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# Restorative Justice and Sexual Violence: An Annotated Bibliography

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## 1.0 Introduction

Restorative justice (RJ) has long been a tool used to deal with the aftermath of crime and social harms by seeking to repair harms done to relationships, communities, and individuals. In recent years, there has been increasing interest in RJ resulting from a recognition of: the limitations of the traditional criminal justice system for victims of crime<sup>1</sup>; the potential benefits of RJ in terms of costs, outcomes, and efficiencies; and the positive impacts on all parties in terms of healing.

While there are multiple definitions of RJ, the Federal Provincial Territorial Working Group on RJ in Canada defines RJ as “an approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime.”

Rather than focusing on punishment, an underlying principle of RJ is that crime harms people and relationships. RJ may be seen as a process or practice, or as a set of principles, values, and perspectives (see for instance Karp et al., 2016; Zehr, 2002). Some of these principles include respect, compassion, and inclusivity. RJ can also take many different forms (e.g., conferences, victim/offender mediation, sentencing circles) and can occur at all stages of the criminal legal process (e.g., pre-charge, post-charge, or post-sentencing). While RJ can be used as a dispute resolution tool in other sectors (such as education), the work reviewed in this report deals with RJ to address criminal offending.

Though RJ may often be an option to address harm when there are low-level offences, there is a growing interest in exploring and assessing its use for other types of offences, including instances of adult sexual violence. Sexual violence is widespread and many government and non-government reports document the nature and prevalence of sexual violence in workplaces, schools, homes, and communities (Angus Reid, 2014; Cotter, 2016; ESDC, 2017; Government of Canada, 2015, 2017; Patel, 2017). Notably, the #MeToo and #TimesUp social movements have drawn increased attention and responses to sexual misconduct and sexual violence in homes, communities, and workplaces.

The use of RJ in cases of sexual violence, however, has been widely contested among activists, communities, scholars, and practitioners (Cossins, 2008; Daly, 2006; Hudson, 2002). Some of the concerns with using RJ in these instances include: safety<sup>2</sup> (United Nations, 2006); the possibility of re-victimization (Rubin, 2000); the presence of power imbalances (see Busch, 2002; Daly & Stubbs, 2006; Rotenburg & Cotter, 2018; Strang & Braithwaite, 2002); and the

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<sup>1</sup> For example, the criminal justice system often fails to give victims a voice, has low conviction rates, is frightening, and can re-victimize and traumatize victims and survivors in the courtroom (see for instance Cameron, 2005; Federal Ombudsman for Victims of Crime, 2017; Lindsay, 2014).

<sup>2</sup> Where there are risks for more violence, subtle intimidation, overt or covert forms of abuse, manipulation of victims by offenders, and an inability for victims to voice their needs because they have been accustomed to being silenced.

perception of RJ being a lenient response to sexual violence (Archibald and Llewellyn, 2006; Wemmers, 2017).

Conversely, discussions among activists, communities, scholars, and practitioners also note that victims of sexual violence may be interested in having the opportunity to consider a RJ process noting that RJ can have positive results such as survivor healing, participation, satisfaction and empowerment (Daly and Stubbs, 2006; Meloy & Miller, 2011; Zinsstag and Keenan, 2017). RJ may also contribute to: holding offenders meaningfully accountable; enabling offenders to accept responsibility for harms caused; and providing an opportunity for offenders to hear and better understand the impact of their behaviour on victim(s)/others.

This annotated bibliography provides a comprehensive inventory and accessible summary of research and scholarly discussions on RJ in cases of adult sexual violence. The method used to search, retrieve, and annotate the articles is described below and is followed with a discussion of the limitations of the work. The annotated bibliography is organized into two main sections: 1) quantitative or qualitative assessments of RJ programs and their outcomes in cases of adult sexual violence, and 2) critical commentary and discussions.

## **2.0 Methodology**

### **2.1 Research questions**

This report provides annotations of published legal and social science research and evaluations on RJ and sexual violence within the past five years (January 01, 2013 to December 31, 2017). In some cases, older articles are included when they are widely cited and have provided a significant contribution to the field.

The focus of this annotated bibliography is on legal and constitutional concerns, as well as policy and program implications, regarding the use of RJ in cases of sexual violence.

This annotated bibliography is guided by two questions:

- 1) What are the key pieces of research and resources on RJ in cases of adult sexual violence?
- 2) What are the RJ approaches being used in the context of adult sexual violence?

### **2.2 Search strategy**

Searches were conducted using online computer resources including PsychINFO, HeinOnline, LexisNexis Academic, Quick Law, Scholar Portal, and internet search engines.

Additionally, searches were conducted using Google Scholar to locate scholarly information, broad programming initiatives and outcomes, and discussions on the benefits and limitations of these approaches.

Some of the key words used to inform this search included:

- Intimate partner violence
- Gender based violence
- Sex crimes
- Sexual violence
- Restoration
- Repair
- Reconciliation
- Restorative Justice
- RJ
- Sexual assault
- Sexual offences
- Violence against women
- Dating violence
- Rape
- Transformative justice
- Sexual violence against women
- Sexual abuse
- Sexual offen\*
- Gendered violence
- Serious sexual violence
- Sexual violence

All of the retrieved articles were then assessed for relevance, content, and applicability based on the research questions and the focus of this project. Generally, articles were excluded if the discussion of RJ or sexual violence was trivial, transitory, or merely based on keywords. For example, mentioning RJ in passing in the context of a literature review was not sufficient for the article to be included. Articles were included if the discussion, substance, or analysis of the paper included content about the applicability, outcomes, benefits, problems, or concerns on the actual or potential use of RJ in instances of sexual violence.

After reviewing the retrieved articles, 51 were screened-in and annotated. Annotations generally include academic research, journal articles, evaluation studies, and monographs. The articles annotated include both original research and literature reviews.

For each annotation, an APA-style citation is provided, followed by the purpose, methodology, findings, and the author(s) position. The authors' ideas are summarized. Readers interested in the nuances of the article that are beyond the scope and parameters of the annotated bibliography are encouraged to consult the original source.

### **2.3 Limitations**

A number of limitations are present when examining the literature on RJ in instances of sexual violence:

- This annotated bibliography focuses on reports and research published in English or French. Research published in other languages was not included in the search.
- As with all evaluation and empirical research, the strength of the findings are dependent upon the method, analysis, and data.
- There are different conceptions of RJ and sexual violence that impact RJ eligibility, clientele, programming, program timing, and outcomes. Therefore, the lack of a common

definition or frame of reference means that readers need to pay close attention to the particular context(s) of the research.

- RJ outcome research may be differently impacted by the willingness of victims and others to participate, and amount of available personnel and fiscal resources.
- Programming and outcome research generally focuses on females as victims and males as perpetrators. Child, GLBTQ2, and male victims are often overlooked.
- This annotated bibliography does not capture sexual trafficking and sexual violence perpetrated through communication technology.

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### **3.0 Restorative Justice in Cases of Sexual Violence: An Annotated Bibliography**

Articles are organized alphabetically. Part 3.1 includes articles that discuss or focus on original, empirically-based research. Part 3.2 presents literature reviews and critical commentary, including government reports (or reports commissioned by governments).

A number of common themes emerge through the annotations.

Theme I: The context of using or implementing RJ is important. This becomes clear in debates and discussions where it may or may not be applicable, appropriate, safe, or desirable to use RJ in instances of sexual violence.

Theme II: There is a conversation about the theory, implications, and potential for the RJ process in instances of sexual violence. This includes discussions of the tenets of RJ in cases of sexual violence and elaborations of the process of RJ in cases of sexual violence. The body of research and commentary has also accumulated long lists of important considerations when recommending or practicing RJ approaches.

Theme III: There is little certainty when it comes to who is best suited, both as victim or offender, and in terms of the types of cases, to participate in RJ processes. However, victim autonomy, victim awareness, victim information, and victim choice are important themes in the literature.

Theme IV: Training and information are needed for all practitioners on RJ. Such training and information should include content on: the impact of gender violence; the dynamics of intimate partner violence; power relations; and dynamics in Indigenous communities.

Theme V: Victims also need information about the RJ process. The timing and content of this information are open for debate.

Theme VI: RJ can be a strategy to address weaknesses of current criminal justice system solutions to sexual violence.

Theme VII: There is always a need for more research, data collection, and analysis. Research is needed to assess the outcomes of RJ, the practices of RJ, participants' satisfaction with RJ, best practices, and areas in need of improvement.

Theme VIII: There are multiple opportunities for RJ, either as an alternative to the criminal justice system or something done in combination with it.

## 3.1 Quantitative or qualitative assessments of restorative justice programs and its outcomes in the case of sexual violence

### 3.1.1 Case studies

**Daly, K. (2006). Restorative justice and sexual assault: An archival study of court and conference cases. *British Journal of Criminology*, 46(2), 334-356.**

#### **Purpose:**

- This archival study examines the legal journey, penalties and prevalence of reoffending of 385 youth sexual assault cases that were finalized in court, by conference or by formal caution over a six-and-a-half-year period in the Adelaide Youth Court, South Australia.

#### **Methodology:**

- The cases in this study consisted of 365 different young people associated with 385 cases, of which 226 were court cases (59 per cent), 118 were conference cases (31 per cent) and 41 were formal cautions (10 per cent).
- Over 230 variables were coded corresponding to the youth, their offence, the victim, the seriousness of the charge(s), the case, the circumstances of the reporting of the incident(s) to police, the legal journey of the court case, the participants in the conference, the penalties imposed, and other elements.

