was of the opinion that it would only serve to let the offender come off scot-free again. As he was the victim of a property crime, he even felt that expecting the offender to pay back damages would only punish the offender's parents. Even the proposed idea by another victim that the offender should perform tasks to restore the victim, did not immediately convince him. He was convinced that the young offenders' human rights would prevent any action that could make a real difference to the victim. After a discussion amongst the group members he consented that Restorative Justice could be successful if the offender has intense remorse. This confirms the principle of acceptance of responsibility as a prerequisite for restorative action (Zehr, 1990:197).

4.4. THE VIEWS OF THE VICTIM ON UBUNTU

One of the most prominent cultural views used in community living in South Africa is Ubuntu. It is derived from the Xhosa proverb: umuntu ngumuntu ngabantu that translate as, a person is a person through persons. The African concept of Ubuntu is the philosophy of personhood underlying the traditional conception of justice and also forms the backbone of the current South African Constitution. Ubuntu is commonly described through the saying "I am because you are" or "my humanity is tied up with your humanity" Llewellyn (1998:7). If one's humanity is tied up with the humanity of all others, what makes others worse off also brings harm to oneself. Isolating the offender leads to a breakdown of social bonding and the loss of a collective responsibility for the safety and welfare of others. It also leads to unfamiliarity, which culminates in a loss of trust and increased alienation. Responses to wrongdoing should then aim to repair the damage, to make the

wrongdoer better off for it is only in doing so that one can address the harm the victim(s) suffered. As Ubuntu has a lot in common with Restorative Justice and it has the added value of being part of the South African culture, the possibility of using it as a background for the implementation of Restorative Justice was discussed with all the groups.

All the participants in the focus group of victims expressed an opinion on this subject. Everyone felt that as community members and parents they have the responsibility to make a contribution towards the emotional growth of the children from families in their close community. Four members also expressed their feelings of responsibility towards the emotional growth of the offenders in the crimes where they were victims. They were of the viewpoint that they had a responsibility as parents to support other parents in helping young offenders get their lives back on track. They also thought that the entire community should accept responsibility towards its members and their children. These expressions by victims support the theory that every human being's humanity is tied up in the humanity of others (Llewellyn, 1998:7) The fact that this was a cross cultural group emphasizes the fact that the principles of Ubuntu are acceptable, even toward offenders. It would then seem as if the principles of Ubuntu could form a common ground for the implementation of Restorative Justice. By using Victim-Offender Mediation as method, the principles of Ubuntu and Restorative Justice could be implemented through community members accepting collective responsibility for the safety and welfare of others. Isolation and alienation of both victims and offenders could be countered and residivism minimized.

4.5. THE VIEWS OF THE VICTIM ON VICTIM-OFFENDER MEDIATION

All the victims were of the opinion that the young offenders must be led towards an understanding of the severity of their crimes and towards acceptance of responsibility. If this means that the offender should be punished, it would be acceptable but they also expressed a need that the offender be given the opportunity to apologise and to commit him/her to abstain from future crime. This would make him/her more trustworthy and acceptable which would in turn have a positive influence on the young person's behaviour. These attitudes indicated that the victims believe and support the principle of changed behaviour due to the acceptance of responsibility. Literature confirms that acceptances of responsibility (Balanced and Restorative Justice Project, 2000:12) as well as increased integration have a positive effect on the prevention of re-offending (Cavanagh, 2000:4; Consedine, 1999:176-177). The victims' acceptance of punishment of the offender clearly indicates that they do not reject retribution as justice. In this instance it should be noted

that punishment on its own has no place in Restorative Justice. This, however, does not mean the rejection of some kind of suffering on the part of the offender. According to Llewellyn (1998: 49), an agreement should be made at the end of the mediation session which might involve a sacrifice or tasks that could lead to some kind of suffering on the part of the offender. The suffering or sacrifice would then form part of the offender's attempt to make amends for what he has done.

Some of the victims also expressed a need to be able to personally tell the offender that his behaviour was wrong and unacceptable and to explain the damage that he/she has done to the victim's life. One victim even expressed the opinion that, as a parent of other children, she would be worried that the young person would never know the full impact of his behaviour on other people, if she herself does not get such an opportunity. This concern confirmed that victims do not want responsibility of the conflict to be totally taken away from them as is done through the current justice system (Meintjies van der Walt, 1996:166). The victim would then need to be more involved in finding a solution to the problem (Luyt, 1999:67; Zehr, 1990:20 -30). This need expressed by the victims also indicated that a part of the conclusion of the crisis, created through the crime, is for the victim to be satisfied that the offender understands the full extent of the damage he has done (Llewellyn, 1998:32). From this discussion among victims of crime, it became clear that certain needs of the victim could be dealt with most effectively through a face-to-face meeting between offenders and their victims.

4.6. PRACTICAL IMPLEMENTATION

During the discussion on who should be present during the mediation session itself, the victims disclosed an urgent need for a facilitator who should be an objective well-trained person who could act as a peacemaker or mediator. Van Binsbergen (2001: 6) confirms this by expressing the need for mediators to not be party to the conflict. They should also have some kind of status that could grant them the authority to mediate between parties.

The victims found it obvious that the victim and the offender should be present but ambivalence existed with regard to the presence of a support person for the victim himself. If the offender had support in the form of parents or family members, they thought that the victim should have someone as well, but the victim and his support should not place the offender in a situation where he is overwhelmed. This indicated sensitivity on the side of the victims towards the offenders, who were now viewed as children. Should the offender's parents or support persons attend such a session, the victims felt that they should only be there to give emotional support but not to overshadow

the offender. In the words of one victim: "Die ouer moet stilswyend wees, want hy gaan sy kind probeer beskerm. Die ouer moet die kind nie in sy kwaad sterk nie. Hy is daar om die kind te ondersteun, nie namens die kind te praat nie." The offender should not hide behind his support system and they should not protect him against the full impact of his responsibilities. This view is also described by Gehm (1998:19-22) who encourages family members and other support people to participate while at the same time ensuring that the needs and involvement of the victim and offender are central to the process.

The victims did not see the need for whole families or community members other than those intimately related to be involved in such a mediation session. They also felt that family members could have a meeting on their own to discuss the young people's behaviour and control. According to the Guideline for Balanced and Restorative Justice, both the victim and his/her support that could include immediate family, extended family, a neighbour, a co-worker, and a faith community member should be included in the mediation session. The same applies to the offender and his support system. If applicable, teachers and law enforcement personnel could also be included. The victims felt that community members who are not involved would only make both the victims and the offenders feel vulnerable. These opinions stands in stark contrast to Restorative Justice's views that victims, offenders and communities should take ownership of the conflict, and that communities should be involved to ensure reintegration of both victims and offenders (Luyt, 1999:67; Zehr, 1990:203).

My opinion is that, as victims already experience feelings of powerlessness and vulnerability, it would only be fair to allow them the choice of support persons to accompany them to a mediation session. This view is supported by Umbreit and Greenwood (1997:5) who sees this as an important option in a victim centered service.

The group as a whole felt that a prerequisite for the successful implementation of Victim-Offender Mediation would be therapeutic intervention by a trained professional, for both the offender and the victim before a mediation session takes place. As victims they would want assurance that the offender takes responsibility for his/her actions before consenting to a meeting. This precondition is described thoroughly by Umbreit and Greenwood (1997:7-9). They describes the process by first meeting the offender, ensuring that he accepts responsibility and is willing to participate in mediation. The offender is then thoroughly prepared before the victim is contacted and prepared. One of the purposes of pre-meetings is to establish credibility with both the victim and the offender and to offer as much information on the process as possible to assist the parties in their decision whether

to participate or not. Preparation would include ensuring that expectations on both sides are realistic, and brainstorming on possible forms of restitution.

