

Bourse de cueillette de données du CICC

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I. Sommaire

<i>Sujet de la recherche:</i>	Dans quelle mesure la justice réparatrice s'accorde-t-elle avec la théorie de la 'justice procédurale'? Une réflexion qualitative du point de vue de la victime
<i>Terrain:</i>	la Belgique (La Flandre + la Wallonie)
<i>Période:</i>	8 mars 2009 – 15 mai 2009
<i>Type de collecte:</i>	entrevues à tendance non-directive (recherche qualitative)
<i>Répondants:</i>	victimes d'actes criminels contre la personne, commis par un auteur adulte ou mineur, qui ont participées à une mesure réparatrice, telles que la médiation auteur-victime et les conférences réparatrices (<i>Family Group Conferencing</i>)
<i>Échantillon obtenu:</i>	N = 21
<i>Activités supplémentaires:</i>	réunions avec des intervenants des services de justice réparatrices ainsi qu'avec des chercheurs à l'Université Catholique de Louvain et à l'Institut National de Criminalistique et de Criminologie

II. Objectifs de la recherche

Mon projet de recherche vise à dévoiler la contribution de la justice réparatrice dans la perception de justice par des victimes d'infraction auprès du système judiciaire. La théorie de la '*procedural justice*' ('justice procédurale') (Lind et Tyler, 1988), en constitue le cadre analytique. Cette théorie et les recherches empiriques menées dans cette perspective ont montré la prédominance des variables de processus, comme la confiance, la neutralité, l'implication et le respect, dans l'appréciation des conclusions concrètes de la procédure judiciaire traditionnelle par l'auteur et la victime. L'objectif du projet est d'explorer l'impact des interventions réparatrices, telle que la médiation auteur-victime, sur la perception de la justice qu'ont les victimes, ainsi que d'évaluer dans quelle mesure l'impact produit par ce modèle de justice réparatrice surpasse éventuellement, dans ses effets sur la satisfaction, ceux prévus par la théorie de la justice procédurale. L'ambition de ce projet est d'explorer la valeur de la théorie de justice procédurale dans l'explication de la satisfaction des victimes ayant pris part à une intervention réparatrice. En plus, l'influence d'une décision judiciaire sur l'impact d'une intervention réparatrice sera considérée. Par conséquent, cette recherche devrait contribuer au débat relatif à la définition de la justice réparatrice et à sa position par rapport au système judiciaire.

Ce projet utilise un devis méthodologique de type qualitatif. J'interroge des victimes ayant participé à une intervention réparatrice au Canada et en Belgique afin d'en apprendre sur leurs expériences et leurs perceptions de justice. Les répondants sont recrutés grâce à la collaboration des services de justice réparatrice et d'aide aux victimes canadiens et belges. L'échantillon comprend des victimes adultes (1) d'actes criminels violents (décrit par le Code Criminel comme crimes contre la personne), (2) commis par un jeune ou un adulte, (3) qui ont participé à et ont terminé une procédure réparatrice. Au Canada des interventions réparatrices dans des cas de crimes sévères ne sont normalement qu'effectuées après poursuite, sauf dans des cas concernant un auteur adolescent où la médiation remplace la décision judiciaire. Par conséquent, il est intéressant d'aussi interroger des victimes en Belgique, où la médiation auteur-victime dans tout type de crime est aussi permise avant que la décision judiciaire ait été prise, étant complémentaire au procédure judiciaire au lieu de la remplaçant. En d'autres mots, afin de répondre à l'objectif spécifique qui consiste à explorer l'importance relative d'une décision judiciaire sur la perception qu'ont les victimes de justice, il était indispensable d'inclure des victimes belges dans notre échantillon. Il ne s'agit pas de faire une comparaison de la pratique en Belgique et au Canada en

soi, mais de comprendre la différence éventuelle de la perception des victimes qui ont participé à une médiation avant ou après qu'un juge pénal se soit prononcé dans leur dossier.

III. Déroulement de la collecte de données en Belgique

The recruitment of respondents for the data collection in Belgium already started in October 2008. The Belgian services providing restorative interventions were contacted and found ready to participate. In Belgium, two umbrella organizations are responsible for the implementation of victim-offender mediation involving an adult offender: Suggnomé in the Flemish Community and Médiante in the French Community. Together they were able to refer 18 respondents. I was also assisted by the Flemish association working with juvenile offenders, the '*Ondersteuningsstructuur Bijzondere Jeugdzorg*', which offers victim-offender mediation and *Hergo*, a restorative intervention inspired by the family group conferencing model used in New Zealand. They found 3 respondents prepared to meet me for an interview. Most of these 21 interviews had been planned before my departure to Belgium. Only one interview had to be cancelled by the respondent due to work-related obligations. It could not be rescheduled to another date during my stay in Belgium, and was therefore conducted after my return to Montreal by phone.