#### **Findings:**

- Differences between court and conference cases:
  - Compared to conference cases, youth with cases finalized in court were more likely to have previous offences, live in more disadvantaged areas, seek legal advice more often and less likely to be cooperative and remorseful. Court cases also had a bigger proportion of Aboriginal Australians and took longer to finalize (5.7 months for court case vs. 2.5 months for conference case).
- Factors associated with a case being referred to and finalized in court instead of a conference or police caution included:
  - No admission/refusal to comment to police, the criminal history, and the seriousness of the offence.
- Cases finalized in court (most often by guilty plea) were more likely to be extra-familial than intra-familial.
- Between 61 and 67 per cent of all caution or conference cases resulted in a full admission by the offender compared to 19 per cent of all court cases.
- There is lower prevalence of reoffending based on participation in a sex offender counselling program for both court and conference.
- There is a lower prevalence of reoffending for conference cases when there is an admission of the offence to the police and vindication to victims.
- There are incentives to admitting to committing an offence earlier than later: admission of guilt early on, resulting in a referral to conference means there is no potential for a

conviction or for a detention sentence, and that the maximum time under state control is one year. By admitting to an offence at an earlier rather than later point in time, the youth trades off the uncertainty of what might happen in court for a greater degree of certainty of what can occur in a conference.

- Formal court allows people to deny participation in the offence and formal court has limits in responding to sexual violence.
- Data shows that it is easier for offenders of sexual violence to make an admission of guilt, and thus have access to more effective outcomes, when there is counselling and treatment available.

**Author position:**

- The author notes that, from a victim's advocacy perspective, a conference process for youth cases of sexual assault can be less victimizing than a court process. A conference process may also produce more effective outcomes, despite concerns raised from critics.

**Daly, K., & Wade, D. (2017). Sibling sexual violence and victims' justice interests: A comparison of youth conferencing and judicial sentencing. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 143-178). New York, NY: Routledge, Taylor & Francis Group.**

**Purpose:**

- This chapter works to develop a method to assess and compare different justice mechanisms in cases of sibling sexual violence.

**Methodology:**

- The chapter consists of a systematic empirical assessment of 17 Australian cases of sibling sexual victimization from a victim's perspective. Among these cases, six were finalized by diversionary youth justice conference and 11 sentenced in youth court.
- The authors begin with a definition of victim's justice interests, which consists of five elements: participation, voice, validation, vindication and offender accountability-taking responsibility. A set of variables was devised for each element, in the form of questions, and applied to the data in the form of a score for each justice interest.

**Findings:**

- There are major hurdles to developing an evidence base for conferences and RJ.
- Randomized experiments cannot be used yet to compare conference or other justice mechanisms in responding to sexual offenses—not only political challenges but the practical training required is much greater than for testing RJ with crimes like burglary.
- About one fifth of youth sexual offences cases involve siblings.
- Sibling sexual abuse is about three to five times as common as father-to-daughter sexual abuse.
- Sibling offenders were more likely to show remorse during a police interview, to make admissions to the police, and to be referred to a conference.
- Victims in sibling cases were younger (7.7 years) than most youth victims (12.6 years). Sibling offenders average age is 14.

- Sibling offending is nearly three times more likely to involve multiple incidents.
- Victims' accounts of what happened and the harm caused were often muted, perhaps due to the emotional dual role parents had to play in supporting both children.
- Offenders are overwhelmingly male; victims are predominantly female.
- Victims justice interests are: participation, voice, validation, vindication, offender accountability.
- Conferencing scored better on all five indicators of victims' justice interests than court.
- Youth participating in conferences made earlier admissions of guilt when questioned by police.
- Courts had a significantly lower focus on the crime's impact on victim or community compared to conferences.

**Author's position:**

- Conference proceedings should not move too quickly to focusing on offender rehabilitation; court rooms could do more to recognize the presence of victims.
- Quantitative analysis and comparison of justice mechanisms in cases of sexual assault are possible and more work should be done in this area.

**Hannem, S. (2013). Experiences in reconciling risk management and restorative justice: How circles of support and accountability work restoratively in the risk society. *International Journal of Offender Therapy and Comparative Criminology*, 57(3), 269-288.**

**Purpose:**

- The author explores how the Circles of Support and Accountability (CoSA) initiative has been influenced by RJ and community protection movements.

**Methodology:**

- This study uses ethnographic methods and an insider perspective on CoSA from someone with ten years of involvement. The "insider" had various roles: volunteer, researcher, participant in circles, and organizer. This included attending more than 200 circle meetings.
- Explores the real and practical issues of how best to respond to the needs and problems of an individual who has been classified as a high-risk sex offender.

**Findings:**

- CoSA is a community-based initiative that deals with the release of high-risk sex offenders from prison at the end of their sentence.
- CoSA is a form of RJ though it does not directly make redress to the victims of sexual violence. The focus on the need for victim safety, encouraging reintegration, encouraging healthy and non-victimizing lifestyles, encouraging the participants to take responsibility are important ideals of CoSA rooted in restorative principles.
- CoSA works to reintegrate and restore former sex offenders in the community. It is a risk management strategy that prioritizes inclusion while also protecting the public from victimization. CoSA recognizes risk and classification systems in its policies and sees its role as a positive alternative. The initiative also strives to recognize and respond to the

core criminogenic needs of participants, as well as acknowledge their needs for companionship, compassion, and community.

- There are many benefits of CoSA. For example, police and community surveillance are reduced for those who participate in CoSA, which leads to less media scrutiny and less chance of vigilante action.
- CoSA upholds a responsibility to the community by committing to hold core members accountable for meeting the conditions of any legal orders, such as peace bonds or long-term supervision orders.
- Through CoSA, caring and “family-like” relationships are created which provide a sense of belonging and acceptance to members of the circle that would not otherwise exist in the community.
- CoSA volunteers support and work to incorporate the member in to the community, which can include mediation to reconcile family conflicts.
- The success of CoSA shows that concerns about risks can be addressed in a restorative way that builds communities.

#### **Author’s position:**

- The author believes that CoSA responds to sexual offending in a manner that responds to concerns of victims, communities and citizens, and recognizes the humanity of offenders. This model is a precarious balance of reintegration and risk management.
- CoSA is a RJ initiative because it provides an opportunity to apply RJ principles. It may miss components of RJ, for instance by not directly making redress to victims of sexual violence, but the focus on victims’ need for safety, encouraging reintegration, encouraging healthy and non-victimizing lifestyles, and encouraging participants to take responsibility are important elements of CoSA which are rooted in RJ principles.

**Julich, S., & Landon, F. (2017). Achieving justice outcomes: participants of Project Restore’s restorative processes. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 192-212). New York, NY: Routledge, Taylor & Francis Group.**

#### **Purpose:**

- This chapter presents analysis of sexual violence cases referred to Project Restore.

#### **Methodology:**

- This case study used a desk-based case review methodology of 12 cases from Project Restore’s files while using Daly’s (2014) Victimization and Justice Model as a framework guiding the analysis.
- The study identifies outcomes at various stages throughout the restorative process and assesses if these outcomes were achieved. The review identified what participants wanted to experience and achieve as a result of their engagement in RJ.
- The documentation review included case notes, reports prepared by Project Restore, and judges’ written sentencing remarks to identify whether victims-survivors and other participants achieved their desired outcomes.

- The analysis procedure involved using case summary sheets and coding the desired outcome.
- The 12 selected cases were drawn from referrals made between March 2011 and June 2012, and were referred by the court system for pre-sentence RJ.

### **Findings:**

- Project Restore is driven by victims-survivors of sexual violence, rather than RJ advocates or supporters. The casework addresses both historical and current sexual violence, and includes both male and female victim-survivors.
- Referrals to Project Restore are made by the court system and referrals are supported by legislation. Recent changes in the *Sentencing Act* requires all offenders appearing in the District Court at any time before sentencing, who have pleaded guilty and where there are one or more victims of the offence, to be referred to RJ to determine whether a restorative process can be convened.
- The prerequisites for ‘experiencing justice’ includes participation, voice, validation, vindication, and offender accountability.
- Participation is the ability of victims-survivors to ask questions about what happened to them. When reporting the measures of participation, victim-survivors achieved the outcomes they had requested, as follows:
  - In 10 of the 12 cases (83%) victims-survivors planned to ask the offender to seek treatment.
  - In 9 of the 12 cases (75%) victims-survivors wanted input into sentencing.
  - In 8 of the 12 cases (67%) victims-survivors wanted to have questions answered.
  - In 5 of the 12 cases (42%) victims-survivors wanted to negotiate an agreement regarding future contact.
  - In 4 of the 12 cases (33%) victims-survivors wanted input into the development of a safety plan.
  - In 3 of the 12 cases (25%) victims-survivors were able to gain increased understanding of the offending cycle.
  - In 2 of the 12 cases (17%) victims-survivors wanted input into a treatment program the offender would attend.
- Voice is the ability and opportunity for victims-survivors to tell their story and to tell how the sexual violence has impacted their life. In each case, the victim-survivors achieved the outcomes related to voice, as follows:
  - In 6 of the 12 cases (50%) victims-survivors wanted to tell their story.
  - In 5 of the 12 cases (42%) victims-survivors wanted the opportunity to tell participants of the RJ process how they had been affected.
  - In 2 of the 12 cases (17%) victims-survivors wanted to have others in their lives hear what had happened to them.
- Validation is the acknowledgement and belief of the harm occurring as a result of the sexual violence. For the most part, victims-survivors achieved the outcomes they had requested when it comes to validation, as follows:
  - In 5 of the 12 cases (42%) victims-survivors wanted the harm done to them to be acknowledged.