The victims were clear about the focus of a mediation session. The mediator should focus the session and allow the victim first opportunity to verbalise his experiences and needs. He or she should also be allowed to ask questions related to the crime. This spontaneous description of the meeting itself is confirmed by other studies of encounters where the victims got the choice on whether to speak first or not (Umbreit & Greenwood, 1997:6). The victims expressed their need to ask questions related to the crime. This need is validated by Restorative Justice's view that, through involvement and the opportunity to gain information, victims' feelings of powerlessness and vulnerability can be countered (Umbreit 1993:69).

5 THE PERCEPTIONS, EXPECTATIONS AND EXPERIENCES OF THE GROUP OF OFFENDERS

5.1. PROCEDURE

The group session with **offenders** was held shortly after the session with the victims, and consisted of six young men between the ages of 13 and 20 who were arrested and charged on cases of assault with the intent of doing grievous bodily harm as well as theft from motor vehicles. The group members were selected from court cases within the month before the session. Only crimes where victims could be identified were selected. Ten young persons were invited to the session but only six attended.

This session also started with an introduction by the researcher that was followed by the group members introducing themselves and relating the event constituting the crime they were charged with. They were also asked to relate their experiences, feelings and thoughts during the crime as well as afterwards. They were specifically asked to relate their feelings towards their victims at the time of the crime as well as their current feelings at the time of the group session. They were also asked to relate their experience with the Criminal Justice process. Discussions on Restorative Justice as concept of dealing with crime and the philosophy of Ubuntu followed. The last part of the session also focused on Victim-Offender Mediation. The group members were asked whether they would like to meet their victims in person, what they would be scared about, what they would like to say and how they would like to right their wrongs. One of the group members actually was involved in an encounter arranged by his family as well as the victim's family and he related that experience.

5.2. THE VIEWS AND EXPERIENCES OF THE OFFENDER REGARDING HIS OFFENCE AND THE VICTIM

The offenders' experiences throughout the crime, the arrest, court appearance and return to the community were discussed during the focus group session. It seemed as if crimes were mostly committed without prior planning. It normally occurred within the socialising context/peer group of the young persons' lives. Some simply became involved because friends asked them and in the process they took no responsibility for making the decision to commit a crime. Even in the case of violent crimes, the offenders saw the crime as a logical part of events where they had no real choice but to participate

Before the crime they would daydream about the gains they would make through the crime but no consequences of the crime were considered. Even if they had more serious financial needs, most of the offenders only dreamed about buying nice things that would make them more acceptable to their peer group. They did not think about the moral implications of the crime or what it would do to the victims. This indicates that they did not perceive victims as humans with feelings and emotions, something that Restorative Justice strives to rectify through the principle of personalization of victim and offender. If the victim is personalized the offender gets the opportunity to understand the damage he/she has done to another human being (Llewellyn, 1998:32).

Even though the individual offenders were scared of being caught during the crime, they were more concerned about their co-offenders' anger, should they be caught due to his/her negligence. It is confirmed in the literature that young offenders often become part of their own sub-culture where they experience integration (Consedine, 1999:176-177). If he/she should make a mistake, leading to his/her friends' arrest, it would cause him/her to be alienated from this group where he experience belonging.

After being arrested for the various kinds of crimes, all the offenders experienced feelings of sadness although none of them felt sorry for their victims. Without exception they felt sorry for themselves for being caught, being kept in police cells and for getting themselves in trouble. Another common emotion that was identified is concern for the well-being of their families while the offenders themselves were in custody. Feelings of guilt towards parents, mostly mothers, also surfaced. Parents' expressions of hopelessness and fear seemed to have made a deep impact on the offenders. It would seem that acceptability within their own families was still important to them, even if they were not properly integrated. If parents did come to their rescue, they experienced feelings of joy, love and thankfulness. Feelings of intense fear were common during incarceration, especially at

night. Feelings of shame, even among other offenders were also common. They overheard discussions amongst other inmates relating to children committing crimes. When they were alone or exposed to other older inmates, this led to feelings of alienation. One offender described this experience in the following words: “En daai tyd toe voel ‘n man nou otherwise jong! Ek was hartseer, want check net, hoor hoe seg die mense nou watse tipe kinders vang sulke goeters aan, hulle het ook nie verwag van ons af nie”.

All the offenders taking part in the discussion group felt that they were treated fairly by the police as well as the judicial system. They expected mercy from the courts and wanted to ask for a second chance. The only need they were able to voice directly, was the need for legal representation. They needed someone to whom they could tell their side of the story.

Upon their return into their various communities all the offenders experienced alienation to some degree. Experiences varied from community members gossiping about them to people openly laughing at them. Every one of the group members had family members or friends who expressed their disappointment and this also led to feelings of shame.

5.3. THE VIEWS OF THE OFFENDER REGARDING RESTORATIVE JUSTICE

As expected, all the offenders were of the opinion that the principles of Restorative Justice would have a better chance of preventing them from further crime than the normal sentences given by the courts. They expressed a firm belief that imprisonment would only cause them to identify with bad characters and teach them new crimes. This fear is substantiated by the view that justice as retribution alienates offenders by removing them from the community (Cavanagh 2000:4). They are then presented with only one place to reintegrate – the negative sub-culture dominated by gangsterism in prisons. According to Zehr and Mika (1997:2), removal of offenders from the community and severe restriction should be limited to the minimum. The South African Government (1995) also endorses this view through the National Plan of Action according to which young offenders should only be restricted as a last resort in a situation with as little restriction for as short a period of time as possible.

The group of offenders admittedly did not think about the victims' interest without being stimulated by the discussion, but once they started to think about the victim they realised that they had hurt other people. Realisation of the losses that the victims as real people suffered suddenly became important and all the offenders felt that thinking about this, would prevent them from impulsively committing crimes again. In the words of one offender meeting the victim of the crime would give the offender the opportunity to “sien

die ander mens kry net so swaar soos jy". Even when the victim was financially stronger or more advanced this offender still thought that the loss the victim has suffered "is nog steeds hartseer".

This discussion, then, seemed to have helped instil a sense of empathy for the victim.

Neser expressed the expectation that such empathy together with a process of restitution would deter future offences (Neser, 2001:2). It is also consistent with findings from the Barron County Restorative Justice programmes (2000:2) that found that considerably fewer and less serious crimes are committed by offenders who meet their victim/s.

5.4. THE VIEWS OF THE OFFENDER REGARDING UBUNTU

Literature makes it clear that feelings of alienation or isolation have a direct influence on a person's choice to become involved in crime. Isolation leads to a breakdown of social bonding and the loss of a collective responsibility for the safety and welfare of others. Isolation leads to unfamiliarity, which culminates in a loss of trust and increased alienation. This cycle creates fertile ground for crime to grow, thus accelerating a spiralling effect. Pranis (1997: 1) is of the opinion that the closer the connection between community members are, the less likely they will be to indulge in impulses which would lead to disapproval by their community.

During the discussion with the group of offenders, it was interesting to find that they do not experience the spirit of Ubuntu. These young people experienced their neighbours and community as remote and rejecting them by throwing stones at them. They experience community members gossiping with their parents. Only in exceptional cases would members of the extended family discuss their behaviour with the young offenders themselves. Most of the young offenders did not experience feelings of generosity coming from the community in cases where families are in dire need. They thought that community support only exists when there is a funeral. These young offenders all experienced alienation to some degree and it is then easy to understand that they would seek alternative ways to become integrated by forming a counterculture where crime is the norm. This process is also described by Cavanagh (2000:4) who describes it as a search for power and a way to counter alienation. Restorative Justice could address this situation and help to achieve social balance as it recognises that the offenders themselves have been harmed and emphasizes healing and integration of offenders into the community (Morris & Maxwell, 1998;7; Zehr & Mika, 1997:2).

