

NATIONAL MEDIATION SERVICE (NMS) – Norway

Restorative justice – a humane and awarding response to crime

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*«Conflicts ought to be used,(...)
and become useful, for those originally involved in the conflict»*

«Conflicts represents a potential for activity, for participation.

(...) of pedagogical possibilities – for norm clarifications(...)

*(..)opportunities for continous discussions
of what represents the law of the land»*

Nils Christie «Conflict as property» (1977)

Restorative Justice – definitions

Restorative justice understands crime first of all as harm done to people and communities.

Our legal system , with its focus on rules and laws, and with its view that the state is the victim, often loses sight of this reality.

(Howard Zehr's " The Little Book of Restorative Justice", 2002)

Restorative justice – one definition

”Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offence and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible.

(Howard Zehr’s ” The Little Book of Restorative Justice”, 2002)

Basic values, principles and goals for NMS

Facilitate a process that opens for «seeing the other» and the possibilities this implies for the future

A face to face, concrete, direct sharing of experiences

Increased understanding- motivation to restore, perhaps change?

- Voluntary
- Direct participation (no lawyers/advocates present)
- A no blame approach
- Include and empower the participants present

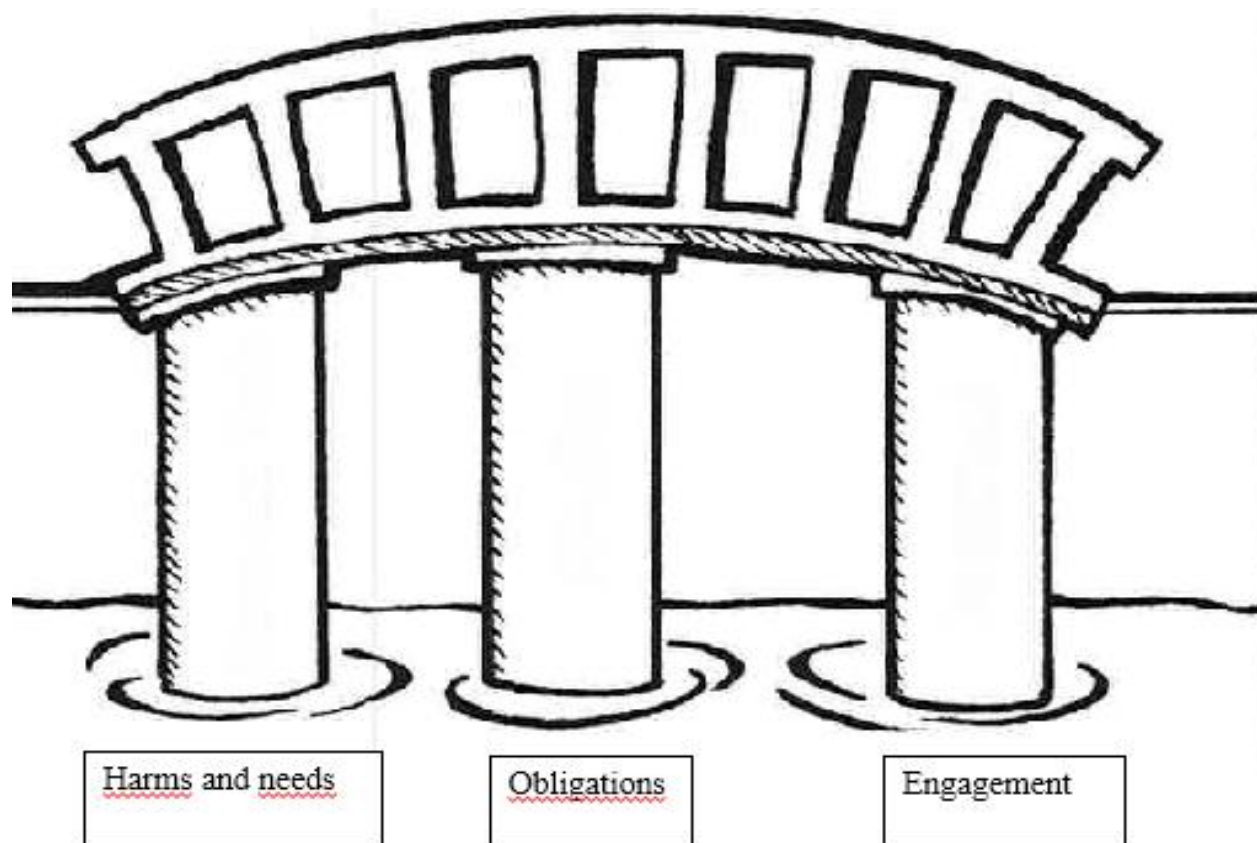
- Reintegration of victims and offenders
- Building safe communities

Methods used by NMS to facilitate meetings

- «Small and big» meetings - Mediation and conferencing(circles)
- Preparational meetings!!
- the number of participants and the structure of the meeting/process differs a bit, but the basic principles for dialogue are the same.
- The objective is to offer an arena for dialogue and assist the parties in their process to find common functional solutions to their conflict.
- Mediators/facilitators role is to prepare for the dialogue, plan a structure for the meeting, identify who needs to be there to participate.
 - Conduct pre-meetings with all parties, raise questions for reflection during the meeting, summarize the parties viewpoints along the way, assist in sorting out what issues needs to be addressed in order for the parties to achieve a peaceful constructive solution to their conflict.