- In 5 of the 12 cases (42%) victims-survivors wanted their relationship with the offender to be restored.
- In 1 of the 12 cases (8%) victims-survivors wanted an improved relationship with the non-offending parent.
- Vindication can be evidenced by symbolic or material forms of reparation such as apologies or financial assistance. In the measures of vindication, victims-survivors achieved the outcomes as follows:
  - In 4 of the 12 cases (33%) victims-survivors wanted an apology.
  - In 3 of the 12 cases (25%) victims-survivors wanted a reparation agreement.
  - In 1 of the 12 cases (8%) victims-survivors wanted the offender to experience a sense of loss.
- Accountability requires the offender to take and accept responsibility; to make amends or attempts to make things right. In the measures of accountability, victims-survivors achieved the outcomes as follows:
  - In 6 of the 12 cases (50%) victims-survivors wanted the offender to demonstrate responsibility. For the most part, outcomes were successfully achieved, but in two cases, their capacity to demonstrate responsibility was limited.
  - In 5 of the 12 cases (42%) victims-survivors wanted to see the offender demonstrate accountability by making amends in some way. This outcome was achieved in all five cases.
  - In 3 of the 12 cases (25%) victims-survivors hoped the offender would name other victims he had offended against. This outcome was not achieved in any cases.
- Offender identified outcomes of RJ included: wanting to make amends with the victims-survivors and their family, wanting to apologize, wanting to assist in the healing process, and wanting reconciliation. Other participant outcomes included: wanting input into sentencing, input into safety plans, access to treatment, and having some questions answered. Most offenders achieved the desired outcomes.
- Treatment uptake: while many agreed to enter into a treatment program, not all could gain access, afford it, or were eligible.
- Limitation: this is a small number of cases which does not allow for generalizations.

**Author's position:**

- The cases reviewed were mostly successful in achieving the desired outcomes and justice interests were met. The only outcomes that were not achieved were dependent on the offender's ability to understand the impacts of his harmful sexual behavior. Some therapeutic intervention might be necessary to achieve these other outcomes.

**Koss, M.P. (2014). The RESTORE program of restorative justice for sex crimes: Vision, process, and outcomes. *Journal of Interpersonal Violence*, 29(9), 1623-1660.**

**Purpose:**

- This article presents an empirical evaluation of a RJ conferencing program called RESTORE, which was adapted for prosecutor referred adult misdemeanor and felony sexual assaults cases.

## **Methodology:**

- The RESTORE program was located in Arizona, USA between 2003 and 2007. The evaluation includes referrals by prosecutors of victims and offenders aged 18 or older, but excludes repeat sexual offenders, persons with police reports for domestic violence or individuals with arrests for any crimes involving non-sexual forms of physical assault.
- This evaluation is based on 22 cases that consented to the study and includes a total of 109 individuals at intake and 100 individuals at post-conference. The program evaluation assesses: 1) pre and post reasons for choosing RESTORE, 2) preparation and conferencing experiences, 3) overall program and justice satisfaction, and 4) completion rates.
- The evaluation also has a process monitoring component, which includes data collection from clinical and research files, and non-participant observation of conferences.

## **Findings:**

- Process Monitoring:
  - A total of 55% of cases were referred in the same year as the police report, 35% were referred within 12 to 24 months and 10% after more than 2 years.
  - Locating, screening, acquiring consent, and conducting forensic examinations of the responsible persons took on average 24 days. Preparation of the conference attendees took approximately 2 months. The length of the program from referral to conference was close to 3 months. The duration of the conferences was approximately 45 minutes.
- Safety:
  - A 17-item Post-Traumatic Symptoms Scale was administered and revealed a decrease in post-traumatic stress symptoms from intake to post-conference. At intake, 82% of survivor victims met the diagnostic criteria for post-traumatic stress compared to 66% post-conference.
  - No physical safety issues noted before, during, or after the conferences.
  - A punitive statement was made by a responsible person for a survivor victim only once. Punitive or blaming comments toward responsible persons occurred in half the conferences.
- Outcome evaluation:
  - There are many reasons for choosing RESTORE. The most common reasons at intake: “to make the responsible person accountable”, “taking direct responsibility for making things right”, “to have an alternative to courts”, and “apologizing to the person I harmed”. The most common reasons at post-conference include: “making sure the responsible person doesn’t do what he did to anyone else” and “making sure the responsible person gets help”.
  - When it comes to preparation and conference experiences, most participants agreed or strongly agreed that the preparation achieved its intended goal. More than 90% of the participants agreed or strongly agreed that they felt safe, listened to, supported, treated fairly and with respect, and not expected to do more than they anticipated. Further, over 90% of participants thought the conference was a success. Finally, no survivor-victims felt blamed but some responsible persons did

(21%), as did some family and friends of both survivor-victims and responsible persons (15% and 17%, respectively).

- Three of the four items on which survivor-victims expressed negative opinions were on the responsible person's sincerity, genuineness, and likelihood of re-offending.
- All responsible persons indicated that they felt remorse.
- When it comes to satisfaction, more than 90% of participants were satisfied with their preparation, the conference and the redress plan. The majority would recommend RESTORE to others.
- As for completion rates, once participants consented, almost all cases led to a conference (20 out of the 22 cases).
- Some limitations of the study include the small sample size and the difficulty to replicate without substantial funding.

#### **Author's position:**

- Conferencing programs like RESTORE can be feasible, safe, achieve high levels of participant satisfaction and attain many of the envisioned outcomes.
- RJ in the context of sexual violence can be approached slowly and thoughtfully, all while recognizing the various forms and points in time where its principles are applicable.

**McGlynn, C., Westmarland, N., & Godden, N. (2012). I just wanted him to hear me: Sexual Violence and the possibilities of restorative justice. *Journal of Law and Society*, 39(2), 213-240.**

#### **Purpose:**

- The authors consider the results of an exploratory study which investigated a RJ conference involving an adult survivor of child rape and other sexual abuse.

#### **Methodology:**

- The authors begin by examining the current UK political and policy climate, the extent to which RJ is currently used in sexual offence cases in the UK, and the international research evidence regarding RJ in cases of sexual violence. The authors then examine a case study, in which a RJ conference was used in a case of child rape and sexual abuse. They also engage with recent developments and emerging trends in rape law and policy and they consider possible ways of using RJ in cases of sexual violence.

#### **Key findings**

- The UK is increasingly favourable towards RJ, but has yet to give any detailed consideration to its role in relation to sexual offences.
- Projects and analyses from New Zealand, the USA, Denmark, South Africa and Australia show an appetite for forms of justice beyond the conventional criminal justice system. Evaluations of these projects are limited, however, they suggest opportunities and possibilities for using RJ for sexual violence victim-survivors.
- In February 2010 a restorative conference took place in the north of England involving a woman called 'Lucy', who is an adult survivor of child rape and other sexual abuse.

- The authors of the article conducted interviews with: Lucy, Lucy's Rape Crisis counsellor, the conference facilitator, and a senior police officer involved in the case.
- Once a decision had been reached to undertake a restorative conference, all of the interviewees commented on the importance of the preparation phase and the RJ 'script' to be used in the conference. This script set out the order in which participants speak and the issues to be addressed. This enabled Lucy to plan and prepare, and make sure that she said everything she wanted to say.
- The conference took place in a location that was familiar to Lucy, which was a deliberate decision to ensure she felt comfortable and safe.
- From Lucy's perspective, the conference was beneficial for her and led to positive outcomes. According to the two professionals involved, the conference achieved its objectives.
- For Lucy and her counsellor, the two most significant lessons to be drawn from this RJ conference are the need for intensive, survivor-focused support, and detailed preparation by someone experienced in this area of work.
- Lucy expressed the view that a restorative conference may not be 'appropriate' for everyone. The counsellor suggests that the use of RJ for cases of sexual violence should depend on the individuals, not the case.
- The counsellor thought that restorative conferences could be used in cases which have been dropped and where the victim feels like there has been no justice. Lucy thought a restorative conference would work equally well for someone who had not reported the incident to the police.
- Before taking RJ in cases of rape and sexual violence further, the counsellor notes there should be discussion and 'consultation' among women and groups working with survivors. She says that we shouldn't underestimate the strength of victims and that 'if we just dismiss it and say that we shouldn't do this then we're depriving people of that opportunity which can ... be beneficial.'
- Many victim-survivors feel betrayed by a criminal justice system which appears to marginalise their interests and affords them so little justice.
- Honouring the experience does not necessarily equate to securing a conviction, but encompasses being believed, dignified treatment, safety, support services, feeling in control and the ability to make informed choices.
- There has been a shift in public policy towards greater emphasis on prevention, victim support and dignity of treatment, and away from a predominant focus on the criminal justice system and the pursuit of increased conviction rates.
- It has been argued that RJ can carry out the traditional functions of criminal justice – retribution, rehabilitation/reintegration, individual and public protection – better than formal justice does.
- Restorative interventions in cases of sexual violence demand risk assessment and extensive planning. The expertise and training of key personnel is also crucial.

#### **Authors' position:**

- The authors believe that RJ in cases of sexual violence has a role to play in meeting some of the needs and expectations of victim-survivors, by giving them a voice, by granting

control, by helping to ensure that their experience is honoured, treated seriously, and treated with respect. This helps victim-survivors to gain some measure of justice.

- Restorative processes could be developed as part of the criminal justice treatment of a complaint of rape or sexual abuse.

**Miller, S. L., & Iovanni, L. (2013). Using restorative justice for gendered violence: Success with a post-conviction model. *Feminist Criminology*, 8(4), 247-268.**

**Purpose:**

- This case study explores RJ and its outcomes at the post-conviction stage in cases of severe intimate partner violence.

**Methodology:**

- The authors use a case study approach in a severe instance of intimate partner violence containing emotional, sexual, and physical violence. All participants self-selected to participate.
- The case study used post-conviction dialogues which give the victim an opportunity to ask questions and/or voice their feelings about the crime and the offender. The case study includes open-ended interviews with both the victim and the offender at two points in time (about 3 years after the dialogue, and in a follow-up 18 months later).
- Information was collected from multiple sources such as case files which contained notes from participants' bi-weekly preparation meetings with facilitators and videotape from participants' dialogue in prison.