5.5. THE VIEWS OF THE OFFENDER ON VICTIM-OFFENDER MEDIATION

Without exception, all offenders in the group expressed a wish to meet with the victims. Although they were scared of the victims' anger and did not think that the victims would be interested in their apology they expressed the need to apologise to the victims. One of the group members was certain that the victim would only be interested in the replacement of his losses and verbalised the need to add repayment to his apology in order to seek the victim's forgiveness. Llewellyn (1998:40) also feels that contact between the offender and his victim does not only scare the offender but it forces him to take responsibility for his behaviour and it also creates a relationship between the offender and the victim. At least one of the group members understood that the damage done is deeper than physical hurt or losses. He would also want to apologise to the victim for the hurt he has caused that only the victim knows about. The young offenders knew it would take a lot of courage to meet the victim and own up to their crimes. They expected to also be ashamed, as they started realising that the victim is a person with problems of his/her own, even if he/she is financially better off.

All the members of the offender focus group felt that they would like to restore the damage that they have done. They also thought that restoring damage would prevent them from further crime as they would be forced to give money or something that is of value to them, and this would make them realise the value of the damage that they had done. Thinking about paying back the real replacement value of, for instance a car radio, would make them think twice before breaking into a car. This confirms Llewellyn's (1998: 49) view that restitution would cause the offender to make sacrifices in his personal life that would help prevent re-offending. The Barron County Restorative Justice Programme (2000) also found that offenders, who did meet their victims and discussed ways to repair the harm, are more likely to complete their obligations and to have accountability for their behaviour.

5.6. PRACTICAL IMPLEMENTATION

The offenders wanted their parents as well as the important members of their extended family, like grandparents, uncles and aunts to be present. They wanted the victim present and his family would also be welcome. Interestingly they did not have such an urgent need for a facilitator during the meeting, as they believed the families could discuss the matter among themselves. Van Binsbergen (2001) confirmed that situations could be so sensitive that outside mediators cannot always be involved but the reconciliation could still be therapeutic if it is done in private. Among urban Africans, even though some collective organisation exists, collectivism has, to a large degree, given way to individualism, particularly in more educated, settled and economically better-off areas. This is reflected

in the choice of process for interpersonal conflict resolution. Recent research shows some 86% of victims and offenders in urban townships opt to have a one-on-one mediation instead of a bigger community conference.

The offenders were, however, of the opinion that if a mediator is present, objectivity would be essential and they expected the mediator to be well trained. They also needed the mediator to have preparation meetings with the victims and offenders before such a session. Offenders expressed the need to be prepared for the victims' feelings towards them, they needed to know how angry the victims are with them as it would make them reconsider meeting with them. All the offenders were scared of the anger of their victims and stated that they would need time to prepare themselves emotionally for such an encounter. The offenders' preferred the person who first assessed them to be the same person negotiating with the victim before the mediation session as it would increase their feeling of security. Moreover, in a community with a low literacy rate, which is part of a society committed to rapid political, legal and social transformation, it is often expected that the mediator inform the parties of their rights according to the new laws and aims of the country. The mediator is obliged at such instances to assume a more directive, rights-based and educative approach, and has to be very firm in asserting that certain behaviours and acts are no longer acceptable in a human rights culture (Thom, 2003:7).

The process as described by the offenders within the normal problem-solving situation of their community would include giving the young person (offender) the opportunity to apologise for his behaviour and declare him willing to restore the losses that have been suffered. The offender would also ask the victim's forgiveness. If the victim grants his or her forgiveness it would mean accepting the apology and releasing the offender. Means to reform the young person would be discussed, the victim and the offender would be involved and the matter would be discussed to find the truth and a solution for restoration.

6 PERCEPTIONS, EXPECTATIONS AND EXPERIENCES OF SOCIAL WORK PRACTITIONERS

6.1. PROCEDURE

Lastly a focus group was held with six **practitioners** in the field of probation services. All six practitioners were qualified social workers and their experience ranged from six months to twenty-five years. Discussions during this group session focused on the practitioners' knowledge of Restorative Justice as paradigm and their experiences in the implementations of Restorative Justice. Their experiences of the spirit of the concept of

UBUNTU were discussed. Only one of the group members as well as the student (facilitator) had experience in the practical implementation of Victim-Offender Mediations. Due to their diverse experiences with both victims and offenders, the group members were, however, able to identify needs of victims and offenders and could also suggest who should be the role-players during Victim-Offender Mediation sessions. A specific discussion was held on the training needed for practitioners to be able to implement Restorative Justice as a framework and Victim-Offender Mediation as a specific method within this framework.

The information gathered during these group sessions were recorded on an electronic recorder that enabled the user to record and play back oral messages through a built-in memory. The recordings of the group sessions were then typed verbatim to make it accessible for writing this article. The information was then sorted and classified according to the headings of the article.

6.2. PRACTITIONERS' EXPERIENCE AND VIEW REGARDING THE IMPLEMENTATION OF RESTORATIVE JUSTICE

All practitioners did attempt to implement Restorative Justice but found some principles of this approach to justice easier to implement than others. The most important obstacle experienced was high caseloads that made it difficult to ensure community involvement and to render aftercare. The few available practitioners in the specific field do not have time to render preventative, statutory and rehabilitative services. The infrastructure needed to render Restorative Justice services intensively does not exist. All the practitioners were of the opinion that the opportunity to specialise would make the implementation of Restorative Justice easier. If a person could focus only on prevention, for example, work of outstanding value could be rendered. Victims of crime, offenders and communities would receive the opportunity to heal, as more intensive therapy over a longer timespan would be possible. Currently the practitioners experienced that their main task is the writing of reports for court purposes, which are of little or no therapeutic value to offender, victims or communities. Their priorities centre on court dates and are not people centred and therefore not focussed on the victims. Most of the practitioners also experienced that they are not well enough trained in this field and that they need more expertise to implement Restorative Justice properly. In light of this experience, it would seem as if the implementation of Restorative Justice would justify specialisation.

On the whole, the practitioners thought that in the light of their experience with their work in the community, the community fundamentally accepts the principles of both Restorative

Justice and Ubuntu but in practice the community is too negatively affected by crime. In their experience crimes that are viewed to have an impact on the collective community, for instance a serial killer would receive even less understanding and acceptance. The view was held that “there will be certain types of crime where the collective feeling is negative and the community would not want to know about these principles”. Despite the extended tolerance within families, one of the practitioners felt strongly that the community does not tolerate sexual crimes against children and such offenders should be removed from the community.

The practitioners also experienced communities to be saturated with crime. Even though community services, for example, are used as a part of sentencing, the community members themselves do not welcome this. The sentenced offenders are viewed as people who will only commit crimes again and are very seldom afforded a second chance. Even though most community members would intellectually understand the responsibility that lies within the community to help offenders to rehabilitate and become functional again, the needed opportunities to prove themselves are seldomly given. One practitioner described a situation where a person suffered financial loss and expected to be reimbursed by the offender. If the offender does not have money, the community has difficulty understanding that he could do other things to repair the harm he has done. Her words “we must be realistic; people who have no food will have difficulty to understand that an offender can cut wood to repay them”, illustrate this point clearly.

The practitioners’ concept of the victims’ most urgent needs included the following: the victim’s need for compensation for losses due to the offence whether directly or indirectly. Victims would also experience the need for someone to be punished. They were also of the opinion that victims have a need for restoration of dignity and to understand the reason for the offence as well as why he/she was the victim. These views emanate from the contact of practitioners with victims and are similar to the views expressed by the members of the group of victims. It also correlates with the literature research that preceded this empirical study. According to Zehr and Mika (1997), victims have the need for information, validation, vindication, restitution, testimony, safety and support. He is of the opinion that these needs are the starting points of justice.

