

# **The impact of a mediation intervention on victims and offenders**

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## Introduction

Restorative justice (RJ) is rooted in the principles of Ubuntu and aims to transform events of harm and their aftermath to bring about healing and reconciliation (Wielenga, Batley & Murambadoro, 2020:59). RJ believes that affected parties can actively participate in resolving conflict through dialogue and collective decision-making in order to heal relationships, repair the damage caused by the event, and prevent similar events from happening. RJ is a mechanism to “promote tolerance and inclusiveness, uncover truth, encourage the peaceful expression and resolution of conflict, build respect for diversity and promote responsible community practices” (United Nations Office on Drugs and Crime, 2020:3).

One manifestation of RJ is victim-offender mediation (VOM) which, as the name indicates, entails a facilitated, in-person meeting between a victim and an offender to resolve the conflict caused by the offence (Jonas-van Dijk, Zebel, Claessen & Nelen, 2020:952). VOM is voluntary, and both parties are prepared prior to the meeting regarding the principles of RJ and the procedures of the face-to-face meeting. Noteworthy outcomes include sharing experiences, explaining motivations for the event (the offender) and its impact (the victim), an apology, and an agreement stipulating ways to remedy the relationship and consequences of the event. In their review of 40 years of VOM research and practice, Hansen and Umbreit (2018) concluded that, compared to the formal justice system: victims and offenders are more satisfied with the process and outcomes of VOM; restitution agreements are more likely to be adhered to; programmes have positive psychosocial benefits; VOM is less expensive; and offenders are less likely to reoffend.

In 2022, the Restorative Justice Centre (RJC) and the Department of Social Work and Criminology, University of Pretoria, formally entered into a memorandum of understanding in order to advance collaborative projects and strengthen ties regarding areas of common interest and mutual benefit. The proposed study is one of the first collaborative activities between the two parties and endeavours to support the RJC in meeting one of its monitoring and evaluation responsibilities. The VOM programme of the RJC receives donor funding and one deliverable entails an assessment of both victims and offenders’ experiences following participation in the intervention. Since 2020, donor requirements have meant that the target group is clients experiencing gender-based violence (GBV). The National Development Agency provided funding during 2020-2021; an evaluation of this work was undertaken by Roy (2021).

The context of GBV in South Africa is significant: it is regarded as a pandemic that was aggravated by the Covid 19 pandemic. In 2016, the World Health Organization estimated that 12.1 women in every 100 000 were victims of femicide: this is five times higher than the global average of 2.6. (National Business Initiative, 2020; Wilkinson, 2019). There is a general sense of outrage at this which has resulted in legislated changes to implement harsher punishment for perpetrators. Other voices have pointed out that alternative and thoughtful responses cognisant of accountability, multi-stakeholder involvement, social and emotional support and which address the causal factors linked to the incident, are likely to be more effective (National Business

Initiative, 2020; Van der Westhuizen & Dykes, 2019). Restorative justice interventions such as victim offender mediation are considered part of these alternative and thoughtful responses. Despite a growing body of both local and international literature supporting this response, it remains controversial (see recent EFRJ newsletter articles).

The RJC sought to respond to these concerns by drawing on international best practices to set clear criteria for cases. These focused on thorough, dynamic and flexible risk assessment that takes into account the following (RJC, 2020):

- Whether both parties agree to the referral (no one should ever be coerced into participating in mediation).
- Ensuring that the victim is safe.
- Mental, emotional and physical health.
- Tendency to self-harm and stated intentions or attempts at suicide.
- Perceived and actual insecurity/self-blame.
- Cultural differences and conflict arising from these.
- Impact on other processes in progress or in place, such as court trials, protection orders.

Referrals to the service are accepted from any source; all the cases accepted in the past two years were referred by the prosecutors at the Pretoria Magistrates' Court in collaboration with the probation officers located there. All the cases were thus in the context of criminal proceedings and were referred at a pre-trial stage.

This report presents participants' views and perceptions from the project funded by the Gender Based Violence Response Fund for 2022-2023. It reflects their views and perceptions of fairness, the impact the programme had on their situation (in terms of empowerment, conflict resolution and relationships), and whether they would recommend VOM to others.

### **Research methods**

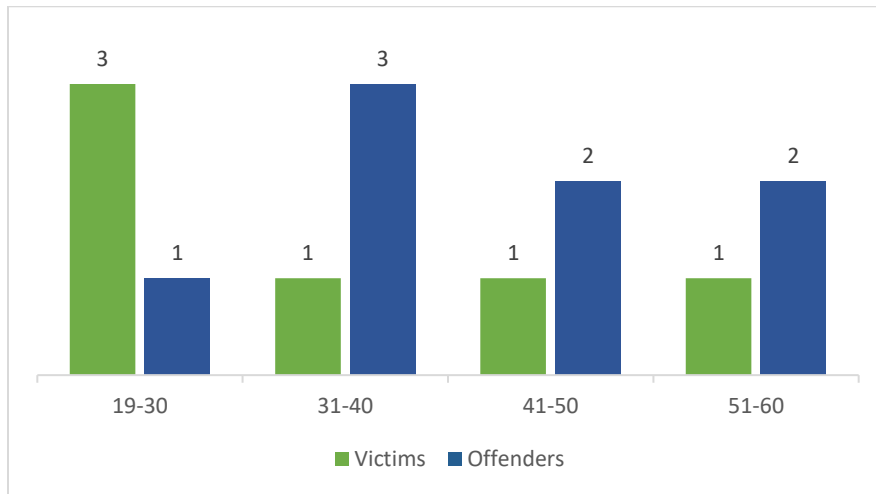
Facilitators at the RJC contacted programme beneficiaries for potential participation in the study, and the contact details of those who agreed were provided to the research team. The respondents were interviewed telephonically – at a time they preferred – and the information was captured electronically. Six victims and eight offenders were interviewed and the data they provided are disaggregated in the results section. The questionnaire was based on an existing instrument (Steyn & Lombard, 2013) and minor changes were made to accommodate the experiences of victims and offenders. The study adhered to standard ethical principles that apply to the social sciences and was approved by the Ethics Committee of the Faculty of Humanities, University of Pretoria.