Three pillars of restorative justice





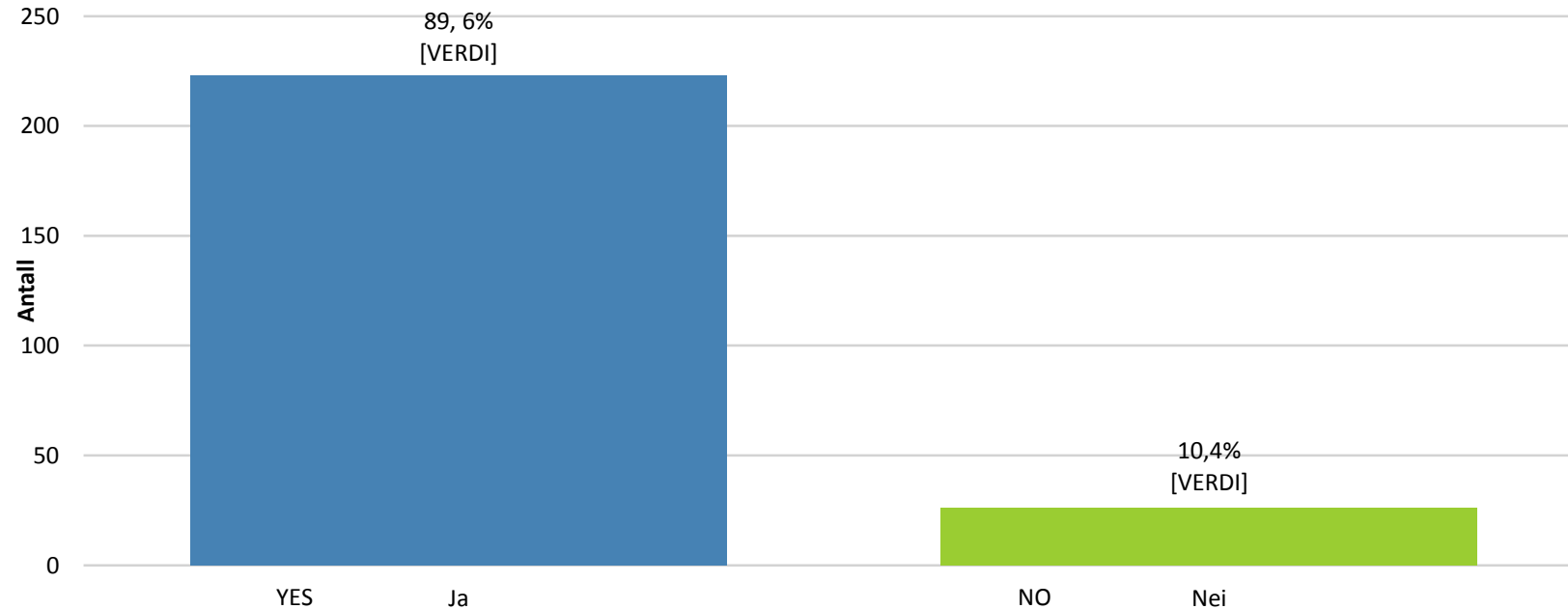
Guiding questions of RJ

- Who has been hurt?
- What are they needs?
- Whose obligations are these?
- Who has a stake in this situation?
- What is the appropriate process to involve stakeholders in an effort to put things right?

