

Clergy Child Sexual Abuse & the Restorative Justice Dialogue

***International Institute for the Sociology of Law
10-11 April, 2014, Onati – Spain***

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Problem Statement

Clergy child sexual abuse is real and has left many questions unanswered for:

- Churches
- Government, the justice system and policy makers
- Researchers & criminologists
- Victims, communities and NGOs.

3 identifiable phases (Gavrielides and Coker 2005)

- ✓ 1st Series of crimes & cover up
- ✓ 2nd Entrée of traditional justice investigations in specific cases
- ✓ 3rd Responsibility is being taken publicly and alternatives are now being sought.

Argument

Clergy child sexual abuse is different from other crimes

- Same impact as any child sexual abuse case (11 categories).
- Additional dimension (dual) beyond law & order
 - Violation of human right to faith
 - Sacramental culture of Catholicism.
- Much more is at stake for all parties involved (survivors, the Church, the community) but particularly the victim.
- Power structures within the relationship to be restored.

Proposition

- Because of the unique nature of these cases, it is only through a **user-led** process that long-lasting and genuine solutions can be sought for **all parties**.
- These user-led processes can be delivered by various **forms of dialogue** one of them (but not exclusively) being **Restorative Justice**.
- These processes must be victim-led and not top down. The EC Victims' Directive can provide a framework for consistent implementation.

IARS' Evidence based approach

- ✓ Restorative Justice in Europe: Safeguarding Victims and Empowering Professionals
<http://www.rj4all.info/content/RJE>
- ✓ Gavrielides, T. (2012). "[Clergy Child Sexual Abuse & the Restorative Justice Dialogue](#)", 55 (4) *Journal of Church and State*, 617 – 639.
- ✓ Gavrielides T. and D. Coker (2005) "[Restoring Faith: Resolving the Catholic Church's Sexual Scandals through Restorative Justice](#)", 8:4 *Contemporary Justice Review*, pp. 345-365.

IARS' Evidence based approach – RJE 2014

Country	Sample contacted (original)	Sample reached (final)	Research Method employed
UK	39 victims 54 offenders 5,240 contacts 51 experts	24 victims 28 offenders 107 victims and offenders 24 experts	In-depth interviews (qualitative) In-depth interviews (qualitative) Online survey (quantitative) Focus Group (qualitative)
Germany	Victims – German wide - Ongoing Victims – EU wide - ongoing	Ongoing Ongoing	Quantitative Survey Quantitative Survey
Greece	100 victims 10 professionals	20 victims 10 professionals	In-depth interviews In-depth interviews
Bulgaria	10 victims 22 professionals	10 victims 22 professionals	In-depth interviews Focus groups (x5)
Netherlands	197 practitioners/ professionals 197 practitioners/ professionals 20 stakeholders/ experts 10 offenders (juveniles) 20 experts 2 case studies (juvenile prisons x 5)	75 practitioners/ professionals 75 practitioners/ professionals 20 stakeholders/ experts 10 offenders (juveniles) 20 experts 2 case studies (juvenile prisons x 5)	Attitudinal survey (qualitative) Fact finding survey (qualitative) In-depth interviews In-depth interviews Mini conference In-depth observation

Is there a problem?

- **Worldwide phenomenon:** the US, Ireland, Belgium, France, Germany and the Netherlands .
- In the US alone, between 1950-2002, **4,392** priests were charged (John Jay College of Criminal Justice 2004). This accounts for **4% of all clergy** in the 50 year period. These allegations involved **10,667** victims. Civil law suits were far more common reaching **\$573 million** for compensation. This figure does not include
 - 14% of the dioceses involved as they refused to give data.
 - settlements made after 2002 (e.g. Diocese of Orange, California was asked to pay \$100 million for the settlement of 90 abuse claims in 2004, Diocese of Los Angeles, California was asked to pay \$660 million for the settlement of 550 claims in 2007)

Definitions

Sexual abuse is “any conduct between a child and an adult when the child is used as an object of sexual gratification for the adult. A child is abused whether or not this activity involved explicit force, whether or not it involves genital or physical contact, whether or not the child initiates it, and whether or not there is discernable harmful outcome (John Jay College of Criminal Justice 2004: 22).

Restorative Justice is “an *ethos* with practical goals, among which is to restore harm by including affected parties in a (direct or indirect) encounter and a process of understanding through voluntary and honest dialogue” (Gavrielides 2007: 139).