## Results

### Section A: Biographical information

The six victims were all female and of the offenders, seven were male and one was female. In terms of their ages, the offenders (41.8 years) were slightly older than the victims (35.2 years) (Figure 1).

**Figure 1: Age distribution of respondents (victim and offender groups)**



Not all victims and offenders lived together or were married (Figure 2).

**Figure 2: Marital status of respondents (victim and offender groups)**



### Section B: Referral to VOM

The respondents from the two groups were asked whether they were consulted about the possibility of a VOM before their case was referred to the programme (Figure 3). Most of the victims agreed to the statement, while half of the offenders noted that they were not consulted prior to referral.

**Figure 3: Consulted before referral to the VOM**



Most of the victims and the offenders voluntarily participated in the programme (Figure 4).

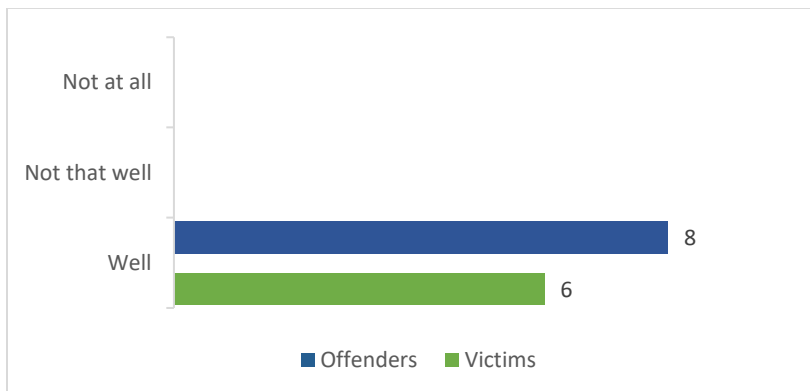
**Figure 4: Voluntary participation in the programme**



**Section C: The offence**

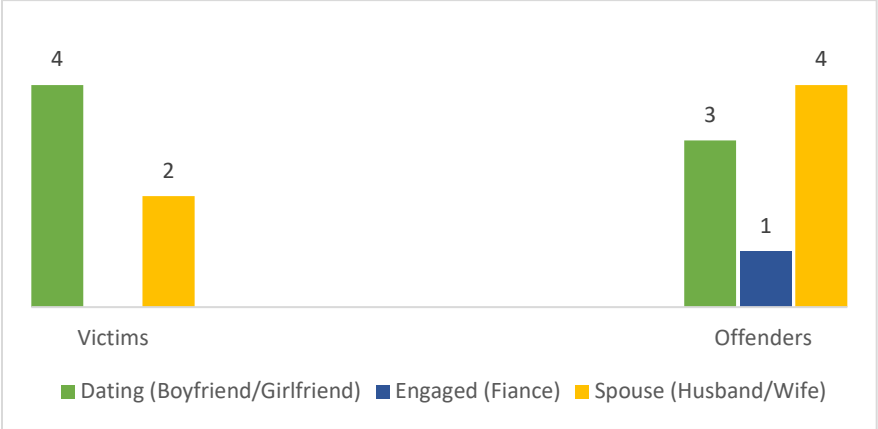
The victims and offenders indicated that they knew the other party well before the offence took place (Figure 5).

**Figure 5: How well did you know the victim/offender**



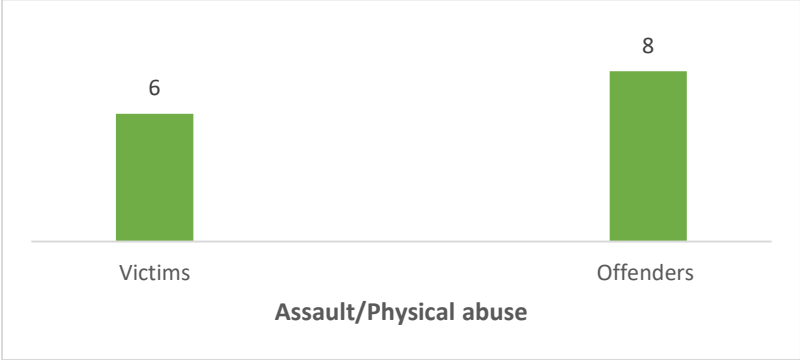
The victims and offenders were in some form of intimate or personal relationship at the time of the offence (Figure 6).

**Figure 6:** Nature of the relationship with victim/offender



For all respondents, the offence for which the matter was referred for mediation was assault or physical abuse (Figure 7).