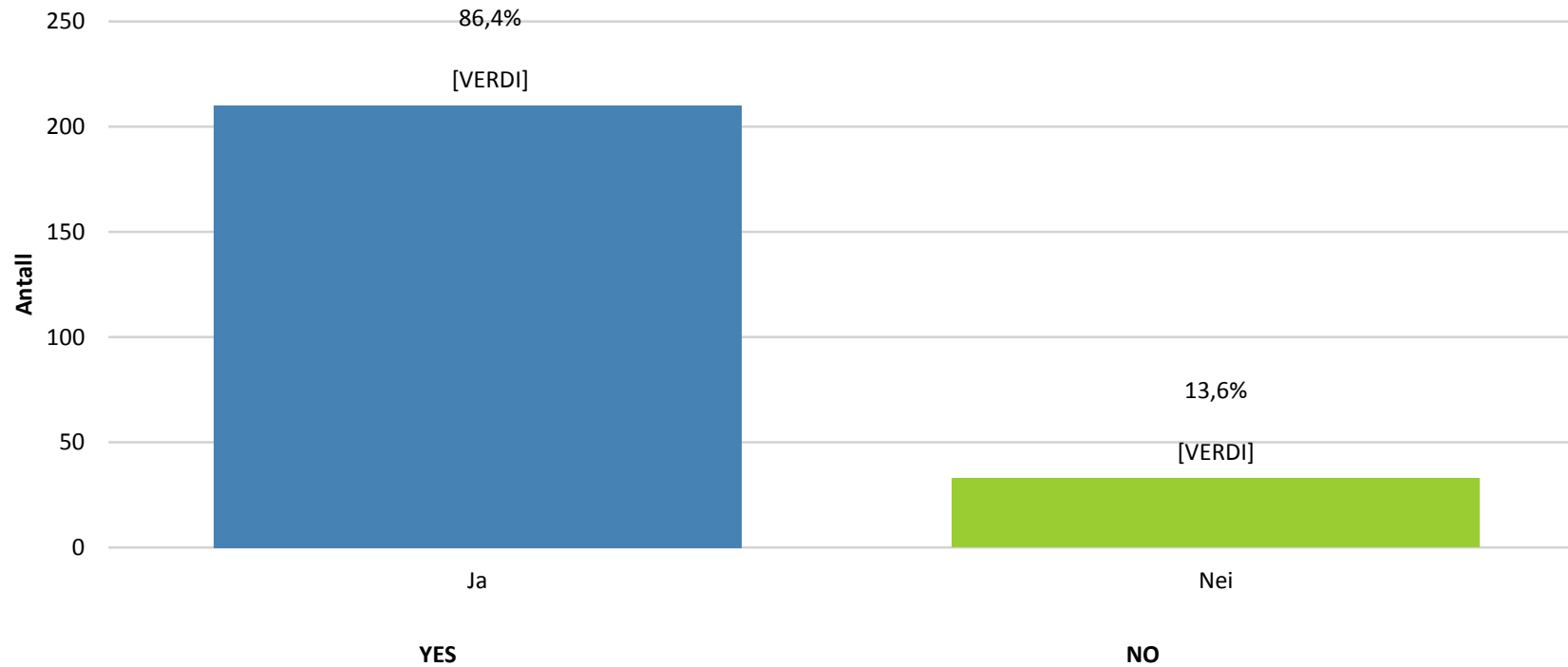
Key questions in Restorative Justice

- What happened?
- What were you thinking?
- What were you feeling?
- Who has been affected?
- What do you need to do now?

Would you recommend NMS to others? Answers from parties (2013) in our online questionnaire after the meeting.



Was NMS a good choice in your situation/case? (Parties answers 2013)





Scientific findings of NMS practice

The parties interviewed experienced mediation to -

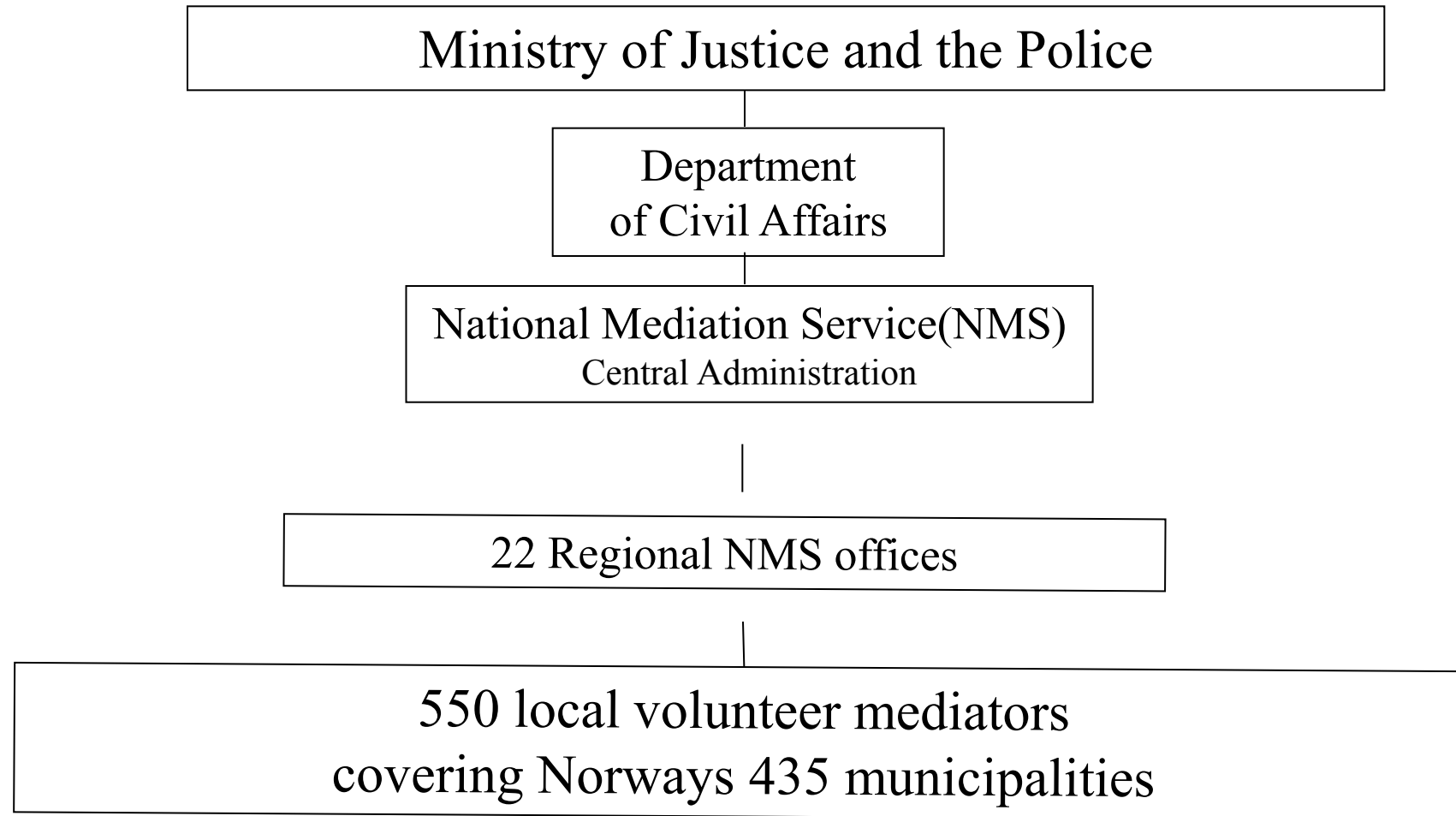
- contribute in their process of "healing" after the incident/crime
- allowed them to speak their mind
- increased their understanding of the other party
- improved the relation between parties
- ***The parties would recommend mediation to others!***

Researchers conclusion:

"Restorative justice practise performed by NMS do to a large degree fulfill the objectives and ideals of RJ".

