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Restorative Justice & Sexual Harm: Restoration, Reconciliation, Retribution?

Kieran McCartan, Ph.D. and David Prescott, LICSW

One of the authors was at a public engagement event recently and met a person who had been sexually assaulted by a stranger. This person said that one of the ways that she had coped with and moved forward from her experience was to write fiction related to it. She described how in her writing she had developed a rapist from 4 or 5 pieces of information that she knew about him from the case [the case never got to court as he admitted his offence]. When asked if she would be interested in meeting the man who raped her she said no. She believed that in reconstructing this man through her writing she had gotten all the answers that she needed and that meeting him would produce no tangible gain for her. This was creative response to a devastating experience led us to consider the utility, rational and effectiveness of Restorative Justice in cases of sexual harm.

The concept of restorative justice is not a new one or even a controversial one ([Restorative Justice Council](#)). Restorative Justice considers offending as a violation of both the individual and society. It follows that there are obligations for the offender, community, and the victim to achieve solutions that promote repair, reconciliation, and reassurance ([Zehr, 1990](#)). Therefore, restorative justice revolves around repairing the harm that a crime has caused ([Bazemore & Walgrave, 1999](#)). Although this definition recognizes that what constitutes crime is defined by communities that can have differing interpretations from various perspectives (i.e., victims, offenders, professionals, etc.).

Restorative Justice traditionally revolves around a meeting, or a series of meetings, between the victim and the offender for both of them to voice the impact of the offending on them and for them to reach a shared understanding of the causes, consequences, and way forward. Consequently, restorative measures are often seen as an alternative to punishment that places the offender and the victim at the centre of the system in active problem solving roles. The idea that a meeting between victims and perpetrators could be useful in both of their journeys is



SAJRT Bloggers' Profile

Chief Blogger Kieran McCartan, Ph.D. and Associate Bloggers David S. Prescott, LICSW and Jon Brandt, MSW, LICSW are longtime members of ATSA. We are dedicated to furthering the causes of evidenced-based practice, understanding, and prevention in the field of sexual abuse.

The Association for the Treatment of Sexual Abusers is an international, multi-disciplinary organization dedicated to preventing sexual abuse. Through research, education, and shared learning ATSA promotes evidence based practice, public policy and community strategies that lead to the effective assessment, treatment and management of individuals who have sexually abused or are risk to abuse.

The views expressed on this blog are of the bloggers and are not necessarily those of the Association for the Treatment of Sexual Abusers, Sexual Abuse: A Journal of Research & Treatment, or Sage Journals.

widely accepted for many types of crimes; however, when it comes to sexual harm the restorative justice debate becomes challenging, complex and [in part] controversial.

Currently in the field of sexual harm the closest to a mainstream version of restorative justice that we have is a controlled version of “[reintegrative shaming](#)” (as opposed to the introduction of toxic shame) (Braithwaite, 1989) through Circles of Support and Accountability (McKenzie & McCartan, 2012 in Maile & Griffiths [Public engagement and social science](#)). Historically, those who have perpetrated and been victimized by sexual harm have not had access to traditional one-on-one restorative justice, as there are concerns about its effectiveness, utility, its impact upon the victim and concerns that the perpetrator may justify or rationalize his or her actions (McAlinden, 2008). Some of the main concerns linked to restorative justice and sexual harm is the risk of re-victimization and re-traumatization and that the person who abused may become stimulated by reliving the sexual abuse through the meeting. Therefore, the unintended consequences of restorative justice often outweigh the perceived benefits. In recent years there has been a growing interest in the use of traditional restorative justice in cases of sexual harm from the [restorative justice council, victims, perpetrators and professionals](#); but the field is still divided with many still [opposing](#). Restorative Justice has a potentially important role to play in the area of sexual harm, because;

- Most of those who abuse and are abused know each other and therefore may have to remain in full or partial contact with each other throughout their lives;
- Generally, people who experience sexual harm want to know why they were victimised as opposed to another person;
- The process can aid perpetrators in their understanding of their offending behaviour, assist in treatment/rehabilitation, desistence and potentially preventing future offending; &
- The process can aid victims in their understanding of their victimisation and how to move on.

In the case of sexual harm, it is central to recognise that restorative justice can be daunting and controversial for those who have been victimized as well as their supporters when we think about the impact that sexual harm has. However, given the widespread nature, multitude of definitions and interpersonal relationships intertwined with sexual harm restorative justice needs to be a personal, one-on-one decision.

In the end, we come back to central questions: Do we want this person to desist from causing harm in the future? Do we want to provide meaningful assistance to those who have been harmed and those around them? Do we want to increase public safety? Assuming that the answer to these questions is yes, it follows that we should ask what we can do, especially since studies have shown repeatedly that our punishment-only responses to sexual violence do not work.

For further reading on restorative justice please see;

Braithwaite, J. (1989). *Crime, Shame and Reintegration*. Cambridge. Cambridge University Press.

Braithwaite, J. (1999). ‘Restorative justice: assessing optimistic and pessimistic Accounts. In: M.Tonry. (Ed). *Crime and Justice, A Review of Research*. Vol 25. Pp 1- 127.

Marshall, T. (1998). Restorative Justice An Overview: Restorative Justice Consortium. London: Social Concern.

Umbreit, M. (1994). Victim Meets Offender, The Impact of Restorative Justice and Mediation. Monsey, NY. Criminal Justice Press.