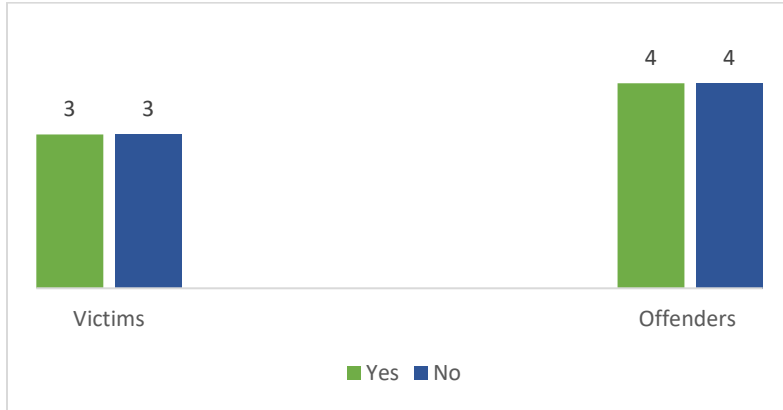
**Figure 7:** The nature of the offence



## Section D: Preparation

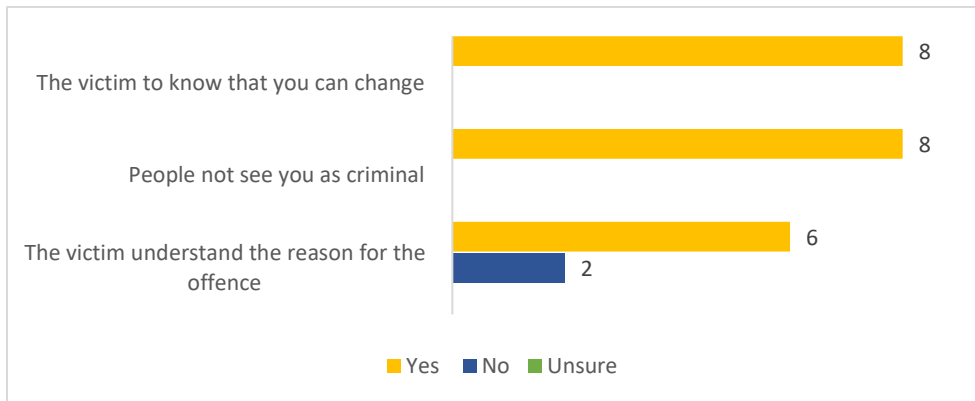
Half of the victims and the offenders stated that they were prepared for the mediation (Figure 8).

**Figure 8: Preparation for mediation**



In terms of expectations, offenders mostly noted that they wish the victim to know that they can change, and that people would not see them as criminals (Figure 9).

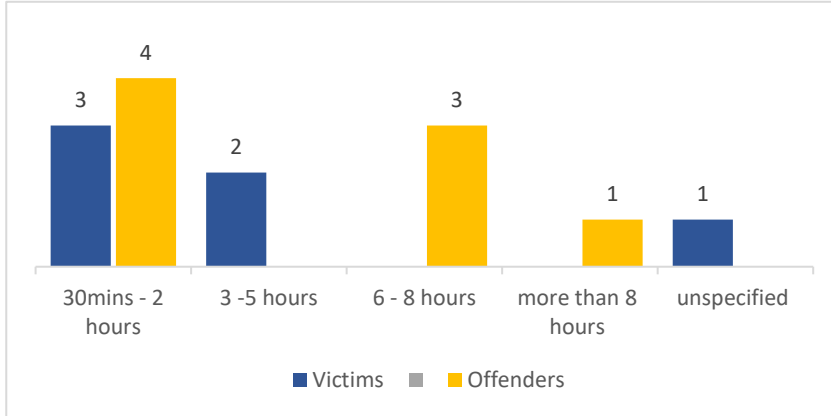
**Figure 9: Offender expectations from the mediation**



## Section E: Implementing the programme

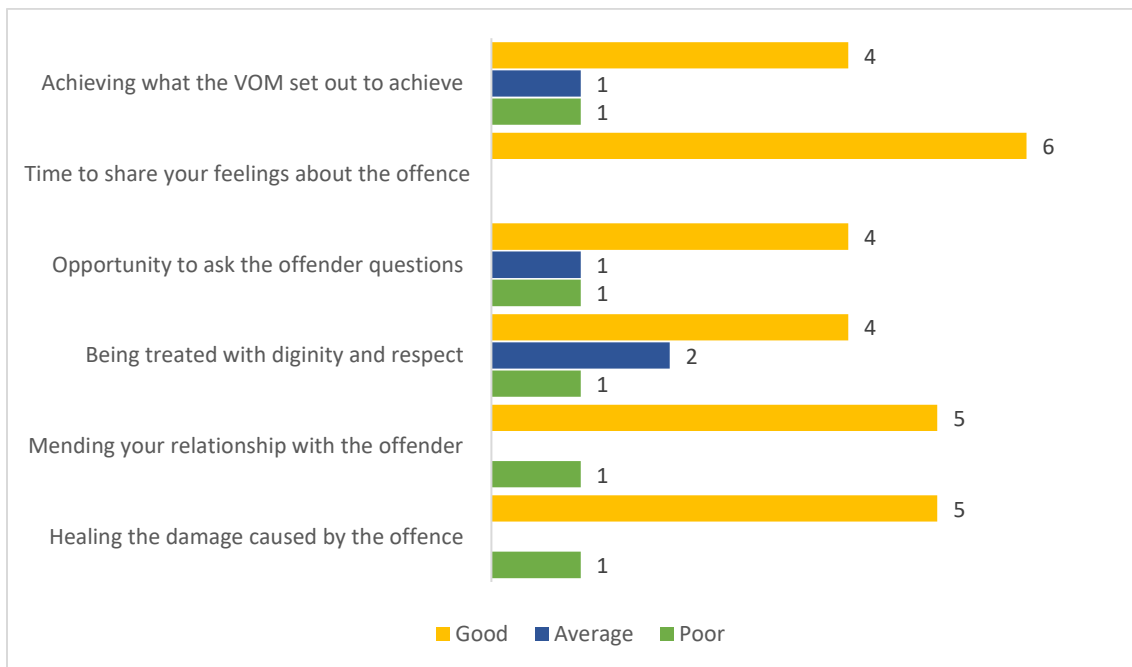
For most victims and offenders, the mediation took a few hours to complete (Figure 10).