(NF-rapport nr.14/2009)

The Mediation Services – organisation





NMS 22 district offices -
550 local mediators





550 Volunteer Mediators

- The National Mediation Service(NMS) is responsible for recruiting, professional guidance and training of the mediators
- The post of mediator is voluntary (lay person)
- Mediators shall be appointed locally for each municipality
- The group of mediators should be varied and balanced – to reflect the population in their community - background, age, gender etc.
- Mediators are appointed for a 4-year period (after being interviewed, trained and found personally suited for the task)
- Mediators receive a small fee per hour and are reimbursed for expenses

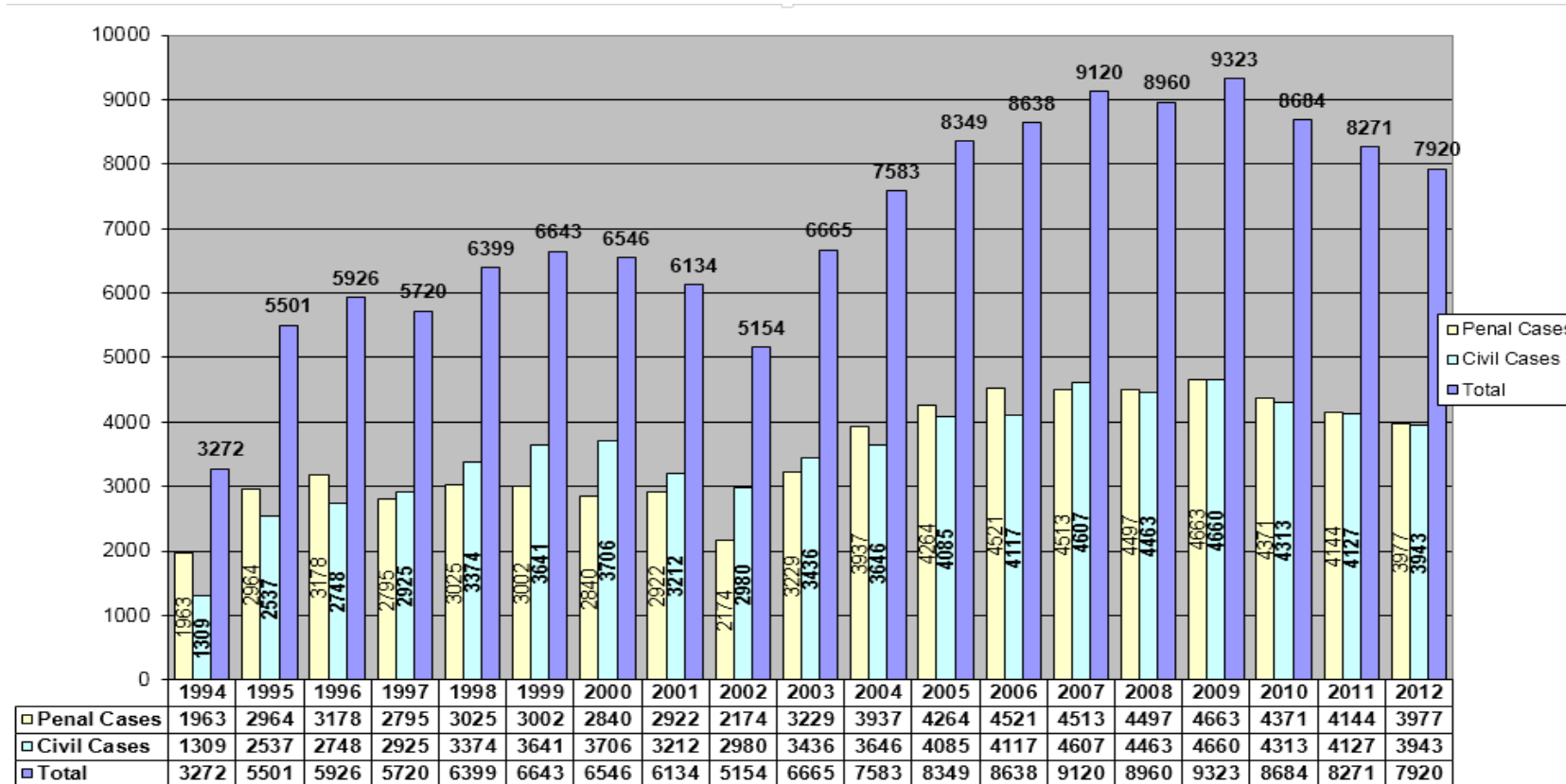
- General criterias to become a mediator/facilitator for restorative processes by NMS
 - Above 18 years of age
 - A citizen of Norway – or of another Nordic country, or be registered the last 3 years as a permanent resident in Norway.
 - Found personally suited for the task of being a mediator/facilitator
 - No (recent)previous criminal record



7006 cases received in 2014

7479 cases in 2013 (3824 penal cases and 3655 civil cases)

Number of cases received 1994-2012



7006 cases received in 2014

3557 penal cases and 3449 civil cases

8152 offenders(5779 men and 2372 women)