The Victim' Directive Definition

2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012, **Lisbon Treaty** 2008 Article 82 (2.b)

Restorative Justice = Any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party.

The harmful dimensions of *child sexual abuse*

- **Child sexual abuse - 11 categories:** (1) depression (2) fear (3) anxiety (4) feeling of isolation (5) poor self-esteem (6) anger and hostility (7) self-destructive behaviour (8) substance abuse (9) sexual maladjustment (10) propensity towards re-victimisation and (11) difficulty in trusting others (Shea 2008).
- Neurologists (King *et al* 2003) proved that traumatic experience such as physical and sexual abuse can affect the chemistry and structure of a child's brain.

The additional effects of *clergy child sexual abuse*

- Human right to faith and identity. Dual dimension:
 - of public law/ human rights
 - neglect and re-victimisation.
- A violation of meaning as well as persons”. “Tell them what he took away from me ...not just my innocence but my faith. I am like a spiritual orphan, betrayed by what I loved, and feel lost and alone” (Guido 2005: 257).
- Clergy child sexual abuse is “a distinct form of sexual trauma” which “generates unique posttraumatic symptoms not accounted for within the existing Posttraumatic Stress Disorder conceptual frameworks” (Farrell *et al* 2010: 124).
- Sacramental culture of Catholicism: Holy Orders change a man fundamentally - able to act in the name and in the person of Christ (Osborne 1988)

The additional effects of *clergy child sexual abuse*

Existential

Dissonance in accepting inner freedom
and direction within life

Fearful of death and/or dying

Being robbed of an important
philosophy of life

Generalized uncertainty surrounding
the purpose of life itself

Omnipotence = collusion
= powerlessness = insignificance

Spiritual

Difficulty praying

Discomfort with religion
assuming ownership of the spirit

Generalized sense of
inner emptiness

Locked into continual
conflict with God

Inability to engage in any of
the sacraments

Political anger

Moving on?

- **Solutions so far:** criminal/ civil law, policy and legislative changes, civil society, research and audits.
- **The need for user-led solutions:** For the restoration of survivors' faith, sense of identity and place in the world as well as the amelioration of the psychological, neurological and other damages they endured, first empowerment and participation must be secured **Figley's Trauma Transmission Model** (Figley 1998). Central focus of this methodology is language & dialogue.

The Restorative Justice Dialogue

- One form of dialogue
- Caveats & preconditions
 - Survivors have come forth
 - The Dioceses are ready to relinquish power
 - Honest – safe – constructive dialogue
 - Confidential – time bound
 - Voluntary – complementary to traditional justice
- Despite some case studies, this area of RJ remains untested/ under-researched.
- There are dangers associate with language based/ user led solutions (power imbalances, re-victimisation, re-traumatisation)

Article 12, Victims' Directive

- ✓ **Restorative justice services**, including for example victim-offender mediation, family group conferencing and sentencing circles, can be of great benefit to the victim.
- ✓ But require safeguards to prevent secondary and repeat victimisation, intimidation and retaliation.
- ✓ Such services should therefore have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm.
- ✓ Restorative justice processes should, in principle, be confidential, unless agreed otherwise by the parties, or as required by national law due to an overriding public interest. Factors such as threats made or any forms of violence committed during the process may be considered as requiring disclosure in the public interest.

Article 12, Victims' Directive

Factors such as:

- ✓ **The nature and severity of the crime**
- ✓ **The ensuing degree of trauma**
- ✓ **The repeat violation of a victim's physical, sexual, or psychological integrity**
- ✓ **Power imbalances**
- ✓ **The age, maturity or intellectual capacity of the victim,**
- ✓ **Informed choice** - factors which could limit or reduce the victim's ability to make an informed choice
- ✓ **Positive outcome** - factors which could prejudice a positive outcome for the victim.

The Victims' Directive

- ✓ Article 12 Restorative Justice
- ✓ Article 1 Objectives
- ✓ Article 18 Right to protection
- ✓ Article 22 Individual assessment of victims
- ✓ Article 23 Right to protection of victims
- ✓ Article 24 Right to protection of child victims
- ✓ Article 25 Training of practitioners
- ✓ Article 9 Support from victim support services
- ✓ Article 10 Right to be heard