**Findings:**

- Post-conviction RJ proceedings often take place years after the crime, when the offender has been morally censured and punished by the formal justice system and enough time has elapsed for the victim to be able and ready to fully participate in the process and reap benefits.
- The use of this model can avoid the main criticisms of RJ (e.g., that RJ is a diversion process, notions of soft justice, and pressuring victims to forgive). Post-conviction RJ does not remove the public condemnation of violence from the conventional criminal justice system.
- Benefits of a post-conviction RJ process manifest because of the lengthy amount of time that elapses between the crimes and arrest, and the RJ program. It can be therapeutic and part of the healing process. In cases of intimate partner violence, this helps address the power dynamic between participants.
- Benefits include victim empowerment, voice, and validation.
- Post-conviction RJ proceeding allows for enough time to have passed for victims to gain a sense of security and develop a plan, reinforced by social and institutional support.
- This case study highlights the positive aspects of such a program however, it also suggests that a diversionary RJ proceeding might have had harmful and counterproductive results and failed to accommodate needs.

**Authors' position:**

- The authors believe that a post-conviction RJ is therapeutic and beneficial due to the timing of the process. RJ for serious crimes should be a supplement to the traditional criminal justice process.
- Diversion-based RJ may cause more harm if it fails to accommodate the needs of victims. The post-conviction RJ can be a more satisfying response to harm and justice.
- Facilitators need to be specialized and training in gendered violence.

### 3.1.2 Interviews or surveys

**Marsh, F., & Wager, N.M. (2015). 'Restorative justice in cases of sexual violence: Exploring the views of the public and survivors. *Probation Journal*, 62(4) 336-356.**

#### **Purpose:**

- This article assesses debates about RJ conferences in sexual offences. The authors test the hypothesis that RJ gives more control to survivors which does not replicate disempowerment experienced during violent incidents.

#### **Methodology:**

- Using a convenience sample, this study used a mixed-methods, web-based, cross-sectional survey of 121 community members, of which 40 self-identified as survivors of sexual violence. The survey explored and compared survivors' and non-survivors' views of the application of RJ to cases of sexual violence.
- There were 131 participants, composed of 27 (20.6%) males, 93 (71%) females and 11 (8.4%) who did not specify their gender. Their age range was between 18 and 57 years with a mean age of 31 years.
- The participants were given three measures. They were presented with a brief one page, online information sheet about RJ and the different forms that this might take, outlining three variations of RJ. Respondents were then asked to complete a newly developed 14-item questionnaire concerning the use of RJ in cases of sexual victimization. Third, respondents were asked a series of open-ended questions. For example, questions assessed key motivations for the victim and offender for taking part in RJ, what support should be offered to victims wanting to participate, at what point RJ should be suggested and take place during the criminal justice process, and any concerns that they might have concerning the use of RJ in cases of sexual victimization.

#### **Findings:**

- There are positive attitudes towards using RJ in cases of sexual violence among both survivors and non-survivors.
- Survivors supported the view that victims of sexual offences should have an option to use RJ. Survivors felt that there should not be pressure to participate in a RJ process.
- The argument is made that issues such as re-traumatizing, high attrition, and low conviction rates encourage people to search for different approaches to address justice and healing needs.

- Survivors might be more reserved and not as optimistic about the potential benefits of meeting the person who harmed them.
- The majority of survivors (71%) indicated that they would endorse a conference setting were they have an opportunity to meet the person who harmed them.
- Over half (56%) of survivors indicated that they would like the opportunity to have RJ in addition to going to court.
- Survivors were two times more likely than non-survivors to indicate a desire for a conference as an alternative to going to court (30% vs 16%).
- When comparing survivors who had reported their victimization with those who had not reported, 70% of those who had entered the criminal justice system were against the idea of RJ as an alternative to court, in comparison to 45% of those who had not reported their victimization.
- Just over half (51%) felt that the offender might benefit from conferences and understanding the harm that they caused.
- While survivors were slightly less enthusiastic than non-survivors for the use of RJ in cases of sexual violence, a majority of the survivors supported the use of RJ.
- Open-ended responses:
  - Survivors did not participate in RJ and they were never offered it as an option.
  - Survivors may be concerned about the lack of offenders taking responsibility.
  - There were mixed views about when survivors should be notified about conferencing. The majority of survivors stated that they would not have been offended if they had been offered RJ.
  - Survivors felt that the victim's safety should be imperative throughout the whole RJ process. However, survivors themselves, are considerably less likely to see conferencing as dangerous for survivors.
- There is little agreement as to when the best time is to make a RJ offer to survivors or as to when a conference should be delivered. With regards to when to ask, it appears that maybe at the earliest point of contact since only a very small proportion felt that they would have been offended by the notification of this option.

#### **Authors' position:**

- The voices of survivors are important to consider in the context of RJ in sexual violence. RJ is something that can be used in addition to or as an alternative to going to court.
- RJ may offer something that is more procedurally just, more flexible, providing more care and support, creating more dialogue, and increasing satisfaction of victims.

**McGlynn, C., Downes, J., & Westmarland, N. (2017). Seeking justice for survivors of sexual violence: Recognition, voice and consequences. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 179-191). New York, NY: Routledge, Taylor & Francis Group.**

#### **Purpose:**

- This article presents the preliminary findings of a study investigating the justice perspectives among a group of sexual violence survivors.

## Methodology:

- The article examines sexual violence survivors' understandings of 'justice' particularly the concepts of recognition, voice, and consequences. This study builds on two key papers (Herman, 2005; Julich, 2006) which explored what justice means to survivors of sexual and domestic violence.
- The study used an "Educational Empowerment Research" (EER) approach which consisted of sexual violence survivors 1) taking part in a workshop with a short presentation of current legislation and research on punishment for sexual offenders (the educational element) as a core aspect of justice, followed by 2) a facilitated discussion in which they were treated as 'victims' but as 'experts through experience'. Participants drew on their lived experiences of sexual violence.
- Participants were recruited by opportunity sampling through local charities, universities, relevant social media groups and by word of mouth.
- Interviews were conducted to examine sexual violence survivors' ideas of justice and injustice in greater detail, and any engagement with formal and/or informal justice mechanisms.
- Interviews were audio recorded and transcribed with the participants' consent.
- Participants included 20 women who had experienced sexual violence at least once in their lives.

## Findings:

- Participants did not find that 'justice' was necessarily obtained via the conventional criminal justice system.
- All participants struggled to articulate what justice feels like.
- Based on the various discussions with participants, the authors identified the term 'kaleidoscopic justice' which they defined as a justice that is continually shifting pattern; constantly refracted through new circumstances, experiences and understandings; non-linear, with multiple beginnings and possible endings; and on-going/ever-evolving experience without certain ending or result.
- 'Kaleidoscopic justice' includes various elements such as social and cultural change, prevention, voice, recognition, consequences, dignity and support.
  - Recognition is fundamental. Recognition for participants meant the shared perception of something as existing or true – they have been harmed and victimized. It is more than simply being believed, it's about being acknowledged. Participants noted the desire to obtain recognition from the offender, but also from family, friends and society.
  - Voice. The participants noted the importance of sharing the experience, voicing the harms they have suffered and for this to be recognized. Participants want to tell their story in their own way. This would allow the victims and survivors to take ownership of justice processes and telling their story on their own terms. Their voice can be seen as either 1) active participation, or 2) speaking out.
    - Voice as active participation. Victims and survivors often feel they have a peripheral role within the CJ process; that they are an object of evidence, disempowered and left with little to no control over their presence or involvement in their case. Participants noted the desire to be more central

to, and in control of the justice process, which would give them an opportunity to reclaim and exert power in the justice process.

- Voice as speaking out. This offers victims and survivors an opportunity to speak and make sense of their experience, while also shaping the understanding of others. A forum to voice the harm that has been done to them enables the victims and survivors to better understand what happened, offload the weight of the crime and redress power imbalances.
- In some cases, confrontation would be harmful for the victims and survivors, and even encourage the offender to continue to cause harm to others (“would just get off on someone saying it’s affected them that much”).
- The level and extent of facilitator training, the support afforded to survivors and the preparation process significantly impact survivors’ interest and ability to speak in their own voice.
- Power imbalances highlight the need to adopt best practices and ensure criminal justice system professionals have a deeply embedded understanding of the dynamics of sexual violence.
- Consequences as justice. Participants spoke of their wish for perpetrators to experience consequences (death penalty, imprisonment, a guilty conviction, ensure no future reoffending, public acknowledgement, termination of employment (when offence is in the workplace)). What is considered appropriate consequences varies from person to person.
- Participants had limited knowledge of justice options beyond the mainstream criminal justice system.

#### **Author’s Position:**

- Some restorative approaches may provide an opportunity to satisfy, to some extent, survivors’ justice needs. Survivors’ concepts of justice extend well beyond both the conventional criminal justice system and restorative approaches.
- The authors believe that restorative approaches are likely to offer greater potential for survivors to have their voice heard in comparison to the mainstream criminal justice system.

**Miller, S. L., & Hefner, M. K. (2015). Procedural justice for victims and offenders? Exploring restorative justice processes in Australia and the US. *Justice Quarterly*, 32(1), 142-167.**

#### **Purpose:**

- This paper draws on interviews with key actors engaged in post-conviction RJ programs for serious crimes in Australia and the USA. It asks whether post-conviction therapeutic RJ programs for violent crimes enhance procedural justice for both victims and offenders.

#### **Methodology:**

- The article focuses on two programs, one in Australia and one in the USA. The programs use a post-conviction therapeutic RJ model to help heal and empower victims of serious

crimes, while providing offenders with the opportunity to take responsibility for their actions and assist in the recovery process. All participants in the program had to agree to participate. The authors draw primarily on interviews with the facilitators and staff of the two highly similar RJ programs.