Some main categories of type of cases in 2014

- Violence – 1541 cases
- Threats - 707
- Bullying - 349
- Vandalism - 828
- Shoplifting - 676
- Neighbourhood conflicts - 669

Many persons feel the need to meet and talk after serious cases of crime – amongst our cases we find that -

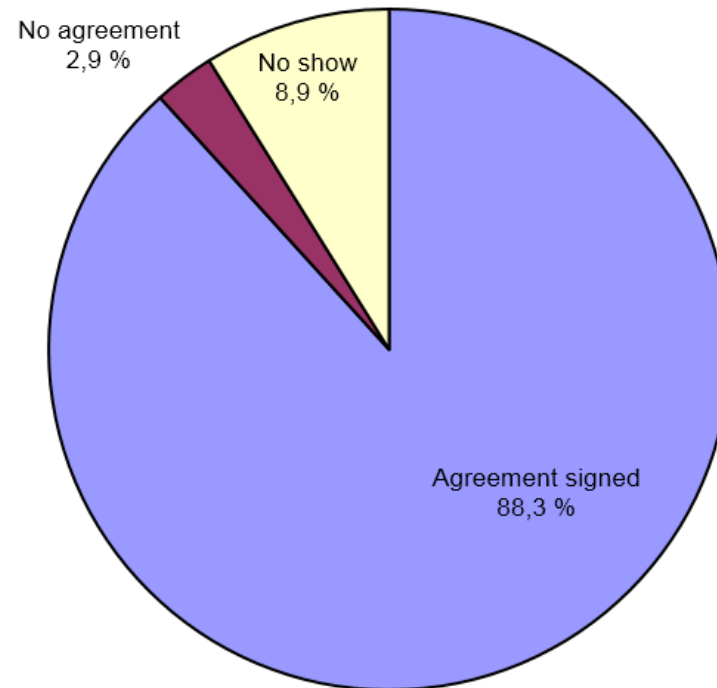
- 368 were cases of violence between parties in close relations – focus on the safety of the children!
- 24 cases with restraining order
- 124 cases one of the parties was in prison

Restorative processes – in penal cases

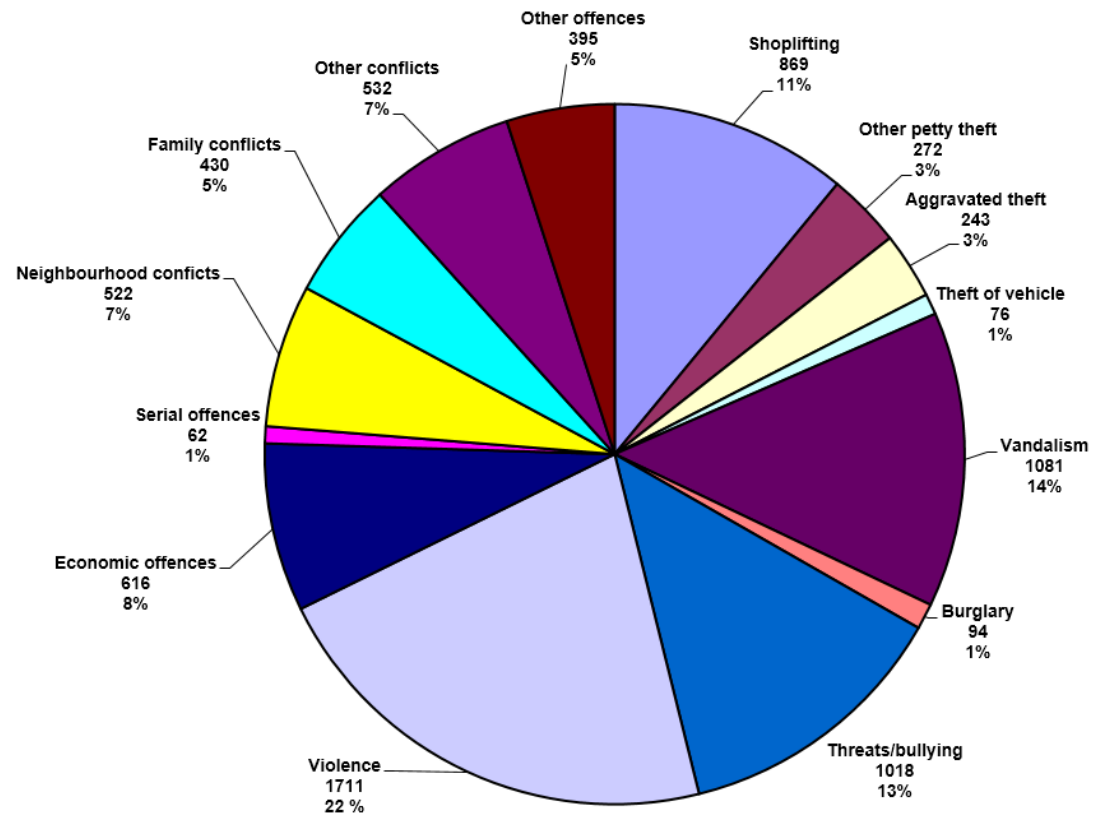
- As an alternative measure - (alternative to waiver of prosecution, fines, suspended sentences).
- As a special condition in suspended sentences
- As alternative to prison for age group 15-18, new sanction, decided in court
- As a supplement to criminal court proceedings, sentences
- As part of the content in community sentences