6.3. PRACTITIONERS VIEW OF UBUNTU

The focus group of practitioners were mostly positive about the principles of Ubuntu and they were adamant that Restorative Justice cannot be implemented in South Africa without the use of the principles of Ubuntu. Within the divergent cultures in South Africa, the values and principles of Ubuntu are practiced although it has different names. For the practitioners Ubuntu is mostly about humanity and treating others as you want to be treated yourself. They also experienced the communities as accepting these principles. Experiences of people within poor communities helping each other were common although the feeling was also there that only people who have experienced suffering are willing to support others. In the words of one group member it is "only when life has been hard on you that you understand other's problems". Differentiation was made between individualistic communities, where people own a lot, and collective communities where neighbours have little except for the support from each other. Forgiveness and understanding, on the other hand, was experienced to be more easily given, when you can afford it. If your only possessions have been stolen it is more difficult to have a positive attitude. These experiences by the practitioners did not really correlate with the feelings that the victims expressed during that focus group session. The feelings expressed during the focus group session with the victims were clearly more positive than those expressed by the practitioners. As discussed earlier, all the victims felt that the offenders as children should be supported and led towards accepting responsibility and prevented from recurring offences. As expected this generosity had limits as the victims would not be willing to support the offender to an extent where they would endanger themselves, their families or their property.

Feelings of being rejected and neglected as expressed by the offenders were supported by the practitioners' experience within the communities. The practitioners were of the opinion that the community normally wants the offender to be rehabilitated but also wants him to be punished. This is confirmed by the needs of some of the victims and the acceptance by all of the victims that dealing with the offenders could include punishment as part of rehabilitation. The practitioners further felt that communities at large would easily lose objectivity and focus all their generosity and the principles of Ubuntu on the victim, but very little on the offender. Offenders are commonly labelled and do not receive much mercy from the community at large. However, when crimes have been committed within families, even sexual crimes, the offender would more easily be forgiven if he apologised. Families often would not want the offending member of the family to be sentenced to imprisonment. The practitioners' experiences also indicated that financial

remuneration among poor communities also makes families and communities more eager to forgive, but whenever the offender is not in a situation to pay all that is deemed necessary, the victim and his family would not be so accepting. This is an expression of the importance of tangible evidence that the offender is prepared to compensate for the losses incurred through his behaviour.

7 PRACTITIONER'S VIEW ON VICTIM-OFFENDER MEDIATION:

7.1. WHO SHOULD BE INVOLVED

Victim-Offender Mediation as a method to practically implement Restorative Justice is the focus of this study and was discussed in depth during the focus group session with the practitioners. During this discussion it became apparent that no form of mediation or conferencing is regularly used among the specific group of practitioners. Some of the group members simply forgot about the possibility and others have never got around to doing it. The few practitioners, who did use Victim-Offender Mediation as method, found it a valuable tool.

The question of who should be involved in a Victim-Offender Mediation session was discussed during all three focus group sessions. The group of practitioners simply felt that the victim and a family member, the perpetrator and a family member, the facilitator and any other person who could be of support should be involved. This is closely related to the expectations expressed by the victims. The offenders on the other hand expected more members of their family to be included.

7.2. ROLE OF THE MEDIATOR

The practitioners were thorough in their view of the mediator's role. They felt that in-depth preparation is the key to a successful session as it would be easy to lose control over the session if too much unforeseen information surfaced. According to Hayes, Prenzler, & Wortley (1998:24) separate meetings should be held with both the victim and the offender in order to prepare them for the actual meeting and to ensure realistic expectations.

It is also of the utmost importance to ensure that the victims and the offenders as well as their support systems understand the process and have realistic expectations of the outcome of a mediation session. The perpetrator must understand that the session could not go as he expects and that the victim would not necessarily forgive him or her, or would not necessarily be willing to withdraw the charge. The offender must enter the mediation because he acknowledges his offence and wants to correct the wrong that he has done.

Literature supports this view of practitioners through the principle of accepting responsibility and accountability on the side of the offender. This method is not meant as a way to let offenders off the hook, but rather to encourage them to restore the harm done (Balanced and Restorative Justice Project, 2000:12; Zehr, 1990:198).

According to Llewellyn, the actual meeting between the parties could be named the encounter and rules should be identified at the outset of this meeting. The goal of the rules would not be to limit emotions but to create a safe environment for the expression of emotions (Llewellyn, 1998:38 -39). The discussion among the practitioners supported this and they were of the opinion that the rules of the session must be made clear to everyone. The session must also be controlled to prevent the involved parties to rudely interrupt each other.

As far as the processes during the mediation session are concerned, the practitioners were of the opinion that they would normally allow the victim to speak first, unless they had specific information that could help the process. This could be, for instance, intense remorse on the side of the offender, in which case they would allow the offender to talk first. The process should then be allowed to flow spontaneously but the mediator should intervene if the discussion gets out of hand due to anger or other intense emotions. Some people could experience difficulty in expressing themselves and the mediator should assist them if needed. Normal interviewing skills should be used to give every person involved the opportunity to participate. This approach supports Gehm's (1998:19) theory that a non-directive style of mediation or facilitation would be the most effective, with the mediator not talking most of the time with a high tolerance of silence and expression of feelings. He also indicates that a lot of direct dialogue between the victim and offender should take place and the full impact of the crime should be explored.

The final stage of the process is identified as the outcome by Llewellyn (1998:45) and the practitioners had very clear opinions on this stage. They thought that the process should be ended off with a clear plan to go forward, whether the purpose of the session was achieved or not. The facilitator must bring all the information together and help the group to evaluate how far the expectations of all involved were met. The group itself should then preferably identify the way forward. This again supports the literature research that indicated that the outcome should be determined by the parties involved with the facilitator helping the parties move toward a conclusion without being directive (Llewellyn, 1998:41). The practitioners also held the view that, if forgiveness could not be achieved, the victim

could be encouraged to take time and work towards it, and when it is eventually achieved to contact the offender to finalise the incident.

According to the practitioners, the use of a co-facilitator could also be of great help to the facilitator as such a person could make notes and ensure that all the important factors are discussed and dealt with.

As the current justice system focuses mostly on justice as correction, restitution and retribution (Llewellyn,1998:10–23; Zehr,1990:199), the practitioners were of the opinion that the mediator would need to advocate this method with other stakeholders like justice and the police to ensure referrals from the system. This could be ensured by consistent feedback on the progress of each case.

7.3. SPECIFIC TRAINING FOR PRACTITIONERS OF VICTIM-OFFENDER MEDIATION

According to Balanced and Restorative Justice Project (2002:21) “It would be naive to think that **all** Restorative Justice interventions are positive and wonderfully successful.” They are of the opinion that many conferences fail due to a lack of training in conflict resolution and facilitation techniques. During the group discussion all the practitioners agreed that specialised training on Restorative Justice and its methods of implementation is needed, as it is a fairly new focus on service delivery. They felt that although many of the principles of Restorative Justice are similar to those of social work; the focus has become more specialized. Their view that an attempt at mediation without the necessary knowledge could be harmful is in line with the Balanced and Restorative Justice Project (2002:21) expression that it could result in victimisation and re-victimisation of participants.

The following training needs were identified by the group of practitioners:

- Facilitation skills - the group expressed the need for encounters to be properly managed to prevent them from getting out of hand. As an encounter is normally very intense the loss of control could lead to severe psychological damage of the participants.
- Dealing with intense emotions – crime normally traumatises victims and the community and a meeting between offenders and their victims could be a volatile situation. The practitioners felt that with the necessary knowledge and skills they would be able to lead the participants through Victim-Offender Mediation sessions to a better understanding of each other and closer to being healed.