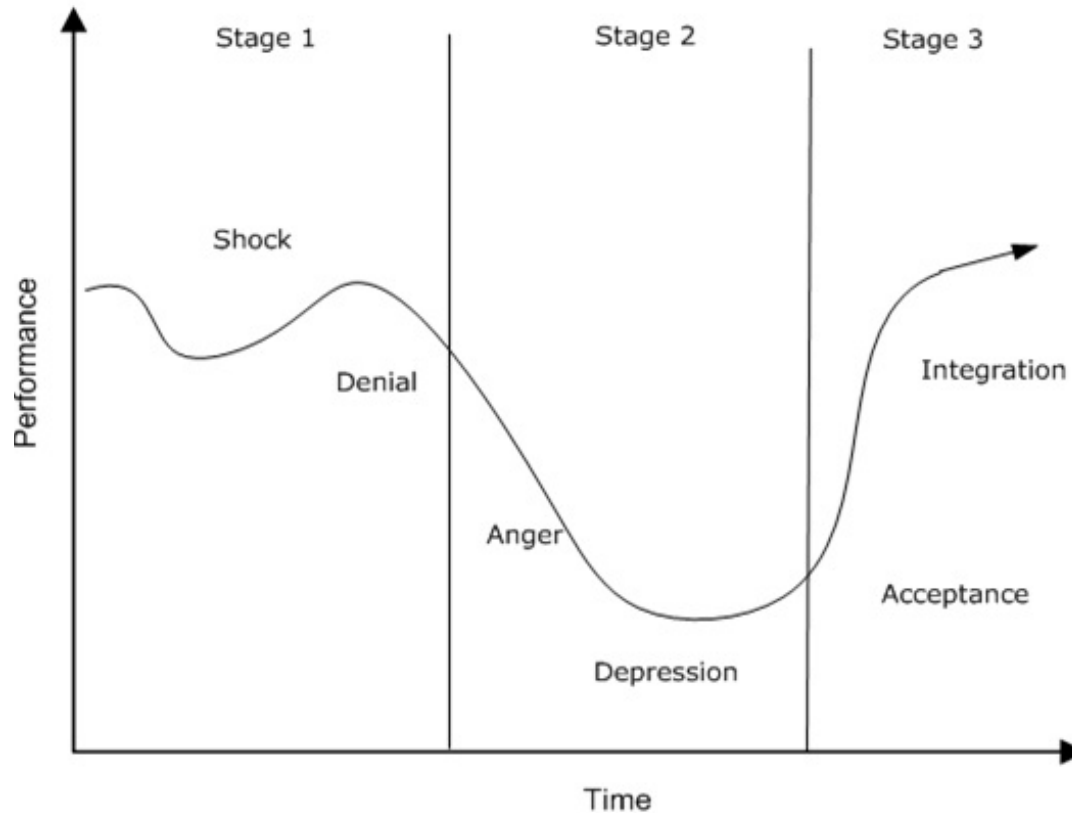
Timescales

The established criminal justice system (CJS) has its own timescale for the prosecution of an offence, from reporting to police, through prosecution the courts, at different stages through to the sentence and up to the end of sentence.

The restorative justice (RJ) timescale is different. The victim and their needs are considered. The readiness of the offender is crucial. The damage done by the crime is relevant. Sometimes this process takes much longer.

These two timescales need to be accommodated. Therefore there is a need for flexibility. Restorative interventions are not rehabilitative programmes, with a fixed process, that we “**do to people**” we assist them to “**put it right themselves**”.

The process of recovery



Article 23 Right to protection of victims with specific protection needs during criminal proceedings

Interviews with the victim being carried out:

- ✓ in premises designed or adapted for that purpose
- ✓ by or through professionals trained for that purpose
- ✓ by the same persons unless this is contrary to the good administration of justice
- ✓ all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes.

*“Abuse by a Catholic priest is akin to the murder of a person’s soul”
(Lothstein, 1999)*

“My separation from God almost killed me, emotionally and physically” (female survivor, quoted in Gavrielides, 2012).

“What do you want out of this lawsuit? I said, I want three things ... you hear people talk about money ... But I want this priest removed and I want an apology acknowledging that I was raped as a boy and they are sorry. I want acknowledgement about what was done to me. I don’t want ‘alleged’ in from of my name. Want to be a human being who was assaulted as a boy”.

“Language can be a musical instrument of joy, lighting the darkness that permeates a survivor’s very being, or a silent killer, hiding the truth behind unspoken thoughts” (Wind, Sullivan & Levins)



Funded by the Criminal Justice Programme of the European Union

Thank you!

The presentation and the RJE project are co-funded by EC Grant Agreement JUST/2011-2012/JPEN/AG/2951

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