Results after mediation/conferences

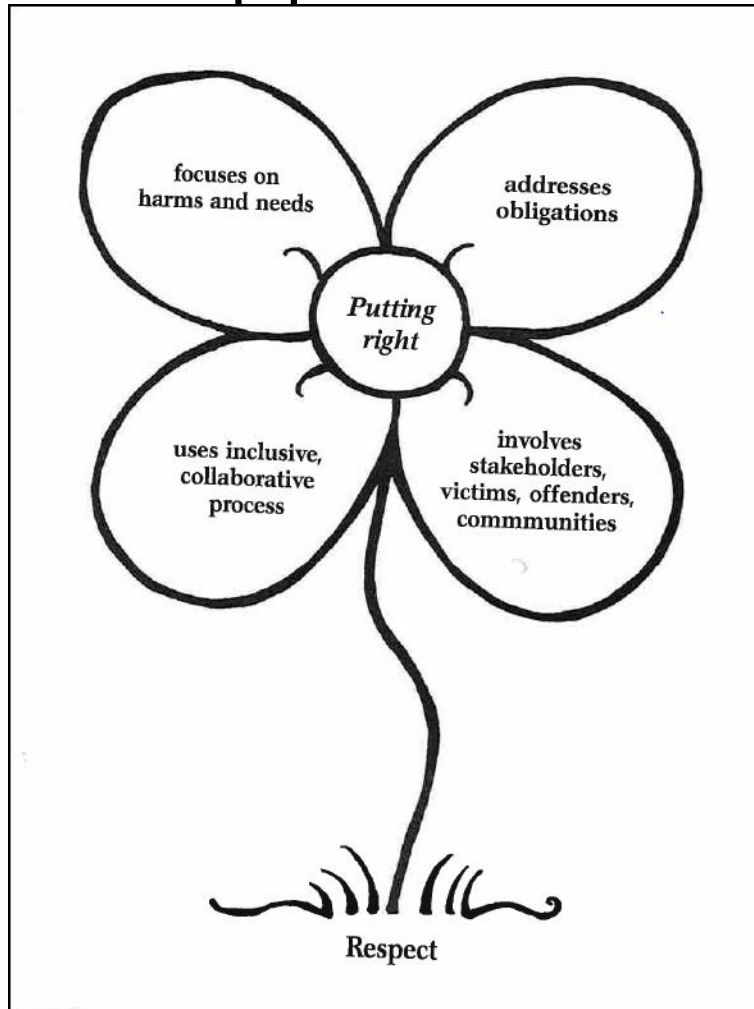


Types of cases received in 2012 (7920)





Restorative approaches –summary



Thank you for the attention!

PRACTICAL STEPS BY NMS TO ENSURE QUALITY

- SYSTEM FOR RECRUITING & BASIC TRAINING MEDIATORS/FACILITATORS
- SUPERVISION BY STAFF OR SENIOR MEDIATORS
 - *CONTINUOUS GUIDANCE OF MEDIATORS– individually and in groups for exchange of experiences , awareness raising and reflections. Seminars & follow up training.*
- MEDIATORS HANDBOOK
- ETHICAL GUIDELINES
- MANUAL FOR ENSURING QUALITY (of the whole case handling process)
- QUESTIONNAIRE ONLINE FOR THE PERSONS THAT MADE USE OF NMS SERVICES

Other important steps -

- IMPLEMENTING CONFERENCING



World prison population

More than 10,2 million in penal institutions worldwide(2014)

Statistics from: International Centre for Prison Studies, King's College London. www.prisonstudies.org

Prison population per 100 000 of national population, some examples(2012):

Iceland	47	UK	148(England & Wales)
Finland	58	Bulgaria	151
Sweden	67	Albania	168
Denmark	73	Turkey	179
Norway	75	Georgia	225
Germany	79	Brasil	274
Austria	98	Ukraina	305
France	101	Lithuania	315
Italy	106	Russia	475
Greece	111	Cuba	510
Australia	130	USA	716

Median rate for western European countries in 2014 is 98 per 100 000 of national population.