The Belgian sample includes victims of a variety of violent crimes, ranging from a violent handbag theft to manslaughter and murder. It contains male and female respondents with ages ranging from 23 to 72. The respondents have different educational backgrounds, with the highest obtained diploma ranging from a primary school diploma to a masters degree. Only one interview concerned experiences with *Hergo*, while all the others concerned victim-offender mediation. Most of the respondents had agreed to a face-to-face meeting with their offender. Only a minority preferred not to be confronted with the offender and opted for shuttle mediation. Thirteen out of 21 respondents participated in a restorative intervention preceding the penal court trial.

The interviews took place at the respondent's home or in an office space provided by the mediation service that had been used by the respondent. Most respondents chose to see me at their place in order for them not to have to travel. The respondents were keen to share their experiences with traditional judicial procedures and with mediation or *Hergo*. Their recounts resulted in rich data. A preliminary scanning of the data suggests that empirical saturation has

been reached but only a more profound analysis, still to be conducted, can confirm this impression.

IV. Data analysis

Due to the large number of interviews planned and conducted, which is of course very fortunate, there was not much time left over the course of 10 weeks to analyze the data obtained in the interviews. During the first month of the Belgian data collection phase, I conducted almost one interview a day. In the last month of my stay in Belgium 6 more interviews were planned. Belgium is a small country indeed, and distances seem reasonable. However, due to problematic public transport transfers and jam-packed roads, it took me 3 to 5 hours to get to each respondent and back. The time not spend on the way to or with respondents, was mainly dedicated to writing out the interview memos and to the preliminary vertical analysis of each interview. I started with the actual transcription of the interviews after I returned to Montreal. Fortunately, I did have the chance to discuss some of the more apparent tendencies emerging from the individual interviews with other researchers also working on victim policy and restorative justice in Belgium. Moreover, these meetings allowed me to get supplementary information on the state of affairs regarding the application of restorative practices in Belgium since the introduction of the law of 2005 on a general offer of victim-offender mediation and of the new youth law of 2006 promoting mediation and *Hergo*.

V. Methodological notes

Because of the interviews following one another in a short time period, there was little time to revise the interviews from a methodological point of view. We are confident that the data we collected does indeed provide the information required to respond to the research questions, but it would have been opportune and interesting to reflect on the methodological aspects of the data collection *en route* should I have had the occasion. The following methodological observations were manifest tough:

The research sample is very specific, as opposed to representative for the victim population, a factor that needs to be taken into account in the analysis of the collected data. The victims I interviewed are

- victims of violent crime

- who have been informed about victim-offender mediation (probably a minority among victims of violence)
- and accepted the offer of victim-offender mediation
- as well as accepted my request for an interview.

Of course, a qualitative research sample does not have the ambition to represent the entire population. But it is, for instance, important to highlight the fact that the data concerns experiences of victims who accepted the restorative offer, while the data does not offer insight into the experiences of victims who refused the offer.

Moreover, some respondents were very grateful for the help received by the mediator and this gratitude motivated them to agree with the request for an interview. They wanted to render service to the mediator by participating in the research project. This is not problematic as such, but this will have to be taken into consideration in explaining the overall positive experiences with restorative interventions voiced by these respondents.

Finally, the interview appeared to have been therapeutic for a number of respondents. It felt good for them to talk about the events and their passage through the judicial system, including mediation. Of course, a researcher has to be very careful not to be driven into the role of victim support worker. I always made it clear at the start of the interview that I was not affiliated to the judicial system, the mediation service or victim support services. I also took the liberty to refer respondents to victim support services for further support if needed. Some respondents even used the interview to learn more about the practice of victim-offender mediation and to find out how other victims feel about mediation. It was as if they wanted to know that they were not alone in having voluntarily met or communicated with their offender, something that was for instance still regarded as bizarre by people in their entourage.

VI. Conclusion

The Belgian data collection phase resulted in a decent sample in size and in quality and in a ton of notes and hours of recordings. The Belgian data will now be analyzed and complemented with interviews to be conducted in Québec and Canada.