### **Findings:**

- Fairness of process for victims:
  - The criminal justice system focuses on the rights of the offenders and the community through the apprehension, prosecution, and punishment of offenders. According to RJ facilitators, victims often feel forgotten or neglected causing harm to their psyches, stalling healing, and creating distrust of the criminal justice system.
  - RJ is victim centered and emphasizes treating victims with dignity and giving them many opportunities to participate and share feelings. This reinforced victims' feeling of justice and belief in the system. In RJ, victims feel like they were able to express the range of emotions they felt, discuss the consequences stemming from the crimes, receive answers to questions and gain assurance that the offenders were not going to retaliate upon release. RJ also challenged victims' feelings of self-blame.
- System legitimacy for victims:
  - Both the US and Australia facilitators noted that victims were satisfied with certain aspects of the formal criminal justice system process. They felt relieved when the offenders are incarcerated, felt the offenders truly deserved punishment, and that it was fair and just, and also that society needed to be protected from them. However, regardless of how satisfactory victims find the outcome of the criminal justice system, interviews reveal that victims felt betrayed, confused, suspicious, mistreated, and ignored during the formal process.
  - Victims see RJ as far more legitimate because it offers the victim a voice at every step of the process and the victim is treated with respect.
- Mobilization and empowerment of victims:
  - Both mobilization and empowerment of the victim in other facets of their lives were unintended positive outcomes of the RJ programs. Many victims talked to other victims about their experiences and participated in public awareness venues.
- Fairness of process in the formal criminal justice system for offenders:
  - Offenders lose faith in the legitimacy of the formal criminal justice process, or feel disconnected from it, when they perceive the process is unfair.
  - Offenders have the opportunity to tell their stories and be treated with respect in RJ.
  - RJ facilitators in both countries felt that hearing what victims had to say exerted a long-lasting effect on offenders' remorse and accountability, which often took the form of showing empathy towards victims.
- System legitimacy for offenders:
  - Despite the fact that the offenders believed they deserved punishment, and that in some ways prison was even beneficial to them, they did not fully support the criminal justice system.

- In addition to the positive consequence, such as offenders' accepting the punishments they were handed, facilitators found that the fairness and flexibility of RJ provided offenders with the motivation to comply with practitioners in obtaining help with their lives. Additionally, the flexibility of the RJ program created a sense of legitimacy for offenders which, allowed them to trust, obey, and conform to the decisions made by justice professionals.
- Compliance for offenders:
  - Research suggests that when individuals are treated fairly by legal authorities, they are more likely to self-regulate future behaviors and comply with social and institutional rules and values.
  - In both countries, all of the facilitators agreed that offenders who were able to tell aspects of their story in a RJ setting became more invested in what victims thought of them and more committed to long term behavioral change.

#### **Author's Position:**

- The authors believe that RJ is compatible with procedural justice for both victims and offenders. They feel that RJ aids in correcting harms created by the formal criminal justice system, and, thus, satisfies and enhances procedural justice goals for both victims and offenders.

**Proietti-Scifoni, G., & Daly, K. (2011). Gendered violence and restorative justice: the views of New Zealand Opinion Leaders. *Contemporary Justice Review*, 14(3), 269-290.**

#### **Purpose**

- The article seeks to understand the different ways that New Zealand Opinion Leaders who worked in government, headed major victim service organizations, or provided victim support or RJ facilitation, reflect on the question of appropriateness of RJ in gendered violence cases.
- The article focuses on adult cases referred by community-based organizations, the police, and courts, where the process typically occurs at post-plea and pre-sentence.

#### **Methodology**

- Interviews were conducted with 19 participants in March 2004. The individuals were deemed to be persons with well-formed views, who reflected a range of positions in relation to the research topic, and were nominated by several knowledgeable researchers, academics, and policy makers.
- Interview transcripts were analyzed using content analysis strategies.

#### **Findings**

- Three groups emerged with views about the appropriateness of RJ. The views include pragmatic, contextual, and experiential features. This is more nuanced than a principled stance 'for' or 'against' RJ.
  - The **Supporters** ( $n = 9$ ) broadly support RJ for gendered violence, although not for child sexual abuse. They also discuss the need for additional provisions if RJ were to be used.

- The **Skeptics** ( $n = 6$ ) generally oppose using RJ in gendered violence cases. All view it as unsuitable for child sexual abuse and were minimally supportive of its potential for adult victim/survivor cases.
- The **Contingent Thinkers** ( $n = 4$ ) like the *Supporters*, they broadly endorse RJ, but presented more conditions, in particular, those related to community or cultural control.
- The Opinion Leaders saw few advantages of using RJ in child sexual abuse cases where the child victim is present in the meeting. There was greater support for RJ in child sexual abuse cases if the child is not present in the meeting.
- Opinion Leaders in all three groups noted that some contexts were more favorable to RJ, such as in relationships of roughly equal status (e.g. sibling violence), when offenders had little or no previous offending, and when couples wished to maintain a relationship.
- Opinion Leaders in all three groups also spoke of the need for additional protections and conditions if RJ were to be used.
- The Opinion Leaders' views were shaped by their degree of experience with RJ and their current professional role.

#### **Authors' position:**

- The authors believe that views of appropriateness of RJ in gendered violence cases are nuanced and complex.

**Van Camp, T., & Wemmers, J. (2013). Victim satisfaction with restorative justice: More than simply procedural justice. *International Review of Victimology*, 19(2), 117-143.**

#### **Purpose:**

- The purpose of this research is to identify and examine factors that contribute to victim satisfaction with RJ and assess if RJ is seen by victims to be procedurally fair.

#### **Method:**

- Qualitative interviews were conducted with 34 victims of violent crimes that took part in victim offender restorative-based interventions. The study took place in both Canada and Belgium.
- The interviews were meant to collect personal reflections and were facilitated through a single question, then prompted with responses.

#### **Findings:**

- Victim satisfaction with RJ arises primarily from procedural justice. Nonetheless, satisfaction is also consistent with the fact that RJ approaches are flexible, provide care, center on dialogue, and permit engagement with pro-social motives.
- Every respondent was satisfied with the RJ approach and they described how RJ enhanced an understanding of the motives and the violent event. This satisfaction was found regardless of the outcomes. Even if the outcome was unsatisfactory, the fairness of the procedure maintained a general satisfaction in the RJ intervention.
- RJ interventions have a healing impact.

- RJ may not be suitable for everyone but, at the very least, victims should be informed about RJ.
- When there were unfavourable outcomes, it was commonly attributed to the negative attitude, lack of engagement, or using RJ to create an advantage (e.g., lenient sentence) for the offender.
- When offenders or surrogate offenders recognize the consequences of the crime and take responsibility for the harm suffered, victims report feeling liberated, validated, and empowered. In addition to informal accountability of the offender, many victims wanted formal, public, and criminal justice-based accountability. Therefore, victims appreciated the complementary nature of RJ.

#### **Authors' position:**

- The authors agree with the notion of speaking with a mediator so that fairness can be incorporated in the procedure. The authors agree that speaking with a mediator decreases unfavourable outcomes of RJ and increases overall satisfaction.
- The authors support using RJ as it allows victims to have control and feel empowered.
- The authors disagree with using punishment and incarceration as it does not allow the victim to be involved, thus decreasing satisfaction and feelings of justice.

**Van Camp, T., & Wemmers, J. (2016). Victims' reflections on the protective and proactive approaches to the offer of restorative justice: The importance of information. *Canadian Journal of Criminology and Criminal Justice*, 58(3): 415-442.**

#### **Purpose:**

- This article assesses the role of information on RJ practices for victims.

#### **Methodology:**

- This study included 34 victims of serious crimes that were interviewed using unstructured, open-ended questions. The respondents were from Belgium ( $n = 21$ ) and Canada ( $n = 13$ ). They were asked about their experiences, knowledge, and thoughts of RJ practices.
- The study compares the experiences of victims with a protective approach, which uses an individualized offer for RJ, and victims with a proactive model, which favours a systematic offer of RJ.
- This is an exploratory study of an unrepresentative sample, which includes a disproportionate number of female victims of violence. The findings are from a small group of victims of serious crime who were eventually interested in RJ as a complementary process.

#### **Findings:**

- Experiences with RJ may be "protective" or "proactive". A protective approach involves an individualized offer and a lack of systematic information about RJ. A proactive approach favours a systematic offer and informed choice about RJ.
- The interviews reveal that victims of violent crime prefer being proactively informed about RJ options. The proactive approach is generally more satisfactory for victims.

- Results indicated that victims preferred to be proactively informed about RJ as long as there is respect of conditions (if present). Respect meant that victims' participation is voluntary and is in parallel with criminal justice proceedings.
- The proactive and protective approaches offer RJ in a variety of different ways. Victims who were offered RJ with a protective approach were generally less satisfied and generally felt that not being offered RJ placed them at a disadvantage. This includes some respondents who sought to meet the person who harmed them but had been ignored.
- RJ appears to be suitable for a wide variety of offences and respondents identified few instances where a RJ offer should not be made. Indeed, most favoured a general RJ offer, regardless of the type of offence, identity of offender, and the consequences of victimization.
- Victims generally want to know about the RJ options sooner rather than later and they would prefer to decline the offer than not know about RJ or not have information about RJ.
- Victims generally appreciate having RJ as a complementary process to the typical judicial proceedings and decision-making paths. When RJ is complementary, RJ can focus on healing and potentially address the therapeutic elements of RJ.

#### **Authors' position:**

- The authors support RJ because it meets victims concerns, engages them, is fair, and has therapeutic values.
- The authors note the need for more awareness of RJ.
- The authors favour a procedural model for RJ that focuses on an outreach-oriented approach that involves early information and informed choices. This includes victim services contact as soon as a crime is reported, basic information about victim supports and RJ practices, and general information even for those who did not think that they would need victim assistance.
- More direct outreach approaches and personalized information about RJ is preferable to form/template-based letters.