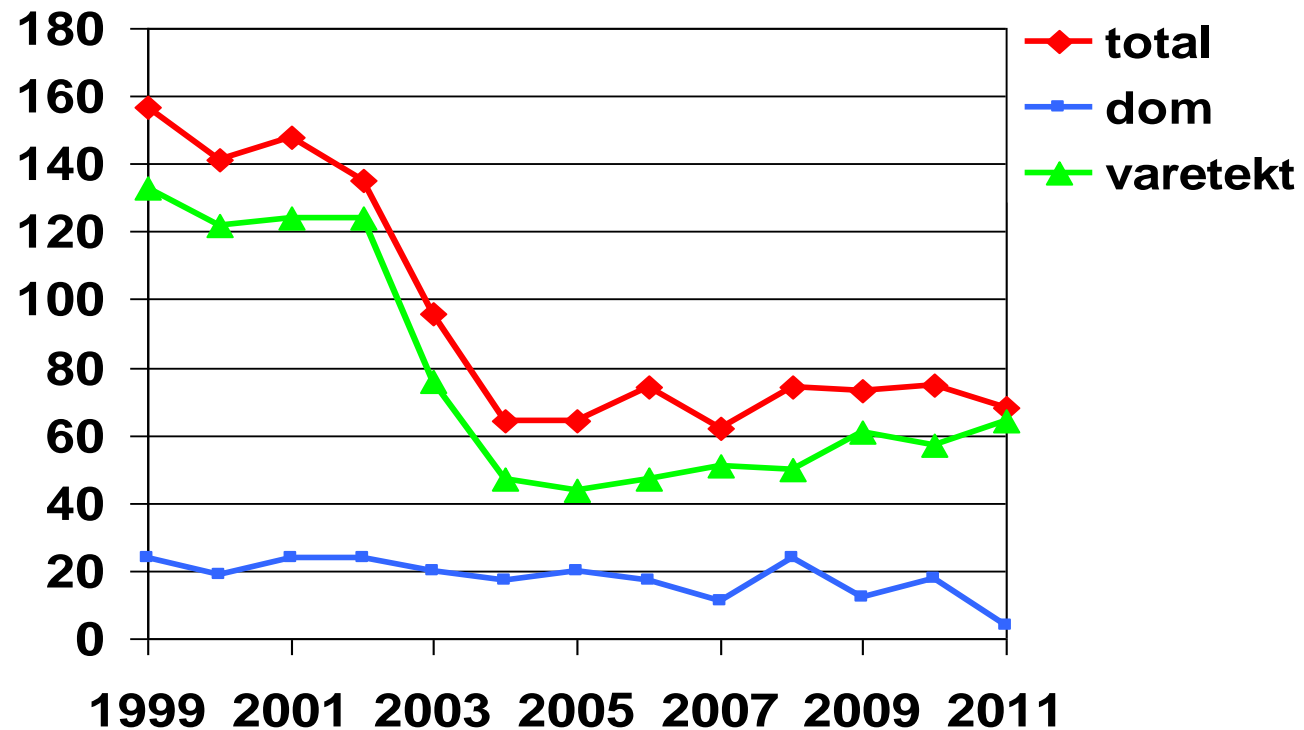
- Norway (1.9.2013): 72 per 100 000 of national population. Slowly increase from 1995 when the rate was 60.



Important milestones

- 1977 - Government report
- 1991 - Law on Mediation in Penal and Civil cases
- 1993 – New law on Child Care
- 2003 – Implemented Child Convention
- 2008 – New report on «Children and punishment»
- 2012 – Law on new sanction «Youth Punishment»
- New Law on Mediation in penal and civil cases 1.July 2014