**Figure 10: Duration of the VOM**



Victims generally rated the mediation as “good” (Figure 11).

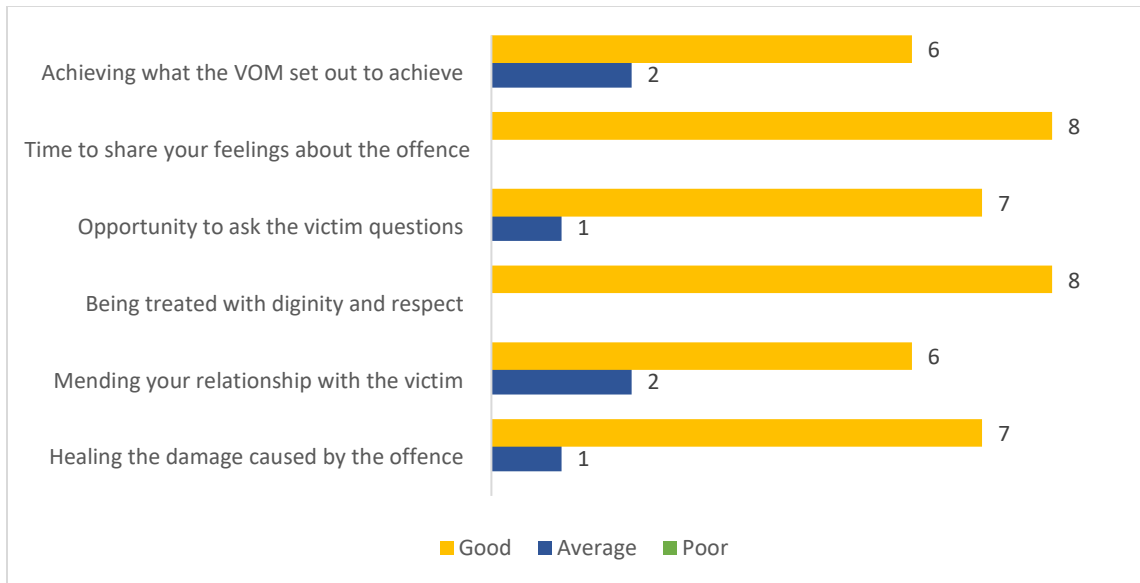
**Figure 11: Rating of the mediation (victims)**





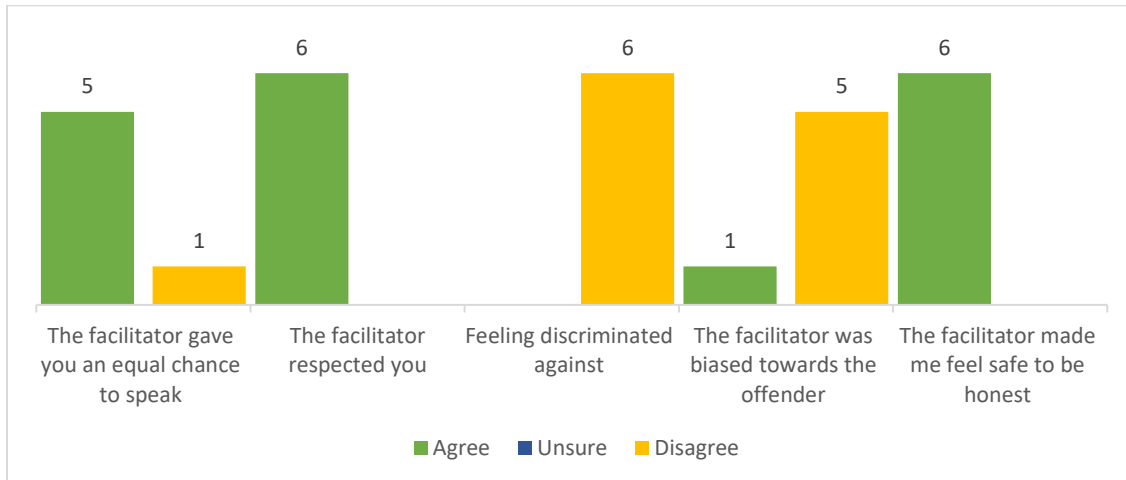
Similar to the victims, most of the offenders rated the mediation as “good” (Figure 12).

**Figure 12: Rating the mediation (offenders)**



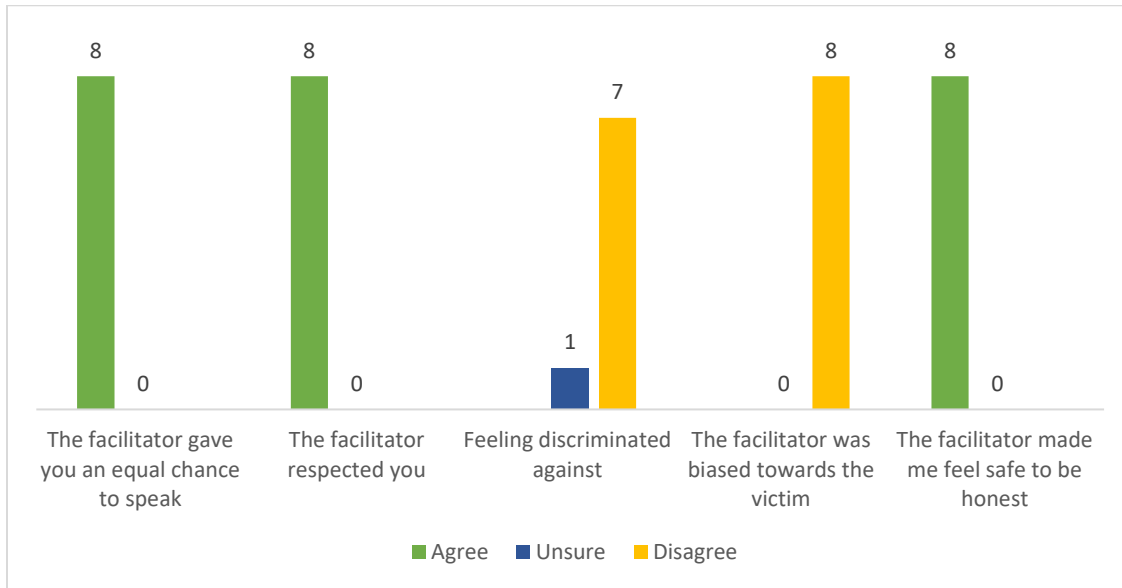
The victims generally felt that the facilitator respected them, did not discriminate against them, and made them feel safe to be honest during the mediation (Figure 13).

