

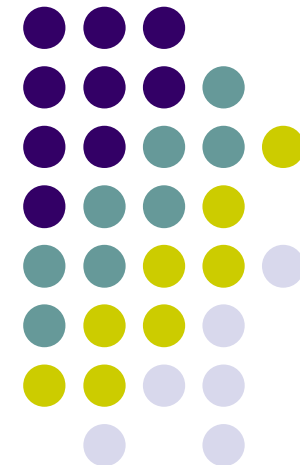
Lessons learned from the background research, Hungary

We conducted interviews and focus groups with

- Judges
- probation officers
- victim-aid representants



FORESEE
Research Group





Judges:

- 3 regional focus groups, involving 16 judges
- 2 interviews

Prosecutors:

- 1 focus group, involving prosecutors from every counties

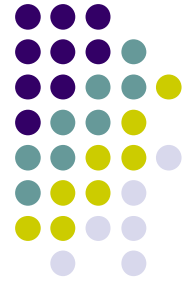
Probation officers, mediators:

- 1 focus group, involving 7 probation officers
- 1 interview

Victim aid representants:

- 2 interviews

What have we *learned* from the implementation of VOM

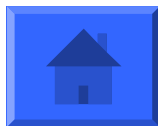


Frequent problems noticed:

- Lack of 'lived - through' responsibility taking
- Too much 'two-poled method'
 - need to soften the extreme opinions of each parties
- Difficult to the mediators to balance power-relations
- Sometimes mediation is a possible field for tactic action to the parties
- **Only about 5% of victims turns to the victim aid.**



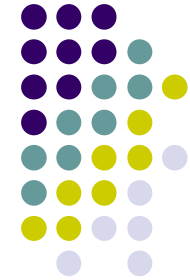
Frequent problem is that they hesitate to make a denunciation



Some probation officers and victim aid representants treat Peacemaking circles as a possible solution to these problems

Judicial representatives reflect that mediation was a completely strange and unfamiliar method six years ago and know they treat it as a current *legal option* → it can easily happen with Peacemaking Circles as well

Judges' participation in the circle



- Support VOM and other restorative solutions
- Lack of knowledge
- Being unexperienced in VOM
- All are **against officially appointed/ concerned judges'** participation in the circle

Legal arguments:

'We represent the state. I don't think that our task would be to chat in such a psycho-therapy group. We are interested in the intentions behind a crime only to some extent. The offender committed a crime, and we have to react to this fact.' (*judge from Debrecen*)

'We don't have a legal opportunity to take place in such a circle since the criminal code states that the court proceeds according to a judicial charge. Until the accusation I don't have any role in the procedure.' (*judge from Debrecen*)

→ POSSIBLE SOLUTION: involve 'junior-judges' or 'senior judges'

Contextual arguments



- Judges risk the atmosphere of the circles
→ *Shared opinion of probation officers and judges*

‘We see restorative methods as a chance to avoid that the parties should meet with the ‘mentality of judges’ (judge from Debrecen)

‘A judges’ character, knowledge, spiritedness should show up in the court room (not elsewhere)’. (judge from Nyíregyháza)

- **Judges are overwhelmed with work**
- **Probation officers can add those points into the circles what judges would:**



represent the law

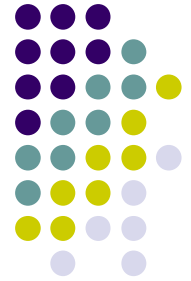


take care of legality



inform the parties about the legal procedure, possible outcomes and consequences

Case selection criterias



- PARTICIPANT-wise:

- For the first time offenders (educative role)
- Juvenile offenders (family as primary community + formative impact)

Community relevance:

- Many victims and/or offenders
- Cases committed by a group (out of VOM's legal scope)
- Cases committed against a group (e.g.: truculence)

- CONTEXT-wise:

- School, family, small community eg. village



Case selection criterias 2.-

- **CASE-wise**
 - **Participants are mutually V and O: in the same or in another case**
 - **Cases with a history → same conflict behind the different criminal cases (out of VOM's legal scope)**
 - **Integrate different cases in one PMC**
 - **More crimes in a certain community with the same character (out of VOM's legal scope)**
- **crime against a person**
- **domestic violence**
- **bodily harm**
- **violent offence against property**

some of these are out of VOM's legal scope at present

Case selection criterias 3.-



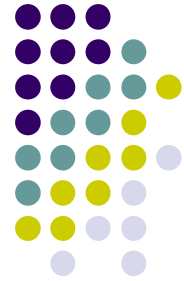
- **Process-wise:**
 - Judges emphasize the legal frame and its constraints in case selection
 - They would entrust mediators to case selection (don't want to take a role)
 - Instead of officially reporting the crime to authorities
→ cases referred by victim aid
 - In the investigation phase (as soon as possible)
 - as an alternative method for mediation for probation officers
 - even parallel with a court procedure, after the charge
(civic circles possible: judge can take it into account positively)

Possibilities and options of implementation



- The biggest chance that they recognize in this new method is to **put pressure to the legislators**, raise and resolve the irrelevant and unreasonable legal limitations of VOM
 - a new means to advocacy
- Useful method for handling complex victim-offender cases (multy-dimensional)
 - eg. not all main influenced parties are officially accused, or acknowledged as a victim
 - **In which cases the court is powerless**
- To give voice to parents in juvenile cases
- CONTROL FUNCTION: a force put by the 'publicity' and the presence of the representatives of all stakeholders: results in honesty +complex and coherent understandings
- RESPONSIBILITY: to understand that a broad circle is affected by the crime
- COMMUNITY (if applicable (narrowly): school, family, settlement, group of...)

Risks and challenges of implementation



- Raises judges' workload
- poor justification of necessity --) resistance
- incompatibility of roles --) resistance
- doubts in own authority and prestige OUTSIDE courtroom --) resistance

- If 'mandatory', → **another 'top-down' reform** --) resistance
- Confidentiality vs. obligation to report when a judge learn about a (new) criminal act (even during PMC). Especially in juvenile cases
- Lack of means to ensure and check the confidentiality of PMC
- Fear of too little or too much regulation to PMC
 - difficult to **keep the frames versus keep the spirit**
- Too much divergence from topic or extreme behavior - is the circle a safe place?
- **Remoteness** – if too to much time has passed by since crime