**Wager, N., & Wilson, C. (2017). Circles of support and accountability: Survivors as volunteers and the restorative potential. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 265-282). New York, NY: Routledge, Taylor & Francis Group.**

#### **Purpose:**

- Drawing on volunteers who work with sexual offenders in the Circles of Support and Accountability (CoSA) program (an intervention program based on restorative principles), the authors explore the experiences of survivors as volunteers of the CoSA program and compare them with volunteers without experiences of sexual violence. The study challenges any negative conceptualizations of survivorship (i.e., where a victim is considered to be vulnerable, permanently damaged, and in need of protection).

#### **Methodology:**

- The authors conducted 13 semi-structured interviews with volunteers in the CoSA program, including five interviews with survivors (“survivor-volunteers”) and eight interviews with volunteers who did not have a history of sexual violence.
- Interviews were analyzed using thematic analysis and themes were qualitatively presented.

### **Findings:**

- The core theme that arose from the analysis was “resilience and recovery”. This theme highlighted the ways in which volunteers of the CoSA program characterized and understood survivorship. In particular, volunteers without a history of sexual violence considered a survivors’ identity as impactful and as motivation to volunteer in the program and that these individuals (survivor-volunteers) were resilient and unshockable. Survivor-volunteers, on the other hand, did not see their identity as defined by their experiences of sexual victimization and felt their motivation to volunteer stemmed from experiences of other challenging life events. They explained their resilience as an ongoing work-in-progress. This core theme of “resilience and recovery” is explained by the following sub-themes:
  - *Survivor identity*: those with past experiences of sexual violence did not consider their survivor status as their master identity when volunteering in the CoSA program. Volunteers without past experiences of sexual violence demonstrated concern about the appropriateness of survivors as volunteers in the program.
  - *Transitioning from victim to survivor*: participants with past sexual violence experiences discussed their transition from ‘victim’ to ‘survivor’ and how this was significant in their choice to volunteer for the CoSA program. For example, the notion that “you can’t change the past, but you can choose your future” was a common realization among survivor-volunteers.
  - *Survivor status as a key motivational factor for volunteering*: while volunteers with no prior experiences of sexual violence assumed that survivor-volunteers were motivated by their past victimization, this was not the case; for survivor-volunteers, there were other significant life events that formed the decision to volunteer for the program such as major health issues, divorce, retirement, psychiatric diagnoses and mental health issues.
  - *Maintaining resilience vs being unshockable*: some survivor-volunteers actively worked to maintain their resilience in order to protect their wellbeing (when faced with challenging behaviour from the sex offender receiving services from the program, for example), while other volunteers considered resilience as already acquired and developed. Even though many volunteers considered themselves unshockable, there was an awareness that the nature of their work may alter this at any point in time.
- Prior to data collection (i.e., interviews with volunteers), the authors envisaged that survivors of sexual violence would experience a form of restorative justice. Through dialogue with offenders, survivors could gain answers to questions or make sense of their experiences. Although these elements did not necessarily emerge in their analysis of the interviews, the authors found that other aspects of restoration that fall within the principles of restorative justice did arise. In other words, the survivor-volunteers

occupied a unique and important space within the program, of which the authors are still attempting to understand fully.

**Author's Position:**

- The authors conclude that survivor-volunteers do not participate in the program in search of self-healing or to undergo a meaning-making process.
- There is restorative value for survivors when volunteering to work with sex offenders.
- More research must be completed in order to fully conceptualize the dynamic and restorative nature of the program.

**Wasileski, G. (2017). Prosecutors and use of restorative justice in courts: Greek case. *Journal of Interpersonal Violence, 32(13), 1943-1966***

**Purpose:**

- This study investigates prosecutors' experiences with RJ practices in cases of intimate partner violence in Athens, Greece.

**Methodology:**

- This qualitative study used a semi-structured, open-ended interviews of 12 female public prosecutors and three male mediators. All interviews except for one were audio recorded, and all included handwritten notes.
- The interviews lasted approximately 1 hour and 20 minutes.
- The researchers used purposive sampling technique to recruit participants.
- An inductive qualitative analysis was conducted to engage themes and patterns from interview transcripts.

**Findings:**

- Mediation in Greek criminal law aims to bring the victim and offender together to resolve the problem of intimate partner violence.
- The requirement to offer mediation means that it does not function as a RJ approach that provides an opportunity for victims to gain their voice and enhance autonomy but instead, mediation puts victims into a risky position.
- Results indicated that prosecutors were confused about the overall themes of RJ. This could potentially be due to their experiences, professional positions, and views of RJ in intimate partner violence formed by their legal training.
- There was little understanding of the role of offender accountability programs. Instead, participants over-estimated the focus on the offender and did not engage with the goals of increasing awareness of harm, acknowledging wrongdoing, or providing an opportunity to take responsibility.
- Participants also misunderstood interpersonal violence dynamics. For instance, some interviewees were not immune to prejudicial attitudes towards to victims' credibility.
- Gender norms and practices are entrenched by structural forces in court. This means that RJ in cases of intimate partner violence is introduced in an atmosphere that places little

emphasis on the needs of victims while simultaneously diminishing the gravity of intimate partner violence.

**Author's position:**

- Prosecutors do not have a complete understanding of the dynamics of intimate partner violence and the philosophy of RJ, making it difficult to implement or improve RJ.
- With current resources, effective mediation is not feasible in Greece's court settings. It is plagued with limitations of prosecutors' lack of knowledge of RJ and broader trends related to gender violence.
- The author supports RJ practices being used in the context of intimate partner violence but this should include clear guidelines and training and education on gender violence.

**3.1.3 Mixed methods**

**Bletzer, K. V., & Koss, M. P. (2012). From parallel to intersecting narratives in cases of sexual assault. *Qualitative Health Research*, 22(3), 291-303.**

**Purpose:**

- This qualitative study examines the effectiveness of the Responsibility and Equity for Sexual Transgressions Offering a Restorative Experience (RESTORE) model through a textual analysis of documents. The study measures the RESTORE model's effectiveness based on the empathy in the responsible person's apology.

**Methodology:**

- A total of 66 cases of a sexual nature were referred to the RESTORE program over the two and one half years the program was active. The referred cases included felony sexual assault ( $n = 40$ ) and misdemeanor indecent exposure cases ( $n = 26$ ). Of these referrals, 16 cases enrolled in the program. Each enrolled case identified one responsible person and one survivor/victim.
- The study uses textual analysis of written documents such as victim impact statement, letters of clarification and responsibility, and other sources such as summaries, police reports, intake forms, coordinators' appraisals, and the conference quality-control observational matrix. Qualitative analysis is used to examine the responsible person's expression of apology and the responsible person's empathy.

**Findings:**

- Based on the analysis of the pre-enrollment police reports and pre-conference intake forms, responsible person's often denied responsibility and/or blamed the survivors/victims. The pre-enrollment statements often included doubts, denial of harm caused and absence of feeling a need to make amends or right the wrong.
- The apology letters prepared at the end of the reparation process showed the responsible person's awareness of the harm done, which was often linked to the expression of remorse and regret.
- Apology letters showed some changes in attitude by the responsible person.

- Most responsible persons avoided significant expressions of empathy.
- The acceptance of responsibility surfaced once the responsible person had the opportunity for some reflection on the harm caused.
- After the completion of the program, all responsible persons accepted responsibility in a manner noticeably different from their initial statements prior to enrollment.
- Each responsible person, except for one, included a kind word about the RESTORE program and noted the benefits in the apology letters.
- Some responsible persons occasionally made comments that retraumatized the survivor/victim.
- The study's limitations include: a small sample size, difficulties in locating the referred persons, disinterest and preference for traditional criminal or civil justice processes among candidates who opted out of after referral, and dismissal or withdrawal of enrolled participants.

#### **Authors' position:**

- Though the authors caution the potential gendered power imbalances, the RESTORE model provides empowerment to the survivor/victim and reintegrates participants by providing meaningful benefits.
- The authors note that though safeguards need to be in place, RJ is a model that focuses on the participants' needs.

**Elliott, I. A., & Zajac, G. (2015). The implementation of circles of support and accountability in the United States. *Aggression and Violent Behavior, 25*, 113-123.**

#### **Purpose:**

- This article synthesizes and critiques the Circles of Support and Accountability (CoSA) literature, and then describes the findings of an evaluability study of five CoSA providers in the United States. The article also describes CoSA's implementation, methods of evaluation, and the possible obstacles to rigorous evaluations.

#### **Methodology:**

- After beginning with a synthesis and evaluation of CoSA literature, the article describes the findings from five sites delivering, or intending to deliver CoSA programs in: 1) Fresno, CA; 2) Denver, CO; 3) Durham, NC; 4) Lancaster, PA; and 5) Burlington, VT.
- The research consisted of site visits which consisted of in-person interviews with program personnel and stakeholders, and an examination of documented material related to policies and regulations. The study's data was collected and analyzed using a measurement tool that looked at 41 items across 10 categories such as management, model, operations, staff, outcomes, core members and volunteers. Another tool was used to look at the availability of 23 key variables from various sources.

#### **Findings:**

- The majority of CoSA programs are based on the Correctional Service of Canada model.

