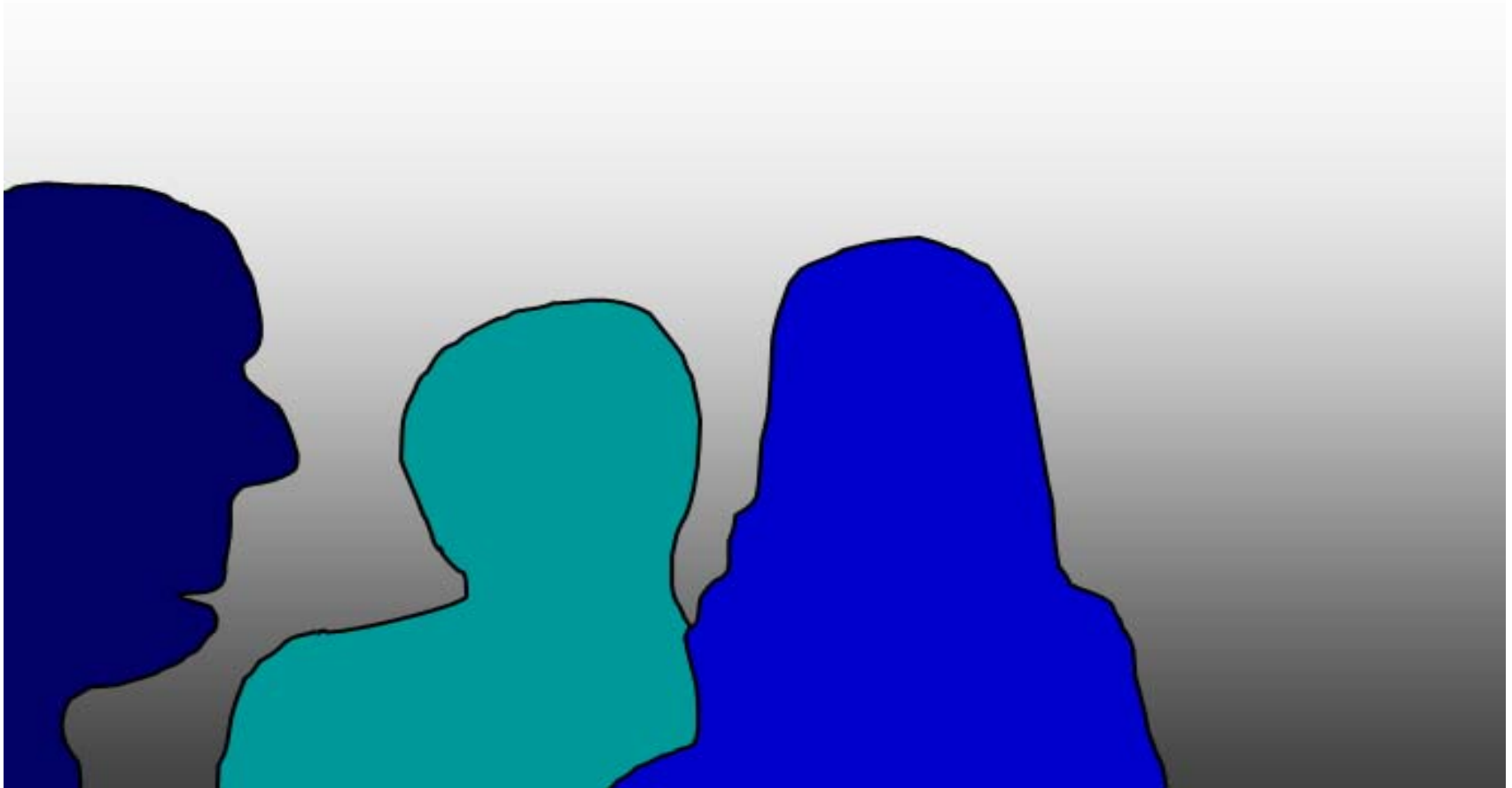


Restorative Justice – An Option with Regard to Victims of Terrorism?

Michael Kilchling



- A relatively new issue
- Victim impact comparable to victims of:
 - Large scale conflicts
 - Mass victimisation, gross human rights violation
 - State terrorism
 - Individual/group terrorism
- Victim impact comparable to victims of other serious violence:
 - importance of process rather than outcome
 - possibility of indirect settings
- Victim impact comparable to victims of hate crime
 - representative victims
 - seeing victims as ‘real’ persons

- The participatory aspect: the multi-victim perspective of RJ:
 - Primary victims
 - Secondary victims
 - Tertiary victims
 - The community/greater society
 - 'The vicarious victim': RJ as conflict reduction mechanism for vicarious retribution (Lickel et al. 2006)
 - In case of suicide terrorism: victim impact panels
- The aspect of re-humanisation (Marshall 2007)

- Different consequences of application
 - RJ as a substitute to criminal prosecution
 - RJ as an additional component to criminal prosecution
- Different modes of application
 - Micro, meso, macro

- Micro level:
 - Individual meetings, upon initiative of the victim
 - Surrogate encounters, part of treatment programmes
- Meso level:
 - Community meetings
 - Victims of ongoing intergroup conflicts, e.g.,
 - » The Parents Circle Families Forum (Israel/Palestine)
 - » Victim-Combatant Dialogue of the LIVE-Programme (Northern Ireland)
- Macro level:
 - Truth and Reconciliation Commissions (South Africa)

- Different stages of application
 - Front end vs. back end
 - Long term perspective:
 - » RJ practices may follow terrorist attacks after years, not immediately
 - » No interference with investigations
 - » No interference with criminal prosecution (deterrence)
 - » No security problems
 - » Imprisonment as useful 'time-out' for the parties
 - » No relevance of guilt
 - » No danger of opportunism by offenders
 - » Focus can be on the emotional impact of the attack

- Outcome
 - Restorative sanctions (front end)
 - Symbolic reparation measures (front end/back end)
 - TRC (front end/back end)

- RJ, terrorism, and the victim
 - Right of victims to mediation?
 - » CoE Rec. R 99(19):
Mediation in penal matters should be a generally available service
 - » EU Framework Decision 2001/220/JHA:
Penal mediation (...) for offences which it considers appropriate
 - Victims must have access to RJ
 - Such a right should not be obstructed (impeded) by the state with reference to the nature of the crime

- Restorative Justice not an 'all-inclusive response' in cases of terrorism
- *"RJ meetings cannot, on their own, redress all the effects of terrorism. (...) But even if it is one tool in the box, RJ still has a contribution to make."* (Marshall 2007)

Thank you for your attention

Dr. Michael Kilchling

Senior researcher

Max Planck Institute for Foreign and International Criminal Law

Günterstalstr. 73

D-79100 Freiburg i.Br.

Tel.: +49-761-7081-230

Fax: +49-761-7081-294

m.kilchling@mpicc.de