- Preparation skills - training should also focus on the proper preparation of all the involved parties namely the victim, victim support, the offender and offender support. The facilitator should also be prepared and when a co-facilitator is used, he/she should also be prepared.
- Principles of Restorative Justice with emphasis on the focus on the victim, *personalization* of victim and offender and reintegration of victim and wrongdoer into the community. This is essential as the results of crime could lead toward victims eventually becoming perpetrators due to alienation and other factors.
- Criminology with specific focus on the influence of the crime on the victim, offender and the community.
- Relationship restoration skills,
- Renewed focus on the principles of social work like objectivity of the facilitator, and the principles of fairness, mercy avoidance of labelling, individualism and the understanding of personal circumstances of offenders, the ability to change, whether it is the victim or the offender.
- Skills needed to empower victims, offenders and communities.
- Techniques and skills to lead the offender towards acceptance of responsibility as these are essential for the restoration of the harm done.
- Skills in therapeutic intervention for the victims, to help them grow past the incident, heal and pick up the pieces of their lives again.
- Training on the principles and implementation of Ubuntu
- Specific focus should be on aftercare services for both the victim and the offender as it also forms part of tertiary prevention. If crime was caused by the offender's personal circumstances, it could lead to recidivism if the situation is not dealt with.
- Training on effective networking - the practitioners felt very strongly about the involvement of other role-players, like the Department of Justice, SAPS and Education in training of this nature, as the implementation of Restorative Justice is everybody's responsibility. Even social issues like unemployment should get the necessary attention if victims and offenders are to be empowered. .
- Training on the different implementation methods of Restorative Justice like Victim-Offender Mediation, Family Group Conferencing, Circles and Victim Impact Panels. Ideas on the most needed rules for sessions could be helpful.

- Basic training on the profiles of certain types of perpetrators and more exposure to psychology – specifically about profiling. One practitioner specifically identified the need for a basic test to help identify the elements within an offender's life that contributed to criminal behaviour would also be valuable.
- Specific training on evaluating the impact of trauma that a victim experienced should also be included.
- Specific training should also include investigations for court reports, court work and knowledge on the specific acts, court procedures and the principles used within the justice system.

Skills needed by practitioners in the implementation of Restorative Justice through Victim-Offender Mediation were identified as

- the ability to stay objective,
- management skills,
- finely developed communication skills including Active Listening
- writing skills,
- networking skills,
- relationship skills including the ability to relate successfully to people, building and maintaining healthy relationships, being able to acknowledge feelings, respond with tact and assertiveness,
- evaluation skills and the ability of effective summarising,
- memory and recording skills should be practiced,
- well developed investigation skills like questioning, reframing and the use of neutral language,
- emotional control in terms of his/her own feelings towards crime, victims and offenders.

Practitioners should remain true to their professional integrity and be able to have an open mind and a willingness to change their opinion when needed.

The practitioners did not think training on Restorative Justice need to automatically form part of social work training, but rather form part of specialisation in this field. A practitioner must have some experience and be interested in working with crime, victims and offenders. It should include a combination of theoretical and practical training where the practitioners are exposed to offenders, victims, support group and the justice system.

8 CONCLUSION TO EMPIRICAL STUDY

Conclusions that flow from this study simply indicate that Restorative Justice and its implementation through Victim-Offender Mediation are acceptable to both offenders and victims of crime. Victims have a more positive attitude toward young offenders than would be expected and often even have feelings of responsibility towards these young people. The principles of Ubuntu are practised in the community although it is not always worded as such. Most people have a need to be integrated into their community and to bring a positive input into the development of its youth. Unfortunately young offenders often experience feelings of alienation which could intensify the possibility of them becoming involved in crime.

Once the offenders have been stimulated to accept responsibility, not only for the act of the crimes, but also for the influence they had on the victims' lives, offenders seem to develop sympathy for their victims, and start to realise that the victims are also human beings who "suffer just as you suffer".

As Restorative Justice is a fairly new movement in South Africa, practitioners who want to be involved in its implementation would need specialised knowledge and skills. These skills could be developed through training, but it would be advisable that the practitioners have some experience in the field before specialising in Restorative Justice.

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SECTION THREE

CONCLUSIONS, GUIDELINES AND RECOMMENDATIONS

1 INTRODUCTION

This section will be used to formulate the conclusions reached in the study and to suggest guidelines based on the needs identified from both the literature and the empirical investigation.

2 CONCLUSIONS ON RESTORATIVE JUSTICE AS AN ACCEPTABLE FORM OF JUSTICE.

During the study it became clear that Restorative Justice encompasses elements of all three main theories, namely retribution, rehabilitation and restitution. It is, however, more than just a combination of these contemporary theories. It starts from the onset by acknowledging that the conflict is in the first place between the offender and the victim and secondarily involves the community. By involving the victim and the offender directly in a restorative process, the victim is elevated to again become a real person and not only an object to be abused. The offender is required to be directly accountable to the victim and/or the community that has been victimized.

Communities as based on a collection of finely balanced relationships that are disturbed by crime. Crime is then primarily viewed as an offence against human relationships and secondarily a violation of the law. Its first interest is, therefore, the restoration of the relationships between the above mentioned and not to prosecute the offender. It accepts and supports the idea that suffering in order to repair the harm caused by the crime, would be part of dealing with the offender. This encourages responsibility for past behaviour by focusing on the future. In practice it would mean that the needs of those involved are met and the obligations resulting from the crime are conformed to. This process of respect and accountability helps to reintegrate the offender into the community.

The acceptability of this concept was discussed with victims and offenders. It was interesting to find that the victims reacted mostly positively towards the implementation of Restorative Justice. The following elements of this approach were identified by them and are also confirmed in literature:

- Personalization of the victim and the harm he has suffered is essential to help young offenders understand the severity of their actions. The victim could play a dominant role towards this goal by talking to the offender.

- Acceptance of responsibility is a prerequisite for the successful implementation of Restorative Justice.
- Dealings with the young offender should be future centred as it has to be a learning experience that should prevent reoccurrence of crime.
- The offender has to repair the harm done by him; this could include monetary imbursement or tasks to be performed. The offender himself and not his parents should be held accountable for this reparation.
- The offender has human rights and it must be upheld.

During the discussion with the offenders it became clear that they did not perceive their victims as persons and did not give any thought to the harm they have done. During the process of committing the crime they were normally more worried about their peer group's acceptance than anything else. After being arrested, they experienced feelings of shame towards their parents and the community. Even before they committed crimes most of them experienced alienation and non-acceptance within their communities. As the discussion stimulated them to start thinking about the victim and restoration the following realizations were made:

- The offenders were capable of seeing their victims as human beings and realizing the damage and hurt that they have caused. They also understood the emotional impact that crime can have on a victim.
- Thinking about the victims as persons would play a preventative role in future actions.
- If it is possible they would prefer to repair the harm they have done, this could also help prevent them from committing future crimes.

All the practitioners were in favour of the implementation of Restorative Justice and have made attempts to put it into practice. They did, however, experience certain obstacles and challenges that made it difficult. They were of the opinion that they were not well enough trained and that their heavy workloads made it difficult to render proper services to victims. As such, it is difficult to implement Restorative Justice as it must be victim centred. In their collective experiences communities did in theory accept the principles of this approach but in practice it is harder to fulfil. They experienced communities to be harsh and rejecting towards offenders, and offenders are seldom afforded a second chance to prove themselves.

