

Opening the black box of victim-offender mediation

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IMPACT PARAGRAPH

The background is a solid teal color. Overlaid on this are several thin, white, curved lines that sweep across the page from the bottom left towards the top right, creating a sense of movement and depth.

This dissertation aimed to open the black box of Victim-Offender-Mediation (VOM) in terms of its association with a lower risk of reoffending. By means of various types of studies and research designs, a systematic attempt was made to provide as complete a picture as possible of how the VOM process works to change offenders' behaviour. The impact of these outcomes can be divided into theoretical implications, methodological implications, practical implications and societal implications.

THEORETICAL IMPLICATIONS

Due to improved and innovative study designs, this dissertation offers more theoretical insight into the relation between participation in mediation and a lower risk of reoffending. Even though previous research already indicated that such a relationship existed, it was unclear whether it is due to a self-selection bias, the mediation process itself or a combination of the two. The studies underlying this dissertation all provide evidence that a combination is the most probable explanation.

Subsequently, the question was addressed which psychological impact mediation has on offenders, that might explain this lower risk of reoffending. The study in Chapter 4 concludes that offenders who participated in VOM feel more responsible, guilty and ashamed. They also show more empathy for the victim and feel less awkward to meet the victim in the future. Lastly, VOM makes offenders more aware of how morally wrong their behaviour was. Responsibility taking, guilt and empathy all have been previously linked to prosocial behaviour and less reoffending.

This dissertation also aimed to unravel which elements of the VOM process might be related to the psychological impact. A new contribution to theory is that a distinction was made between fundamental conditions and working mechanisms, based on existing literature. Fundamental conditions are based on the core principles of restorative justice and can be considered an essential requirement that should be present in every VOM process: voluntary participation, a proper preparation by the mediator and a neutral and non-judgmental mediator. Working mechanisms preferably are present, but their prevalence might differ in each VOM process. One mechanism is a constructive dialogue with the victim, in which the victim takes the offender's perspective and shows empathy and the offender is being taken seriously by the victim. A second mechanism is maximizing reintegrative shaming and minimizing stigmatizing. The last identified mechanism is using VOM as a learning process. The empirical study in Chapter 5 shows that adhering to fundamental conditions might explain the presence of working mechanisms in a VOM meeting or positively influence the relationship between working mechanisms and the psychological outcomes.

METHODOLOGICAL IMPLICATIONS

To measure the impact on reoffending, I have adopted a research design that has not been used before in research into mediation: propensity score matching. Propensity score matching enables to mimic a true experiment in which people are randomly assigned to either the experimental condition (in this case mediation) or the control condition (in this case not mediation). Due to the voluntary nature of mediation, it is difficult to use a true experiment and as a consequence other factors than the VOM process might offer an explanation for the lower risk of reoffending. In Chapter 6 multiple offender groups were compared, using propensity score matching to have more robust outcomes on the impact on reoffending. Future research might adopt such a study design as well when random allocation is not possible to the voluntary nature of restorative justice, taking into account the limitations of such a design.

I also used a pre- and posttest design, to see if a change occurred on the psychological mechanisms and to compare offenders who did and did not participate in mediation. Most often in previous research offenders were asked for the experiences with mediation (weeks) after mediation, by means of an interview. The design used in this dissertation made it able to compare the scores for different groups of offenders to examine if differences existed.

PRACTICAL IMPLICATIONS

Based on the outcomes multiple concrete suggestions are made for practitioners that could possibly increase the psychological impact of mediation on offenders. To come to a constructive dialogue in which a learning opportunity is provided for the offenders, mediators should invest in properly preparing the parties to ensure that both are actively involved. Informed consent is therefore crucial. Mediators can facilitate this by ensuring that both the victim and offender are aware of the aims of VOM, what the process looks like, and what is expected from them. Mediators should also examine if victims would be able to respond openly and cooperatively towards a genuine offender to heighten the chance of perspective-taking. If victims are unable to immediately be open to a genuine offender, then it could be helpful if they explain their reaction. Acknowledging this misbalance might help the offender to experience being taken seriously. Mediators might also want to help the victim, during the intake meeting, in formulating how to explain the impact of the crime to the offender. When the victim is able to explain the impact in a good manner, this might make offenders more aware of what the consequences of their actions were, increasing the learning impact. A suggestion to heighten the chance of offenders realising the impact of their crimes is to ask them to reflect during the conversation on what they have learned from the vic-

tim's story. Let the offenders explain in their own words what VOM taught them about why their behaviour was wrong. Since VOM also gives the opportunity to learn new problem-solving skills it is suggested that mediators make this a part of the VOM encounter: discuss what the offenders, but maybe also the victim, could do in a comparable situation in the future. This new learned behaviour could become part of the outcome agreement to reinforce this future behaviour.

The findings of this dissertation might also be applied in other contexts. VOM is not possible in every case, for example, when one of the parties declines the option. Also, VOM happens behind closed doors, and with that, it surpasses the public dimension of a crime. The criminal justice system is a form of public law. For this reason, public prosecutors and judges might not want to refer a case to mediation but instead handle a case in court. In these cases, alternative interventions could be sought that achieve the same psychological impact as VOM. How offenders are approached in the criminal justice process without VOM can also be reflected upon. The chance of reintegrative shaming could be increased and stigmatising minimised if judges and public prosecutors refrain from labelling the offenders as a criminal and instead focus on the act of wrongdoing while highlighting the opportunities to reintegrate. The offenders should be invited to reflect on the wrongdoing and be taken seriously by actively involving them in the process. It is in this regard also interesting to examine the impact of victim impact statements on offenders. These victim impact statements can hold negative characteristics of the offender, which might come across as stigmatizing. This might result in contra productive psychological outcomes. If so, the question is how the stigmatization could be counter-balanced in a criminal justice process in such a way that it benefits the psychological impact to the offender.

SOCIETAL IMPLICATIONS

I expect that the outcomes of this dissertation can have an important impact on future policy making. The outcomes of this dissertation offer strong conclusions about the impact of mediation on offenders. For justice systems it is important that the programs used can possibly reduce the risk of reoffending. The outcomes of this dissertation can be used to support the continuous application of restorative justice and mediation within the criminal justice system in The Netherlands. Actively involving the victim and the offender by means of a conversation seems to have more psychological impact for the offender compared to the traditional criminal justice system in which the offender (most often) passively undergoes the sanction and sanctioning process.