Development – prisoners under age 18



Dom: Sentenced

Varetekt: Pre-trial detainees/remand prisoners

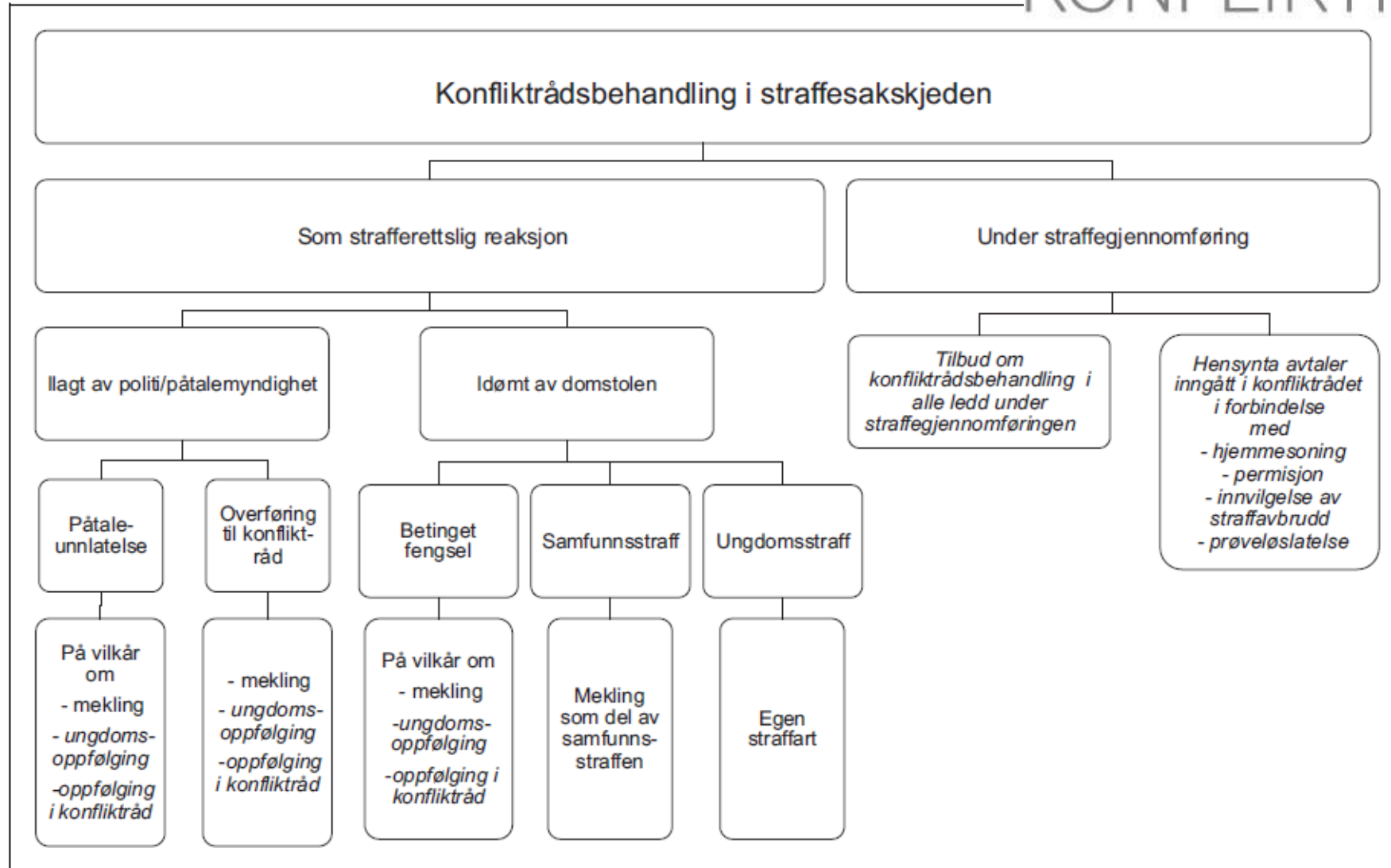


NORWAY – POPULATION&CRIME

- 2013: 5 051 275 inhabitants
- Prison population: 3, 649 prisoners – (incl. pre-trial detainees/remand prisoners)
- In addition 199 prisoners serving their sentences outside prison e.g. under electronic surveillance.
- Prison population rate: 74 prisoners pr. 100 000
- Young prisoners 15-18 years old – about 80 pr. year



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Legal consequences of mediation*

- *Case closed – no further legal proceedings*

If a criminal case has been successfully mediated with an agreement, the prosecuting authority may only reinstitute criminal justice proceedings if the person charged commits a *significant breach* of the agreement.

- *No criminal record*

A successfully mediated criminal case shall not be noted on the criminal record.

(* when used as - *alternative to waiver of prosecution, fines, suspended sentences*)

HISTORY

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Background in Norway – development of restorative process by NMS

- “Conflicts as Property” by Prof. Nils Christie, published in British Journal for Criminology in 1977.
 - *A critique of the traditional penal justice system where the parties mostly are spectators to the process led by professionals. Critique of the tendency to let the experts handle all our problems.*
 - *Conflicts represent a potential for **activity, learning and participation** and should be brought back to their rightful owners to become useful.*
- The Government’s report to the Parliament on Criminal Justice, 1978
 - Proposed to raise the age of criminal responsibility from 14 to 15 years. Special concern for imprisonment of the youngest offenders.
 - Need to develop alternative measures for those under 15.

Polycymaking – implementation – NMS history

The first mediation pilot project took place in a small rural municipality from 1981 – 1983

- The project was a child care measure
- The Ministry of Social Affairs was responsible

The Director General of Public Prosecutions took active part

- Circular letters to all prosecutors on how to cooperate with NMS
- Identified types of penal cases suitable for mediation
- Proposed to legislate victim-offender mediation

Law on mediation passed 15th of March 1991

- Unanimously passed by Parliament
 - Open framework law: *both penal & civil cases – no age limits – free of charge*
 - Placed under Ministry of Justice
-
- Implementation 1992-94 – nationwide
 - Fully state run organisation from 01.01.2004

Conclusions

- Restorative justice works!
 - It is cost-effective moneywise and human suffering wise; for victims – offenders, their family and friends – local community - and society at large.
- Scepticism is to be expected from our cooperating partners within the justice sector– but this scepticism will decrease as good results are documented and repeated.
- Time, efforts and patience→ success!
- Huge task of communication, information and dialogue across sectors and towards the public.

Recommendations?

- Focus on the basic values when developing practise
- Keep the needs of the parties in focus: *What would I prefer? A good guideline when designing procedures*
- Build functional cross sector cooperations
- Build a system for mediators to gather and share their knowledge – for a dynamic ongoing learning process
- Be inspired from others, take the best elements, but implement a model that fits your country
- A succesfull pilot 😊 building trust



Concerns – reflections

«(...) I have long warned that restorative justice, like all change efforts, is likely to go astray. All social interventions have unintended consequences, no matter how good the intentions. Change efforts are often first ignored, then resisted, then likely to be co-opted. Indeed, there are ample signs of the latter already in the field. An ongoing dialogue about principles and values, an openness to evaluation and feedback, and a self-reflective stance are crucial to help offset this tendency.»

(H.Zehr in Umbreit & Armour, 2011.)



Literature – references

- Christie, Nils, “Conflict as Property”, *British Journal of Criminology*, Vol.17, No.1, 1977
- Zehr, Howard, *The Little Book of Restorative Justice*. Good Books, 2002. (www.GoodBooks.com)
- Umbreit, Mark and Marilyn Peterson Armour, “ Restorative Justice Dialogue. An Essential Guide for Research and Practice” Springer Publishing Company, 2011.
- Council of Europe - Recommendation No. R 99(19) of the Committee of Ministers of the Council of Europe to Member States concerning Mediation in Penal Matters, 15 November 1999.
- Directive 2012/29 EU of The European Parliament and of the Council of 25 October 2012 , establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.
- UN (2002/12) Basic principles on the use of restorative justice programs in criminal matters.
- UN’s Handbook on Restorative Justice.
- *European Forum for Restorative Justice*: www.euforumrj.org



Added materials

- <http://konfliktraadet.intra.custompublish.com/video.320637.no.html>
- <http://youtu.be/BfIBdv4bY6M>
- https://www.youtube.com/watch?v=d_UU8gc15JA
- <http://youtu.be/vngfUIB6pfY>



Some examples

- A robbery case – restorative process during prison sentence(civil case)
(film)(offender initiated)
- Harassment in school – a civil case (victim initiated)

- Violence in school – a penal case referred to NMS as an alternative
- Youth Punishment – sentenced in court as alternative to prison