It could now be concluded that this group of victims were more positive towards offenders and the implementation of Restorative Justice than the expectations of both the offenders and the social workers. Ensuring that the principles of Restorative Justice are upheld would satisfy both victims and offenders that justice has been done. Restorative Justice could help achieve social balance as it recognises that the offenders themselves have been harmed and emphasizes healing and integration of offenders into the community.

Conclusions that flow from this study simply indicate that Restorative Justice and its implementation through Victim-Offender Mediation is acceptable to both offenders and victims of crime. Victims have a more positive attitude toward young offenders than would be expected and often even have feelings of responsibility towards these young people.

3 UBUNTU AS A SOUTH AFRICAN MODEL FOR RESTORATIVE JUSTICE.

Theoretically, the African concept of Ubuntu is the philosophy of personhood underlying the traditional conception of justice and it also forms the backbone of the current South African Constitution. According to Ubuntu people can only exist through relations with each other. Isolation that leads to a breakdown of social bonding, would lead to an increase in crime. If one's humanity is tied up with the humanity of all others, what makes others worse off also brings harm to oneself.

The study showed that victims believe that they, as parents and members of the community, have a responsibility towards the emotional growth of the children from families in their close community. Some victims viewed themselves as co-responsible and as parents towards the offenders. They thought that the entire community should accept responsibility towards its members and their children. The fact that this was a cross-cultural group emphasizes the fact that the principles of Ubuntu are acceptable, even towards offenders. The principles of Ubuntu could then form a common ground for the implementation of Restorative Justice. By using Victim-Offender Mediation as method, the principles of Ubuntu and Restorative Justice could be implemented through community members accepting collective responsibility for the safety and welfare of others. Isolation and alienation of both victims and offenders could be countered and recidivism minimized.

This study did not attempt to test the offenders' feelings of inclusiveness into their communities, but it is interesting that none of the offenders experienced the spirit of Ubuntu in their communities. On the contrary, they experienced their neighbours and communities as remote and rejecting. They experienced alienation as the subjects of

gossip and only in exceptional cases would members of the extended family discuss their behaviour with the young offenders themselves. Most of the young offenders did not experience feelings of generosity coming from the community in cases where families are in dire need. They thought that community support only exists when there is a funeral. In light of this isolation it is easy to understand that they would seek alternative ways to become integrated by forming a counterculture where crime is the norm.

In the social workers' experience it seemed as if Ubuntu is alive and well in the South African communities. For the practitioners Ubuntu is mostly about humanity and treating others as you want to be treated yourself. They also differentiated between individualistic communities, where people own a lot but whose lives are focused on themselves, and collective communities where neighbours have little possessions but support each other. In terms of justice, forgiveness and understanding was experienced to be more easily given, when the victim can afford it. When a person's only possessions have been stolen it is more difficult to have a positive attitude. Financial remuneration among poor communities also makes families and communities more eager to forgive, but whenever the offender are not in a situation to pay all that is deemed necessary, the victim and his family would not be so accepting. Feelings expressed during the focus group session with the victims were more positive. As discussed earlier, all the victims felt that the child offenders should be supported and led towards accepting responsibility and prevented from recurring offences. The victims' generosity had limits as they would not be willing to support the offender to an extent where they would endanger themselves, their families or their property.

The social workers were of the opinion that the communities normally want the offender to be rehabilitated but also want him to be punished. This is confirmed by the needs of some of the victims and the acceptance by all the victims that dealing with the offenders could include punishment as part of rehabilitation. The practitioners further felt that communities at large would easily lose objectivity and focus all their generosity and the principles of Ubuntu on the victim, but very little on the offender. Feelings of being rejected and neglected as expressed by the offenders were supported by the social workers' experience within the communities. Offenders are commonly labelled and do not receive much mercy from the community at large. Crimes committed within families, even sexual crimes, are more easily forgiven when the offenders apologized. Families normally do not want the offending family member to be sentenced to imprisonment.

In the end it can be concluded that the principles of Ubuntu are practised within the community, although it is not always expressed as such. Most people have a need to be integrated into their community and to provide positive input in the development of its youth. Unfortunately young offenders often experience feelings of alienation which could intensify the possibility of them becoming involved in crime. The principles of Restorative Justice have a lot in common with Ubuntu. Through the use of Ubuntu as the starting point for the implementation of Restorative Justice, a truly South African approach can be developed that would be acceptable to most.

4 THE NEEDS OF BOTH VICTIMS AND OFFENDERS REGARDING MEDIATION

Needs identified by the victims' terms of the workings of justice include the following;

- Services should focus on the needs of the victim and the needs of the specific victim should be determined before an attempt is made for reconciliation.
- Somebody, maybe even the victim himself, should talk to the offender to ensure that he/she understands the seriousness of the offence.
- Some victims have the need to be able to personally tell the offender that his behaviour was wrong and unacceptable and to explain the damage that he/she had done to the victim's life.
- Some victims need to be satisfied that the offender understands the full extend of the damage he has done, the offender should also have intense remorse for reconciliation to be successful.
- Offenders should accept responsibility for their actions.
- The offender should be given the opportunity to apologize for his/ her actions and commit him/her to abstaining from future offences.
- Some victims want the offenders to be punished and all victims accepted that suffering on the side of the offender would form part of dealing with the crime. Some victims are even in favour of corporal punishment.
- Victims sometimes need monetary restitution for the harm they have suffered.
- Time is needed for the victims to start healing before they will be able to face their perpetrators.
- Support for victims, maybe in the form of victim support groups would be of value.
- Victims want offenders to learn from the justice experience and develop the values needed to prevent them from re-offending.

- Therapeutic intervention by a trained professional for both the victim and the offender is a prerequisite for the successful implementation of Restorative Justice and Victim-Offender Mediation.

In terms of the Victim-Offender Mediation session itself the following specific needs were identified.

- The session must be managed by a well-trained, objective facilitator.
- The facilitator should focus the session and allow the victim the opportunity to speak first.
- The victim should be allowed enough space to verbalize his experiences and needs.
- Opportunity should also be given for the victim to ask questions related to the crime and its circumstances.
- During the session, the victim and offender should be present.
- A small support system should be available for both the victim and the offender.
- No unneeded family or community members should attend the session, as it is a private and sensitive situation.
- If the offender's family have a need for further discussions on his/her behaviour, that could be done during another session without the victim.
- Support people should only be there in a supportive role and should not become overly involved.
- Support people should not protect the offender and thereby prevent him from the growth opportunity that the session presents.
- Neither the victim nor the offender should be placed in a situation where they are intimidated or overwhelmed by the support network of the other party.

Some victims are disillusioned and do not believe that offenders can change.

Offenders' needs during the justice process include the following:

- All the offenders in the study group wanted to meet the victim.
- They expressed the need to apologize.
- Offenders can understand that losses suffered are normally more far reaching than only the material losses. They need to apologize for those losses as well.

- They need to add restitution to the apology. They thought that this would place them in a situation where the replacement value of items would help them not to commit crimes again.
- The offenders wanted an opportunity to seek their victim's forgiveness.
- They need to realize the losses suffered by the victims, as real people
- They need to develop values to prevent them from re-offending. Realization of losses suffered could help them move towards this.

Offenders also have certain fears when confronted with Restorative Justice:

- They are scared of the victims' anger.
- They realize that meeting the victim would demand a lot of courage of them and expect to be ashamed during the meeting and apology.
- They do not think that the victim would be interested in their apology.
- They are worried that the victim would only be interested in the replacement of losses.