**Figure 13: Fairness of the mediation (victims)**



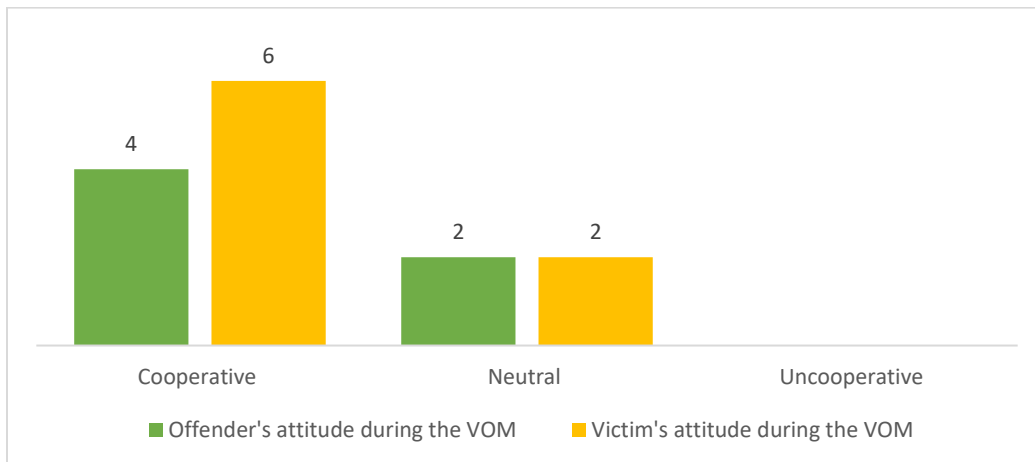
Similar to the victims, the offenders generally felt that the facilitator respected them, did not discriminate against them, and made them feel safe to be honest during the mediation (Figure 14).

**Figure 14: Fairness of the mediation (offenders)**



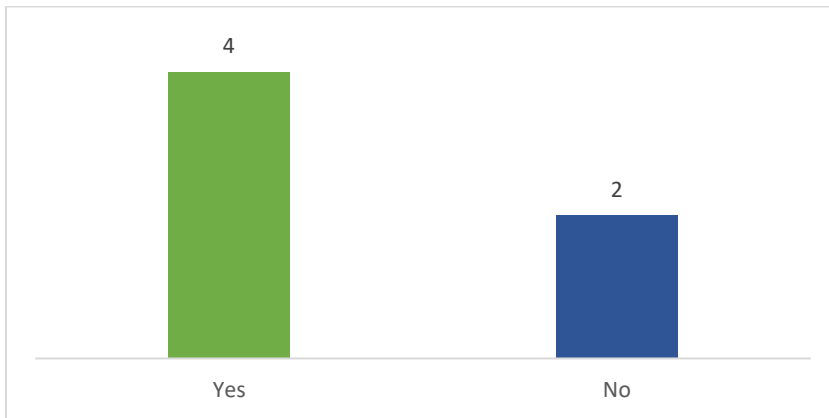
None of the respondents indicated that the victim or offender were uncooperative during the mediation (Figure 15).

**Figure 15: Rating the victim/offender attitude during the mediation**



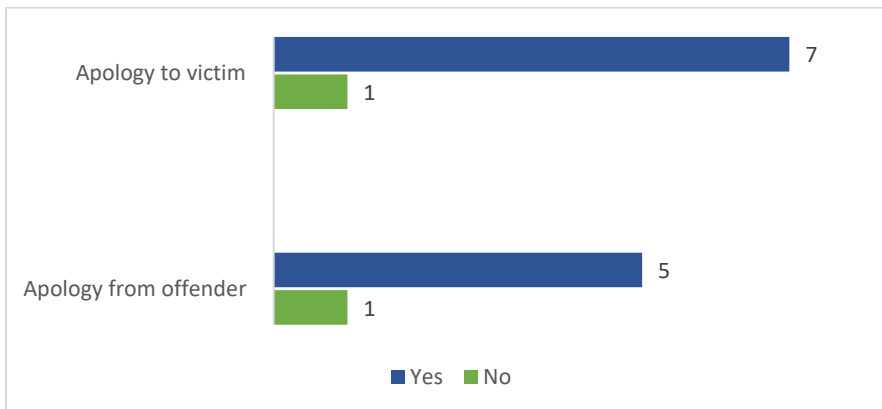
Most victims stated that the offender showed remorse during the mediation (Figure 16).