- The model has been adapted in the United Kingdom, the Netherlands and the United States. CoSA typically involves four groups of stakeholders: 1) project staff, 2) service users, 3) specific criminal justice staff, and 4) community service providers.
- The CoSA model includes 5 phases: 1) appointment of members, establishment of the program in the local community and establishment of the role of the Program Director, 2) enrollment of the Core Members and the Circle Volunteers, 3) establishment and functioning of the Circle, 4) ongoing support, and 5) dissolution of the Circle.
- Due to the methodological limitations, there is not enough evidence to claim that CoSA is a proven effective program.
- For future evaluations, a comparison of a CoSA group and a control “not-CoSA-yet” group, as well the following outcomes could include:
  - Recidivism as a continuous variable (i.e., the number of months between release and reconviction, if any).
  - Distal variables such as increased risk awareness, problem solving, self-esteem and pro-social cognition.
  - Proximal variables such as successful access to services such as housing and financial aid.
  - Core member selection issues - The selection criteria for CoSA programs usually included motivation for change, seeking an offence-free life and agreement to abide to the release conditions. As such, the control group should be drawn from the same sample of highly motivated inmates as the experimental group. This would avoid selection bias, however may not allow for further generalizations to all “high-risk, high-need” sex offenders. Selection criteria should be used consistently and rigorously.
  - Sample size, site capacity and low baselines of recidivism - The limited sample size was an issue for a successful evaluation of the CoSA program. However, researchers/evaluators may find other ways to increase the precision of the impact of the program when using experimental methods, such as controlling for differences in baseline variables of participants and by sharing data between criminal justice agencies.
  - Some issues were noted around data sharing and accessing information from other agencies (i.e., ownership of data issues).

**Authors’ position:**

- The authors conclude that CoSA is not an evidence-based practice but the evaluation work has produced encouraging results. Although evaluations of community-based RJ programs such as CoSA are difficult, research and evaluations should continue and remain optimistic.

**Gavrielides, T. (2015). Is restorative justice appropriate for domestic violence cases? *Revista De Asistentia Sociala*, 14(4), 105-121.**

**Purpose:**

- This qualitative study examines RJ in domestic violence cases in conjunction or in parallel with the current criminal justice system in the United Kingdom in 2014/15.
- The study looks at the circumstances and prerequisites of these cases, the measurement of 'success', the barriers encountered, and the limitations around implementation of RJ in domestic violence cases.

**Methodology:**

- The study used qualitative methods over a period of two years in six phases:
  - Phase 1: five in-depth, semi-structured interviews with RJ and/or domestic violence experts.
  - Phase 2: focus group with 22 RJ and/or domestic violence experts.
  - Phase 3: focus group with five victims of domestic violence.
  - Phase 4: in-depth, semi-structured interviews with eight practitioners (proxies) who had worked with victims and offenders convicted for the same crime, who went through a RJ process in the last two years.
  - Phase 5: case study of two RJ practitioners who had a domestic violence case.
  - Phase 6: one-on-one and group in-depth unstructured interviews with key service providers of domestic violence services.
- Study used a non-probability sampling and convenience sampling.

**Findings:**

- Despite concerns from many groups (e.g., victims' groups), there are community-based RJ projects dealing with domestic violence cases.
- The biggest barriers to using RJ in domestic violence cases in the United Kingdom are: public perception, and misunderstanding of terminology, and definitions.
- The strengths of RJ in domestic violence cases include: addressing the victim's needs as a tool of empowerment, providing options to the victim, and minimizing secondary victimization and recidivism.
- Risk assessments were identified as a key component of the RJ projects. However, there are some concerns regarding the differences in risk assessment forms and safety precautions (fear of re-traumatization).
- The main reasons for using a RJ process was to seek understanding, safety, and closure. However, due to the complexities of domestic violence cases, a RJ process was often identified as not sufficient.
- The study's limitations included: a small sample size, external validity, the inability to generalize to the population, and the adjustments of variables.

**Author's position:**

- The author supports widening the discussion of RJ and domestic violence. So, when appropriate, RJ can empower victims of domestic violence as well as enable offenders to engage in dialogue.

- Co-facilitation is a good practice to achieve a gender-balance.

**Gavrielids, T., & Artinopoulou, V. (2013). Restorative justice and violence against women: Comparing Greece and the United Kingdom. *Asian Criminology*, 8(1), 25-40.**

**Purpose:**

- This study examines domestic violence cases from Greece and the United Kingdom in order to identify common elements, differences and standards when applying RJ.

**Methodology:**

- This study consists of a literature review and a small scale qualitative study of seven case studies of domestic violence cases in Greece and the UK in 2009/10.

**Findings:**

- Greece
  - In Greece, RJ is available by law and is a relatively new practice. RJ is applied only in misdemeanour cases, before or after prosecution, and with certain conditions attached. The general prosecutor is responsible for initiating the mediation and the public prosecutors are the mediators. If RJ is unsuccessful, the case is then referred back to the criminal justice system.
  - Some issues include: 1) the top-down approach; 2) role expectations/contradictions (mediator/public prosecutor); 3) lack of coordination; and 4) public views of RJ as a soft measure for offenders and that the victim comes second.
- UK:
  - RJ is not provided by legislation, but rather community-born. RJ has been applied since the 1970s. RJ is generally initiated by the victim in violence against women cases. The RJ mediators are independent and parties enter RJ voluntarily.
  - Some issues include: 1) RJ remains a voluntary initiative; 2) funding, evaluation and consistency; 3) practice standards are voluntary; and 4) no formal structure.
- A proposed model for further research includes: 1) the key principles of voluntariness, empowerment and informed choices, 2) principles of fairness, respect, equality and dignity, 3) the principle of confidentiality, 4) having professional standards, accreditation and ethics, 5) the independence of mediators, practice, evaluation and research, 6) the process should be victim-led and initiated, 7) having expert practitioners, and 8) provide follow-up support services.
- The study's limitations included: a limited scope, and that no generalizations can be made.

**Author(s) position:**

- The authors concluded that law alone cannot guarantee success for mediation, but there is a need for victim-lead processes with a bottom-up structure that focuses on empowerment principles. The authors do not believe that RJ should be dismissed in cases of violence against women.

**Gill, A. K., & Harrison, K. (2013). Sentencing sex offenders in India: Retributive justice versus sex-offender treatment programmes and restorative justice approaches. *International Journal of Criminal Justice Sciences*, 8(2), 166-181.**

**Purpose:**

- This study explores punitive methods, treatment programs, and RJ as strategies to address sexual violence in India.

**Methodology:**

- This study uses the case of 23-year-old Nirbhaya, who was brutally assaulted and gang-raped in Delhi in 2012, to explore potential punishment reforms.
- The study also examines the literature to describe the different arguments for and against punishment options, and explore alternative solutions.

**Findings:**

- This article highlights the accredited sex-offender treatment program (SOTP) in England and Wales, which uses cognitive-behavioural therapy. The goal of the program is to teach offenders new skills and life management techniques, change attitudes, and contribute to relapse prevention.
- The completion of this program lowers the risk of reoffending in sexual offenders. Evidence shows that positive reinforcement of good behaviour is more effective for change than negative reinforcement.
- RJ Approaches - RJ techniques emphasize reintegration, restitution, reparation, reconciliation and community partnership, and are thus a way to reduce the likelihood of reoffending. The article highlighted the Circles of Support and Accountability (CoSA) program, where research from Canada and England and Wales shows positive results. CoSA is seen as a helpful option in managing risk in the community.

**Author(s) position:**

- The authors suggest a need for policy and legal reforms such as sentencing principles reform, changes in the nature of medical evidence collection and investigative procedures. The authors recommended further exploration of the use of sex-offender treatment programs and RJ approaches to provide change in India.

**Hayden, A. (2012). Safety issues associated with using restorative justice for intimate partner violence. *Women's Studies Journal*, 26(2), 4-16.**

**Purpose:**

- This study examines the extent to which RJ could increase the reporting of intimate partner violence, the implications of gender and RJ, the ways RJ could increase/decrease safety for victims, and how the process could be made safer in intimate partner violence cases.

**Methodology:**

- This study uses qualitative methods which include: 1) 15 in-depth interviews with experts in RJ, 2) observation of two courts specializing in family violence, and 3) in-depth unstructured interviews with eight victims and six offenders.

### **Findings:**

- The study found the following qualities increase safety in RJ processes: appropriate preparation prior to a conference, screening for history of intimate partner violence, assessment of victims/offenders' readiness to participate, expectations and remorse, having support people present at RJ, possible inclusion of children in the RJ process (where appropriate), the use of appropriate language, co-gender facilitation, and in some cases, written agreements.
- The study identifies the following risk factors in RJ facilitators that may make participants feel less safe: gender (in)appropriateness, (lack of) skills, academic and practical experience, (lack of) routine monitoring and debriefing, having friendly and sensitive personalities, common sense, culturally (in)appropriate behaviour, facilitator's (un)awareness of their own background and education/experience.
- The study identifies other factors that could negatively impact safety in RJ processes: power imbalances, manipulations, involvement of drugs and alcohol, lack of remorse, serious mental health problems, lack of recognition of the victims' needs, coercive control and risk of retribution.
- The study highlighted some RJ practices that can be applied to make these processes safer: fully-informed and preparation of both offenders and victims, appropriate timing of the conference, voluntariness, and high skill/knowledge/training of facilitators.
- Overall, this study found that RJ offered a greater sense of justice and fairness than the criminal justice system.

### **Author's position:**

- The author is supportive of the use of RJ in intimate partner violence cases. However, safety considerations should be in place.

**Julich, K., Sturgess, S., McGreggo, C. K., & Nicholas, L. (2013). Cost as a barrier to recovery: Survivors of sexual violence. *Sexual Abuse in Australia and New Zealand*, 5(2), 57-68.**

### **Purpose:**

- This study explores and assesses the New Zealand Law Commission's proposal for formal RJ to be made available for certain sexual offenses. This provides an opportunity to examine the interactions between the criminal justice system and alternative processes.

### **Methodology:**

- The report includes a review of literature, best-practices, and a case study of the New Zealand Law Commission's recommendations related to RJ and sexual violence.

