



# Dr. Andrea Tünde Barabás PhD: The possibility of RJ in prison settings (The first issues of the MEREPS Project in two Hungarian prisons)



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# **BEFORE OR AFTER?**

**The different of Mediation/RJ in the pre and the post sentence phase**

## **Pre sentence mediation:**

**The cases, which happen from exploration the crime *till* the conviction of the delinquent**

## **Post sentence mediation:**

**The cases, which happen *after* the conviction of the delinquent – including the imprisonment**



# BEFORE OR AFTER

## Difference and similarity between the pre and post sentences

### Mediation types

	Pre sentence mediation	Post sentence mediation
Direct effect:	1. Restitution on the <b>victim's</b> side 2. Regret on the offender's side	1. Regret on the <b>offender's</b> side 2. Possibly restitution for the victim
Long term effect:	3. Forgiveness on the <b>victim's</b> side 4. Reformation on the offender's side	3. Reformation on the <b>offender's</b> side 4. Forgiveness on the victim's side
Location	The office of the mediation service	Prison
Temporal location	Near to the crime – quick answer, quick effect	Long time after the crime
Actors	<b>Victim</b> Offender /community/relations from both side, mediator	<b>Offender</b> Victim or community or any other crime victim, or relation of the victim, prison service officer, etc.
Outcome	Quicker and direct effect for the stakeholder and the community in normal way <b>The outcome is very positive in most cases</b>	Longer and straining for all stakeholder, needs more power and financial investment <b>The outcome is very doubtful</b>

## THE STEPS OF THE REGULATIONS in Hungary

- Council Framework Decision 2001/220/JHA, the Ministry of Justice clearly intends to implement penal mediation in legislation by 22 March **2006**.
- Act No. 2006/LI. (which modified the Criminal Procedure Act) – possibility of the mediation **inside** the criminal procedure
- Act No. 2006/ CXXXIII. About the mediation in criminal cases

# LEGAL LIMITS OF MEDIATION IN THE PROCESS

The using of mediation is **not available in all criminal cases**. In the Criminal Procedure Act are legal limits to the use of mediation.

It can only be used:

- in crimes **against persons, traffic offences or property**
- crimes punishable by imprisonment of up to five years; in other words **it can not be used in the case of serious crimes**.
- There is a list of conditions under which mediation is inapplicable, amongst which the most emphasised is *cases connected to organised crime or committed by a repeat offender or a habitual recidivist*,
- the last stage at which victim-offender conflict-resolution can be carried out is **the court of first instance**. Later, including during the execution of sentence, it cannot be applied.

# **PUBLIC VOICES AND POLITICS TOWARDS RJ in Hungary**

- **The public voice appears to demand more severe and longer punishments, life imprisonment (three strikes for violent crimes) and the reintroduction of capital punishment.**
- **Several politicians and public figures believe that more serious and stringent punishments and a lowering in the age of criminal liability would be successful measures to take in order to decreasing crime rates and these people regularly voice their views in public.**

# **THE MAIN HYPOTHESIS**

## **of the empirical research**

- 1. The restorative principle and its instruments have grounds in prison settings and also at serious crimes.**
- 2. There are some obstacles to adopt this possibility in prisons (more than in normal settings):**
  - The attitude of inmates**
  - The attitude of victims**
  - The attitude of prison service officers**
  - The attitude of the society**
- 3. There are differences in the determination and the possibilities of the youth and the adult offenders**

## **Earlier surveys in the prison in the topic of RJ**

- 1993 – about the possible use of mediation in connection with crimes and the attitudes of adult inmates and their victims. (Barabás) At the time, only 2% of inmates found guilty rejected the idea of compensation for the victim in exchange for the mitigation or avoidance of the punishment!!!**
- These results were confirmed by a repeat study in 2003.**



# 1. FIRST IMPRESSIONS over the attitude of inmates

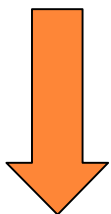
- Big differences between the attitudes of prisoners in Tököl (youths) and Balassagyarmat (adults):
- The offenders aren't motivated by the reconciliation with their victims
- The youth offenders haven't shown honest regret (working prisonisation effect – adaptation to the prison settings)
- The adults look more open for the possibility of mediation

## 2. FIRST IMPRESSIONS

- The majority of the youth offenders and more than half of adults have a Romany identity or double Hungarian/Romany, they are over represented in the prison.
- Most of offenders have education deficit
- For almost one thirds of questioned people it is not the first time that they were sentenced – high recividious rate
- The good behaviour in prison doesn' t mean change in the life style after the release (family, friends)

## Potential Reasons – Youth offenders

- Most of the young inmates were sentenced because of committing **violent** crime
- The youths have in general social deficit **they aren't able to solve their conflict without violence** (see: behaviour and conflict in the prison)
- Their adaptation to prison settings is easier, because their life before the sentences in general were very hard and poor – they develop their own little hidden society in the prison



# Potential Reasons – Youth Offenders

- Double psyche (unemotional murder without regret and little child with dreams and tales)



# FIRST IMPRESSIONS – Potential Reasons Adults

- Most of the adults have been sentenced because crime **against property**
- They are also relative young (between 21-44)
- The adults generally had their own family before they had been sentenced (just 20% were single)

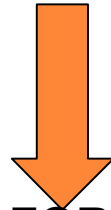


Because of it they are better motivated for the reconciliation

# FIRST IMPRESSIONS – The prison officer's attitudes

## Against our hypothesis:

- ❑ The management and the officer were high supporting using of RJ in prison in the focus group meeting
- ❑ They can accept, that RJ is also useful for solving conflicts between inmate-inmate
- ❑ They preclude the possibility of mediation in the conflicts between inmate and staff (because of the strict hierarchical order in the prison



**MORE TRAINING FOR THE STAFF**

# First Questions

RJ in prison is very different from RJ in earlier stage:

- ❑ How can we choose the suitable cases?
- ❑ How can we motivate the offenders/ or is it necessary to motivate somebody for the reconciliation?
- ❑ How can we work with the victims? – without a new victimisation?
- ❑ Does the mediation/RJ work at the cases of the youth offenders in the praxis?

# FURTHER STEPS

## Mapping:

- to what extent the victims and the mediators employed by the Office of Justice would accept the idea of the mediation in the prison
- and which other NGOs could be involved in the process in order to achieve more efficiency and possibly greater acceptance.



# LONG-TERM AIMS AFTER THE EVALUATION OF OUR RESULTS:

## Developing

- a special model of mediation that can be used in prison settings in Hungary;
- the legal conditions and criteria for restorative justice and its implementation;
- the way it would be received by prisoners and prison staff that is supervising them.

**THANK YOU FOR YOUR  
ATTENTION!**