**Figure 16: Remorse shown by the offender**



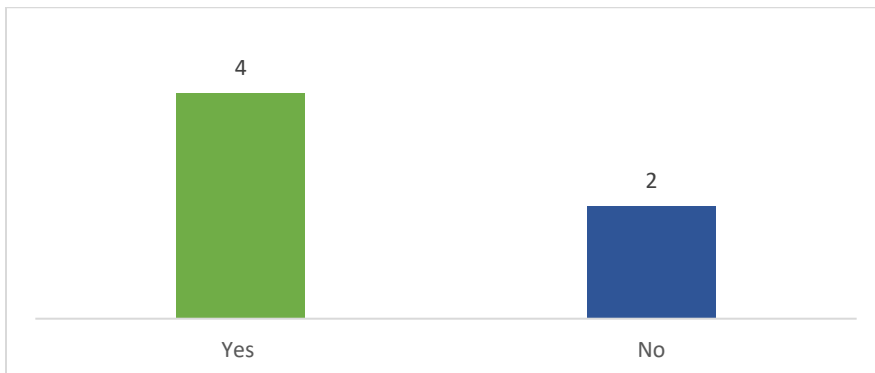
Nearly all respondents – victims and offenders – noted that an apology was made (Figure 17).

**Figure 17: Apology by the offender/received by the victim**



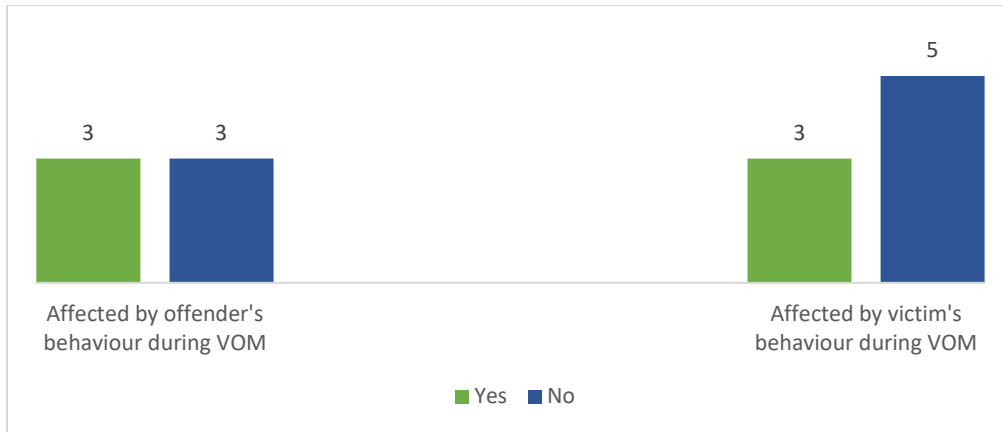
Most of the victims felt that the offenders' apology was honest (Figure 18).

**Figure 18: Level of honesty in the apology**



The results were mixed as to whether the victim or offender's behaviour during the mediation affected them (Figure 19).

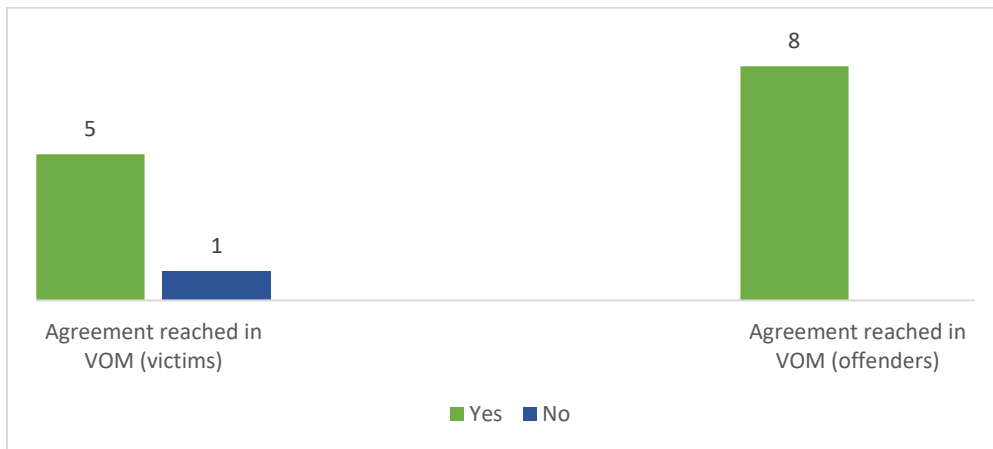
**Figure 19: Affected by the victim/offender's behaviour during the mediation**



**Section F: Outcomes of the mediation**

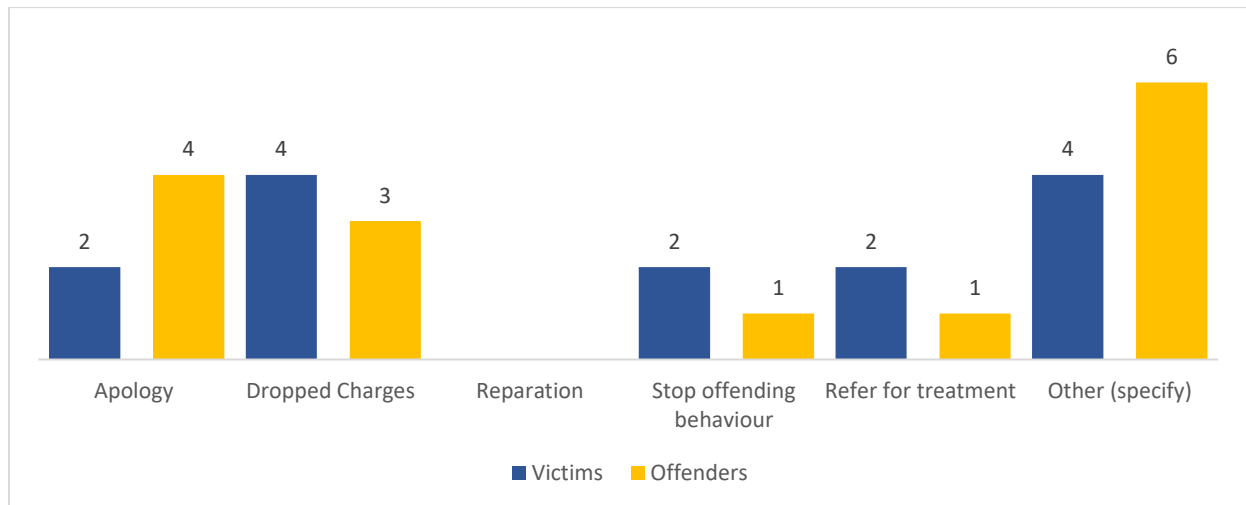
All offenders and most victims indicated that the mediation resulted in an agreement (Figure 20).