The offenders' expectations for the Victim-Offender Mediation session itself can be identified as follow:

- The offenders wanted their parents as well as the important members of their extended family, like grandparents, uncles and aunts to be present.
- They wanted the victim present and his family would also be welcome.
- They did not have an urgent need for a facilitator during the meeting, as they believed the families could discuss the matter among themselves.
- When a mediator is present, objectivity would be essential and they expected the mediator to be well trained.
- Preparation meetings with the victims and offenders before such a session should be done by the facilitator. They needed to be prepared for the victims' feelings towards them.
- All the offenders were scared of the anger of their victims and would need time to prepare themselves emotionally for such an encounter.
- The person who did the first assessment after the arrest should be the same person negotiating with the victim before the mediation session as it would increase the offenders' feelings of security

- The normal problem-solving situation within their community could be used. This would include giving the young person (offender) the opportunity to apologise for his behaviour and declare him willing to restore the losses that has been suffered.
- The offender would also ask the victim's forgiveness. If the victim grants his or her forgiveness it would mean accepting the apology and releasing the offender.
- Means to reform the young person would be discussed, the victim and the offender would be involved and the matter would be discussed to find the truth and a solution for restoration

Once the offender has been stimulated to accept responsibility, not only for the act of the crime itself, but also for the influence it had on the victim's life, offenders seem to develop sympathy for their victims, and start to realise that the victims are also human beings who "suffer just as you suffer".

5 SKILLS NEEDED BY PRACTITIONERS TO DO VICTIM-OFFENDER MEDIATIONS.

As Restorative Justice is a fairly new movement in South Africa, practitioners who want to be involved in its implementation would need specialized knowledge and skills. These skills could be developed through training, but it would be advisable that social workers have some experience before specializing in Restorative Justice.

Skills needed by practitioners in the implementation of Restorative Justice through Victim-Offender Mediation where identified as follows:

- The ability to stay objective.
- Management skills.
- Finely developed communication skills, including Active Listening.
- Writing skills.
- Networking skills.
- Relationship skills including the ability to relate successfully to people, building and maintaining healthy relationships, being able to acknowledge feelings, respond with tact and assertiveness.
- Evaluation skills and the ability of effective summarizing.
- Memory and recording skills should be practised.
- Well-developed investigation skills like questioning, reframing and the use of neutral language.

- Emotional control in terms of his/her own feelings towards crime, victims and offenders.

6 GUIDELINES FOR THE IMPLEMENTATION OF VICTIM-OFFENDER MEDIATIONS FROM A UNIQUE SOUTH AFRICAN PERSPECTIVE

As the formulation of guidelines, and guidelines themselves could be a subject for a thesis on its own, only the most basic guidelines as identified through this study can be supplied. The list is not exhaustive and numerous other guidelines that could improve implementation of Victim-Offender Mediation could be added, but at the conclusion of this study, the following guidelines are identified as the most important ones:

- Services should firstly focus on the victim. His experiences, needs and expectations should form the background for the specific restorative intervention. As he is the one who has suffered harm, restoring his harm should be priority. This should, however, be balanced with the needs of the offender and the community's as over-emphasis of the victim's needs could again disturb the balance which could, in turn, harm the offender and the community and again lead to alienation and further crime.
- Offenders should accept responsibility for their actions before Victim-Offender Mediation could be considered. If this is not ensured, victims would not be able to trust the practitioner and the service would not really be restorative in nature. Acceptance of responsibility for their actions also opens the door for the offender to start understanding the harm resulting from his actions. This is an essential element of the internal change required of the offender to prevent re-offending.
- Services must be rendered by a well-trained, objective facilitator. This requirement was indicated as a priority need by both victims and offenders. As all parties are in a very vulnerable position during the process, the person managing the process should be knowledgeable and in control. For this reason the facilitator must be objective and be able to earn the trust of all the parties.
- Therapeutic intervention by a trained professional for both the victim and the offender was identified as a priority need by both victims and offenders. This is a prerequisite for the successful implementation of Restorative Justice and Victim-Offender Mediation. As crime and its results normally traumatize the victim and also have an intense effect on the offender, both parties need some therapeutic intervention before they are ready to face each other. Very often victims also need

time to work through their anger and other feelings before they are ready or willing to see the offender and to give him the opportunity to apologize. If the victim is still too angry or scared, the situation could get out of hand and cause further harm to all the parties.

- Victims and the community expect services to be rendered to help offenders learn from the justice experience and develop the values needed to prevent them from re-offending. For this reason a mediation session alone is not seen to be enough. Services should be developed to fit the individual offender's circumstances and needs to ensure ultimate personal growth in the offender. These services could include the rendering of community service by the offender, involvement in life-skill programmes, which include the development of acceptable values, or even the re-enrolment in school. As the victims felt themselves to be co-responsible for the development of the offenders, they expressed a clear expectation that these young offenders should be given the opportunity, even if it must be forced, to develop into positive adult members of the community.
- The normal problem-solving situation within communities could be used during the Restorative Justice process. This possibility was indicated by the offenders and by strengthening communities to deal with the young offenders in an acceptable way; isolation of young offenders could be minimized. This implies that available resources within the community in the form of acceptable structures and forums should be identified and used. To be able to render such a service, practitioners have to make themselves familiar with the victim and offender's cultural background.
- As mediation could be done on numerous different bases, it cannot be seen as always restorative. To ensure that the practice is restorative in nature the principles of Restorative Justice and Ubuntu should be studied by the practitioner and used in the implementation of Victim-Offender Mediation. Ubuntu and its cultural counterparts could be used effectively in South Africa to reintegrate victims and offenders and to prevent alienation and isolation that both form part of the cause of crime.

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ADDENDUM 1

GROUP DISCUSSION SCHEDULE: VICTIMS

Victims: A group of ten victims of young offenders was identified from information gained from the magistrate's office, Potchefstroom

INTRODUCTION

With the introduction of the new constitution, the focus has shifted towards the rights and needs of victims. The rights and needs of children and, therefore, also young offenders also draw a lot of attention. This study focuses on the restoration of young offenders and their victims.

With the shift towards Restorative Justice and the writing and planning of the proposed Youth Justice Bill, the courts, police and probation officers/social workers are required to divert more and more young offenders away from the criminal justice system. This can lead to a serious clash with the rights of the victims of their crimes.

To ensure that the rights of these victims are protected and to ensure that the young offenders take responsibility for their crimes, Restorative Justice methods like Victim-Offender Mediation (VOM) or Family Group Conferences were introduced. For the purpose of this discussion only VOM's will be focused on. During the discussion the workings of the VOM will become clearer.

For the purpose of this session, time will be spent on the following basic factors involved in Restorative Justice in South Africa:

1. The experiences, needs and rights of victims.
2. Principles of Restorative Justice.
3. Ubuntu
4. Victim-Offender Mediation

THE EXPERIENCES, NEEDS AND RIGHTS OF VICTIMS OF CRIME

QUESTIONS:

1. In a few words, please describe the crime that was committed against you?
2. What has your emotional experiences been since then regarding the crime and the offender?
3. What were and are your needs regarding this experience?
4. Did you experience that your needs have been met through the criminal justice system? How can it be improved?

RESTORATIVE JUSTICE

QUESTIONS:

1. Have you ever heard of Restorative Justice? What do you think it means?
2. Do you think the principles of Restorative Justice could help to ensure that your needs are met and to experiences that "justice has been done".
3. Do you think these principles can be realistically implemented and how?
4. What is your overall opinion of the idea of Restorative Justice?

UBUNTU

QUESTIONS:

1. Are you familiar with the concept of UBUNTU? How would you describe UBUNTU and do you believe in its principles? (Remember that these principles also form part of other cultures and do not necessarily need to be described as Ubuntu).
2. Do you think that this view of life can be implemented in Restorative Justice?
3. Does the community accept the principles of UBUNTU?
4. If UBUNTU is used in our justice system, do you think more people would feel that justice is done?

