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## Restorative Justice and Mediation

### Editorial

Modern nations, defined by constitutional civil rights, dominance of market-economy and free elections, seem to generate high rates in crime and deviance. At the same time the criminal justice system is lacking in its capacity to counter the social problems that lie behind these figures. The great demand for criminal justice cannot be fulfilled by the traditional criminal justice system; it is too limited in scope, means and effectiveness. This situation results in efforts to formulate alternatives beyond the classic criminal justice procedures.

The search for alternatives is no longer a feature of abolitionists or of critical criminologists. It is felt as a common impetus among policy makers, politicians, criminologists and the public. The traditional criminal justice process can be characterized by the duality of state and offender. The alternatives are to be found in a more prominent role of the victim and the community: mediation, compensation, restoration, shaming and community service.

These paragraphs are taken from the introductory article of Hans Boutellier - managing editor of this journal. In his view the alternatives, among which mediation and restorative justice are the most prominent, can be judged as a new normative policy. This policy fills the gap between traditional criminal justice with imprisonment as its cornerstone and social policy which concentrates on equality and well-being. They show, according to the author, the settling of a new 'equilibrium between law and morality'. Other articles in this issue deliberate on mediation and restorative justice in several countries.

Tony Marshall's article summarizes the history of attempts to use mediation in relation to criminal matters in Britain since 1980. It shows the current state of play in 1996. Two major models of mediation are in existence. The social work model is part of a more general programme of work with offenders and attempts to affect their behaviour. The independent mediation model is a service in its own right, offering both the victim and the offender the chance to resolve any issues arising out of the offence. The different implications of the two models are explored. It is argued that the development of mediation in criminal justice in Britain has been largely pragmatic and that theory has played only a minor part.

At the end of 1990, a new juvenile court law was enacted in Germany. In addition to other new probationary sanctions, this law provided a legal framework for both victim-offender mediation and judicial reformatory measures and alternative prosecutory strategies. Frieder Dünkel's article discusses this development. The author describes the legal and conceptual framework of mediation and the organization of several projects. The article ends with a European perspective on the development of victim-offender mediation. Dünkel concludes that 'the role of restitution and victim-offender mediation through dialogue and mediation, reconciliation and peace-making in criminal justice during the 21st century depends on their solid entrenchment in criminal justice theory and practice.

Lode Walgrave and Ivo Aertsen discuss the concepts of shaming and restorative justice. They illustrate their point with the project 'Mediation for reparation' which was started in Leuven in 1993. The pilot study investigated the possibilities for re-orienting the criminal justice system itself in a restorative way. The project produced many findings regarding the methodology of mediation. Both the participating victims and offenders were highly satisfied with the results. This positive effect could largely be attributed to the fact that they were able to play an active and responsible role in the criminal justice decision-making process.

Jane Dullum informs about the mediation boards in Norway. In this country mediation was introduced on a national scale thanks to Nils Christie. The first Norwegian Mediation Board was established in 1981. As we shall see later, this measure was aimed at preventing juvenile delinquency. After this, the Mediation Boards went into a long trial period. For several years it was voluntary for the municipalities to establish Mediation Boards. This was changed in 1991 when the Mediation Boards Act was passed. According to this Act, the mediation board-system became the responsibility of the State, under the Ministry of Justice. The Act made it mandatory for the municipalities to establish a Mediation Board. A municipality may either establish a single board, or two or more municipalities within a county may jointly establish a board. Mediators are appointed in each municipality. Today there are 42 Mediation Boards in Norway, and 710 mediators. The author concludes that there has been a shift in aim from finding alternatives to prison for young offenders towards a normative measure of justice.

Anke Zandbergen endeavours to show that a Dutch diversion project for juveniles (Halt) can be construed as an application of Braithwaite's theory of reintegrative shaming. This interpretation can provide guidance for the redesigning of the project and help to increase its effectiveness. The first section of this article describes the development and the theoretical background of the Halt-procedure. This is followed by a brief description of the theory of reintegrative shaming. In the second section the emotions 'shame' and 'guilt' are discussed. Finally the outcome of a small research project is presented. This study explored whether the application of the shaming-concept within the Halt-approach can indeed help to increase the effectiveness of this procedure.