**Figure 20: Agreement reached during the mediation**



The agreements that were reached between the victims and offenders included dropping the charges, ceasing the offending behaviour and referrals for treatment (Figure 23).

**Figure 23: Type of agreement reached during the mediation**



For the victims, the 'other' category (n = 4) entailed:

- The offender participated in the programme only to get bail, and he continued his offending behaviour.
- The agreement was that the victim moved back to her parents.
- Both parties decided to continue with the relationship, and they are still together.
- They agreed to stay together and to have better communication.

For the offenders, the 'other' category (n = 6) amounted to:

- The agreement stated that they will stay together and try to work on their relationship.
- After the incident, the offender and his wife sat down and spoke to each other and decided that they can help each other through the difficult time.
- The offender will listen before reacting to victim.
- The parties came to an agreement to try and work on their relationship.
- Agreed to take time off from one another and proceeded to talk about their relationship at a later stage.
- The offender wanted the victim to seek help for his anger issues and substance misuse.

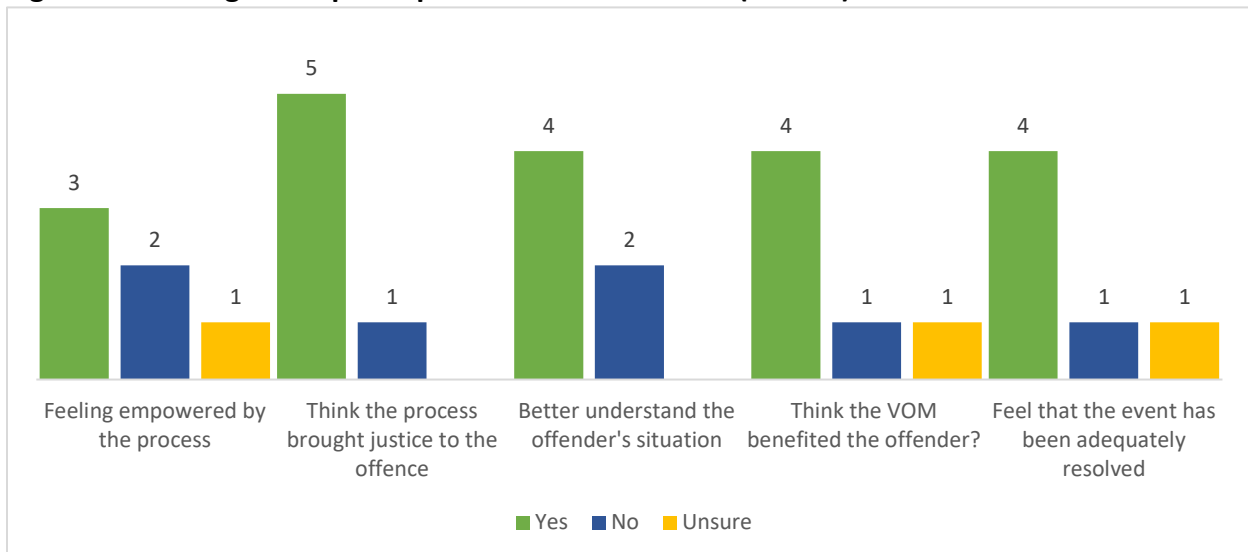
All offenders and most of the victims were satisfied with the agreements that were reached (Figure 22).

**Figure 22: Level of satisfaction with mediation agreements**



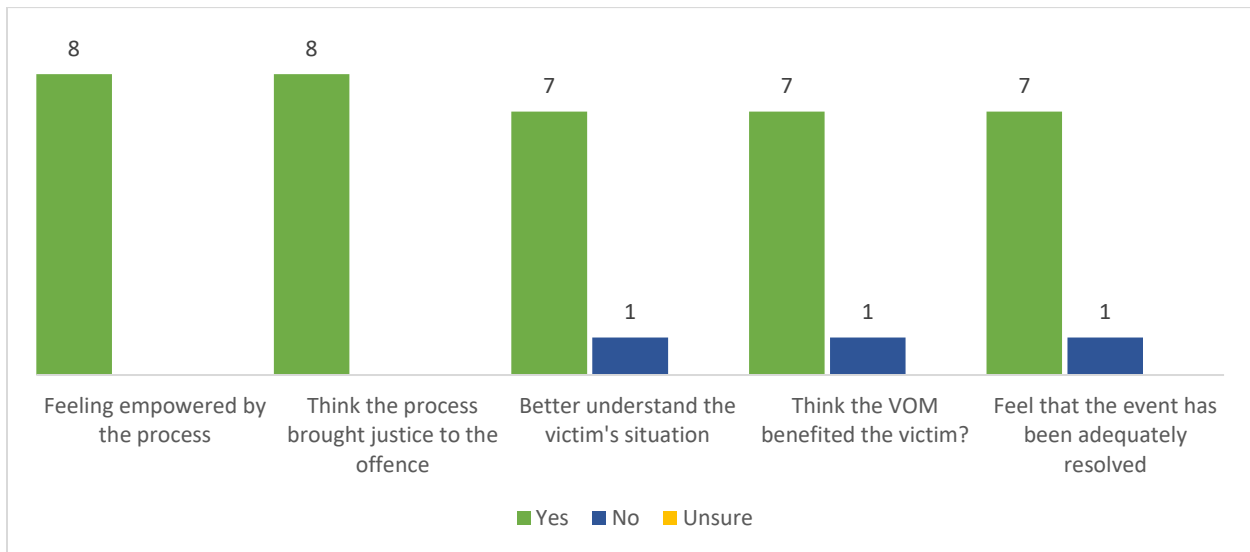
Respondents from the victim group were requested to reflect on their feelings after participating in the VOM process, with specific reference to the statements provided. Most victims felt that the mediation brought justice to the offence and that the event has been adequately resolved (Figure 23).