VICTIM-OFFENDER MEDIATION

QUESTIONS:

1. Do you think meeting the offender in your case and discussing the harm he has done as well as getting the opportunity to have the harm restored has made (or would have made) a difference to you?
2. Who would you prefer to be involved if such a situation is to occur?
3. What are your urgent needs and how can it be met through contact with the offender?
4. What should happen during such a contact or meeting?

ADDENDUM 2

GROUP DISCUSSION SCHEDULE: OFFENDERS

Offenders: A group of ten young offenders was identified in the same manner as the group of victims. Only cases of minor property crimes and minor assault cases were used.

INTRODUCTION

With the introduction of the new constitution, the focus has shifted towards the rights and needs of victims. The rights and needs of children and, therefore, also young offenders also draw a lot of attention. This study focuses on the restoration of young offenders and their victims.

With the shift towards Restorative Justice and the writing and planning of the proposed Youth Justice Bill, the courts, police and probation officers/social workers are required to divert more and more young offenders away from the criminal justice system. This can lead to a serious clash with the rights of the victims of their crimes.

To ensure that the rights of these victims are protected and to ensure that the young offenders take responsibility for their crimes, Restorative Justice methods like Victim-Offender Mediation (VOM) or Family Group Conferences were introduced. For the purpose of this discussion only VOM's will be focused on. During the discussion the workings of the VOM will become clearer.

For the purpose of this session, time will be spent on the following basic factors involved in Restorative Justice in South Africa:

1. The experiences, needs and rights of victims.
2. Principles of Restorative Justice.
3. Ubuntu
4. Victim-Offender Mediation

THE EXPERIENCES, NEEDS AND RIGHTS OF YOUNG OFFENDERS

QUESTIONS:

1. Please describe in a few words what you have done and how you felt about it afterwards?
2. How did you feel when you were arrested, had to face your parents, went to court and had to go back to your community? Do you think there is something that you need to help you deal with these feelings?
3. How do you feel towards your victim? How would you like to deal with this?
4. Did your contact with the police and the court make you feel as if you were treated fairly?

PRINCIPLES OF RESTORATIVE JUSTICE

QUESTIONS:

1. Do you think the principles of Restorative justice could help to ensure that your needs are met and to experiences that "justice has been done".
2. Do you think these principles can be realistically implemented and how?
3. What is your overall opinion of the idea of Restorative Justice?

UBUNTU

1. Are you familiar with the concept of UBUNTU? Do you believe in its principles as being part of who you are? (Remember that these principles also form part of other cultures and do not necessarily need to be described as Ubuntu).
2. Do you think that this view of life can be implemented in Restorative Justice?
3. Does the community accept the principles of UBUNTU?
4. If UBUNTU is used in our justice system, do you think more people would feel that justice is done?

QUESTIONS

VICTIM-OFFENDER MEDIATION

QUESTIONS

1. How would you feel about meeting your victim?
2. How do you think your victim feels about you and what you have done?

3. Do you think meeting your victim; discussing the harm you have done as well as getting the opportunity to repair the damages would make (has made) a difference to you?
4. Who would you prefer to be involved if such a situation is to occur?
5. What are your urgent needs and how can they be met through contact with the victim?
6. What should happen during such a contact or meeting?

ADDENDUM 3

GROUP DISCUSSION SCHEDULE: PRACTITIONERS

Practitioners: Persons, who have experience in acting as mediators, were involved. These practitioners were enlisted from Restorative Justice, South Africa, situated in Pretoria, and probation officers in North West Province.

INTRODUCTION

With the shift towards Restorative Justice, practitioners in the probation field has had to adapt their view of crime and their methods of handling offenders. Victims are more central and their needs must be placed first. As this is fairly new in South Africa, research needs to be done to ensure that the most appropriate approach be followed. This discussion is focussed on finding, as far as possible, the most significant approach for the specific needs of the multi-cultural community of South Africa. Due to the fact that this is a new and broad field, this study will only focus on Victim-Offender Mediation as method. Discussion groups were also be held with victims and offenders.

For the purpose of this session, time will be spent on the following basic factors involved in Restorative Justice in South Africa:

1. Principles of Restorative Justice.
2. Practical implementation of principles.
3. Ubuntu
4. Victim-Offender Mediation
5. Capacity building for practitioners.

PRINCIPLES OF RESTORATIVE JUSTICE

QUESTIONS:

1. What do you think are the five most important principles in Restorative Justice?
2. In your experience, is it possible to implement these principles and how?
3. In your experience, does the community accept these principles? What are the stumbling blocks?

PRACTICAL IMPLEMENTATION OF PRINCIPLES

QUESTIONS:

1. How far have we come in implementing Restorative Justice?
2. To what extent do we have the services available that are needed to meet the needs of victims, offenders and the community?
3. Are probation officers currently in a position to build connections among community members?
4. Are there instances where the opportunity to take responsibility and to make amends has made a long-term positive difference in the attitude of the offender?

UBUNTU

QUESTIONS:

1. Are you familiar with the concept of UBUNTU?
2. In implementing Restorative Justice, do you make use of the life view of UBUNTU?
3. How does the community accept the principles of UBUNTU?
4. Would the use of UBUNTU simplify the implementation of Restorative Justice in South Africa?
5. Do instances or examples exist where UBUNTU has played a role in the implementation of Restorative Justice? Explain.

VICTIM-OFFENDER MEDIATION

QUESTIONS:

1. Do you use VOM as a method for the implementation of Restorative Justice?
2. Who do you involve as role players? Who should be involved?
3. What do you perceive as the victim's most urgent needs and how can they be met through VOM?
4. What are the most common practical steps followed by practitioners in VOM in South Africa?

CAPACITY BUILDING FOR PRACTITIONERS

QUESTIONS:

1. Do you feel your training as a Social Worker prepared you for the implementation of Restorative Justice and Victim-Offender Mediation?
2. Did you receive any other training in this field?
3. Do you think that VOM is a difficult and potentially harmful method?
4. Do you think specialised training is needed before one embarks on implementing Restorative Justice.
5. What specific skill do you think is needed?
6. How do you think VOM should be approached?
7. What steps should be taken to ensure effective VOM's?

ADDENDUM 4

SPECIFICATION TO AUTHORS FOR ARTICLES: SOCIAL WORK/MAATSKAPLIKE WERK

The South African professional Journal for Social Work "Social Work/Maatskaplike werk" (ISSN – 0037-8054) has the following specifications to be adhered to for articles to be published.

The Journal publishes articles, book reviews and commentary on articles already published from any field of social work. Contributions may be written in English or Afrikaans. All articles should include an abstract in English of not more than 100 words. All contributions will be critically reviewed by at least two referees on whose advice contributions will be accepted or rejected by the editorial committee. All refereeing is strictly confidential. Manuscripts may be returned to the authors if extensive revision is required or if the style or presentation does not conform to the Journal practice. Articles of fewer than 2,000 words or more than 12,000 words are normally not considered for publication. Two copies of the manuscript as well as a diskette with the text, preferably in MS Windows should be submitted. Manuscripts should be typed in 12 pt Times Roman double-spaced on one side of A4 paper only. If possible the manuscript should be sent electronically to hsu@sun.ac.za. Use the Harvard system for references. Short references in the text: When word-for-word quotations, facts or arguments from other sources are cited, the surname(s) of the author(s) year of publication and page number(s) must appear in parenthesis in the text, e.g. "... (Berger, 1967:12). More details about sources referred to in the text should appear at the end of the manuscript under the caption "References". The sources must be arranged alphabetically according to the surnames of the authors. Note the use of capitals and punctuation marks in the following examples.

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