**Figure 23: Feelings after participation in the mediation (victims)**



Respondents from the offender group were requested to reflect on their feelings after participating in mediation, and most statements received a positive response (Figure 24).

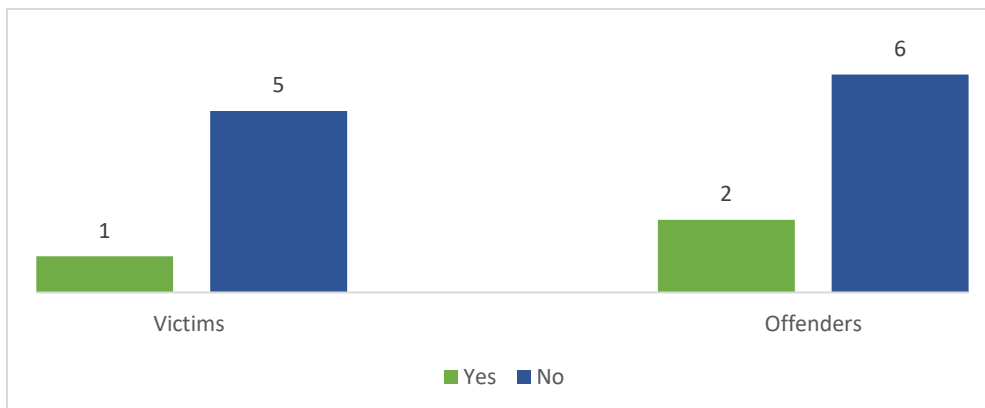
**Figure 26: Feelings after participation in the mediation (offenders)**



**Section G: Follow-up**

Most of the victims and offenders noted that they did not need further support after participating in the mediation (Figure 25).

**Figure 27: Specific support required after participation in the mediation**



Regarding the one victim who needed further support, it was noted that: *On the day of the mediation, the offender only cared about getting bail and not to change his lifestyle. The bail was observed as a favour, and he still doesn't know what mediation is. The victim still feels like her and the offender needed more sessions, she feels the offender only participated for his own benefit in order to get bail. She feels like she needs more time with the organisation.*

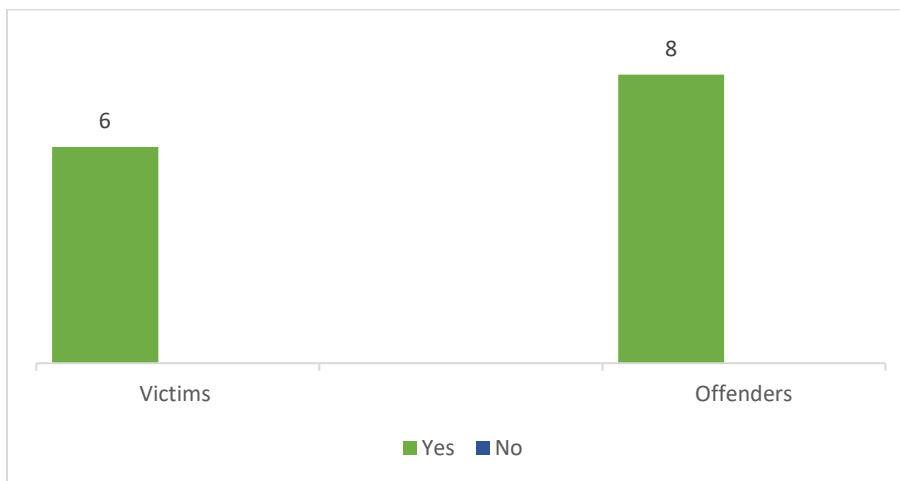
The two offenders elaborated that:

- *I would have liked to have one last in-person meeting since only the first meeting was in person – specifically with the facilitator. Same as the first meeting.*
- The offender would like further counselling as her husband is still misusing substances.

#### Section H: Recommendations

All victims and offenders would recommend mediation to others who are in similar situations (Figure 26).

**Figure 26: Recommend mediation to others**



#### Conclusions

The results suggest that, prior to referral to the RJC, victims and offenders need better orientation from the courts about the mediation programme since it appears that not all participants were adequately consulted or sufficiently prepared. This situation might have contributed to some participants stating that they did not participate voluntarily in the programme. Nevertheless, the findings show good outcomes for victims and offenders: sufficient communication featured; the process was experienced as fair; in most cases an apology was made and agreements were entered into in order to remedy the situation; and the levels of satisfaction with mediation were high. It is noteworthy that all victims and offenders who participated in the study would recommend mediation to others who are in similar situations.



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