### **Findings:**

- The Law Commission has suggested three situations in which an alternative process could be referred back to the criminal justice system:
  - 1) where information emerges that makes it unsuitable for the case to continue to be dealt with in an alternative process, such as information regarding additional offending;
  - 2) where the survivor or the offender opts out of the alternative process; or,
  - 3) where no agreed-upon outcome can be achieved, or the accused fails to participate in an acceptable way or to fulfil any undertakings made.
- In each of these situations, there is the potential for the survivor's wishes to be overridden.
- Restorative processes as an alternative to the criminal justice system require careful balancing of survivor autonomy and public safety.
- There remain legitimate concerns about the suitability of RJ for addressing harms like sexual offending. However, the experiences of the RESTORE program suggest that well-trained and well-resourced RJ providers can address many of these concerns.
- If the survivor and the offender opt to pursue a restorative process as an alternative to criminal prosecution, criminal prosecution can be halted and precluded, provided that the offender participates in good faith and fulfils all the RJ requirements.
- In some cases, referrals back to the criminal system are possible where the offender poses a risk to public safety.
- If information about additional offending comes to light or a party opts out of the process or the offender does not participate satisfactorily, RJ providers must be able to apply a public safety override. This would allow RJ providers to refer the case to the criminal system regardless of the wishes of the involved parties.
- To satisfactorily address the harms of sexual offences, the state should play a role in regulating restorative outcomes. The outcomes may include attending treatment programs and taking responsibility.
- Clinicians have an important role when implementing a RJ response to sexual offending, which includes: an awareness of overriding RJ in the interest of public safety, an understanding of RJ and criminal justice system interactions, and supports for survivors.

**Authors' position:**

- The authors believe that RJ offers survivors more autonomy in addressing harms of sexual offending. However, clinicians must be aware of situations where survivor's autonomy can be overridden.

**Keenan, M., Zinsstag, E., & O'Nolan, C. (2016). Sexual violence and restorative practices in Belgium, Ireland and Norway: A thematic analysis of country variations. *Restorative Justice*, 4(1), 86-114.**

**Purpose:**

- This article compares and contrasts the provision of RJ in cases of sexual violence in Belgium, Ireland, and Norway.

**Methodology:**

- The article examines the use of RJ in sexual violence cases in Belgium, Ireland, and Norway. This article uses existing literature, large-scale surveys, statistical reports, and reports that present empirical evidence, to conduct a thematic analysis. The study also uses extensive fieldwork in the form of site visits to Belgium, Ireland and Norway (including interviews with a number of stakeholders, practitioners and service providers).

### **Findings:**

- Legal reforms take place in most developed countries in an effort to improve the response to sexual violence. This includes rape shield laws, the refinement and expansion of the definition of sexual offences, and victim impact statements. These reforms and changes in social norms might contribute to increases in reporting, this also leads to greater attrition rates.
- Innovative justice focuses on improving victims' access to and experience of justice by additional non-adversarial mechanisms, such as RJ which is participatory, empowering, flexible, safe and can run alongside traditional criminal justice processes. Concerns of RJ include risk of re-traumatisation and/or re-victimisation, and the shift of sexual violence into the private sphere which could lead to a decrease in public awareness and condemnation of sexual violence.
- In Belgium, RJ developed out of close connection between academics and criminal justice professionals and were targeted at all crimes in the 1990s.
- In Belgium, RJ operates alongside traditional criminal justice processes, and in some cases even independently. Access to RJ is seen as a right in Belgium. 'Penal Mediation' is offered by civil servants as well as NGOs who are contracted to provide other RJ services all over the country, with targeted services based on age of the perpetrator and the languages spoken.
- The referral of young offenders to the mediation service is best practice in Belgium.
- The core principles of confidentiality, neutrality and voluntary participation are set out in Belgian legislation—and there is no requirement that victim-offender mediation influence the criminal sanction imposed, but the law does stipulate a report can be submitted to the court prior to sentencing. Mediation is legally required to be available at all stages of the criminal procedure, including post-sentence.
- In Ireland, sexual violence cases are recommended to be excluded from RJ interventions, but some organisations process such cases. The provision of RJ in the area of sexual violence to date is largely done by a few organizations in the voluntary sector. While the government funds some of the organizations employing RJ in sexual violence cases, lack of funding is an issue.
- Irish legislation does not specifically refer to restorative justice, and provisions for restorative cautioning are only an option for young people in court—there no legislative provision for RJ for adults. As such, RJ operates in an ad hoc fashion in Ireland.
- In Norway, some services offer RJ processes to a small number of sexual violence cases. There is, however, some political reluctance. The growing work and international research is gradually changing this norm. RJ can take place pre-conviction or post-conviction, though for sexual violence pre-conviction mediation is likely to be of minor gravity or where criminal prosecution were unlikely to proceed.

**Authors' position:**

- The authors believe that RJ in cases of sexual violence offers victims the opportunity to achieve justice, with or instead of traditional criminal justice processes. It also offers offenders the opportunity to repay a moral debt, repair harm, and work towards their reintegration into society.
- The authors believe legislation, funding, and supportive systems are necessary for RJ.
- Though opportunities for interagency/inter-disciplinary liaisons are limited due to confidentiality and neutrality issues, it might add value to the RJ process in some cases.

**Koss, M. P., Wilgus, J. K., & Williamsen, K. M. (2014). Campus sexual misconduct: Restorative justice approaches to enhance compliance with title IX guidance. *Trauma, Violence, & Abuse, 15(3), 242-257.***

**Purpose:**

- This article envisions RJ enhancements to traditional student conduct processes by 1) defining sexual violence and sexual harassment within the 2011 Dear Colleague Letter (administrative guidance to campus response to sexual assault issued by the U.S. Department of Education's Office for Civil Rights), 2) elaborating on the Dear Colleague Letter position on alternative resolutions and differentiates mediation from RJ, 3) sequencing action steps from case reports, and 4) discussing building support for innovation beginning with existing campus responses.

**Methodology:**

- This article examines and discusses the 2011 Dear Colleague Letter in the context of the student conduct theory.

**Findings:**

- Institutions of higher education are responsible for addressing at least 42 types of sexual behaviour in an attempt to eliminate misconduct, prevent its recurrence, and remedy its effects.
- The Dear Colleague Letter mandates a quasi-criminal justice, investigative and judicial response to sexual misconduct that is too narrow for the scope of sexual misconduct and the desired outcomes of institutional response.
- The Dear Colleague Letter permits the use of RJ in student sexual misconduct cases as a resolution process, a victim impact process, a sanctioning process, and a reintegration process.
- RJ resolution in cases of sexual misconduct have been feasible, safe, and reached participants' satisfaction.
- RJ can support the interest of the victim/survivors, institutions, the Office for Civil Rights, and student conduct professionals.

**Authors' position:**

- The authors note that empirical evidence suggests that a RJ model for resolving student misconduct is superior to a judicial hearing model in achieving educational outcomes.

The authors believe that RJ may have the ability to enhance institutional responsiveness and provide options that, in some cases, may better achieve the underlying goals of federal law and administrative guidance in the context of campus response to sexual violence and the field of student conduct management.

- However, they are unsure whether the best approach would be to either A) implement some RJ approaches for non-sexual cases first in order to obtain buy-in, or B) start RJ implementation with lower level forms of sexual misconduct in order to avoid reinforcing the attitude that the methods are not suitable for any sexual matter. In any case, the authors encourage further discussion and exploration of the use of RJ in sexual misconduct cases among institutions.

## **3.2 Critical commentary and discussions: Debating, justifying or criticizing the use of RJ in instances of sexual violence, important considerations, and best practices**

### **3.2.1 Peer-reviewed**

**Al'Uqdah, S. N., Maxwell, C., & Hill, N. (2016). Intimate partner violence in the African American community: Risk, theory, and interventions. *Journal of Family Violence, 31(7), 877-884.***

#### **Purpose:**

- This paper explores intimate partner violence within African American families, while looking at the risk factors of intimate partner violence.
- The article aims to understand intimate partner violence through psychoanalytical theory and discuss treatment approaches in a multicultural framework.

#### **Methodology:**

- The authors review and summarize literature on partner violence in African American families. The analytical strategy involves several elements such as examining the rates, impacts, and risk factors of intimate partner violence.

#### **Findings:**

- African Americans experience intimate partner violence more than other ethnic groups.
- Intimate partner violence is the number one health issue for African American women due to psychological and physiological outcomes. Intimate partner violence is costly due to hospitalizations.
- Children are also impacted by intimate partner violence; they blame themselves and have negative behaviours associated with exposure to intimate partner violence which can delay a child's development.
- Risk factors are different for the African American community. Risk factors for men engaging in intimate partner violence include: concentrated poverty, high levels of unemployment and inadequate education, exposure to community and family violence,

internalized and institutional racism, and sexist or misogynistic cultural attitudes. Risk factors for women experiencing intimate partner violence include: poverty, inadequate education, under- or unemployment, and substance abuse.

- There is a need to look at the historical impact of slavery, past abuse, masculinity and dominance to be able to understand intimate partner violence in the African American community. When treating African American couples, there is a need to look beyond traditional methods and towards cultural methods. RJ is an approach that includes cultural competency, thus is encouraged when dealing with African-American couples involved in intimate partner violence.

**Authors' position:**

- The authors reject traditional methods used to heal intimate partner violence, and encourage professionals to have cultural competency training and awareness when dealing with this issue. They recommend using RJ as it incorporates culture within the healing process.

**Anderson, P. S. (2016). When justice and forgiveness come apart: A feminist perspective on restorative justice and intimate violence. *Oxford Journal of Law and Religion*, 5(1), 113-134.**

**Purpose:**

- This article examines how forgiveness can be an issue for RJ from a feminist perspective.

**Methodology:**

- This review of articles examines 41 publically available articles on feminism and RJ.

**Findings:**

- Forgiveness can be problematic for RJ.
- Forgiveness is part of a “patriarchal hierarchy of stereotypes” that casts women as peaceful and loving.
- By forgiving, women are taught to internalize their feelings, rather than fight against them.
- Forgiveness perpetuates inequalities that feminist have long fought against. Withholding forgiveness is done “in the name of self-respect”.
- In religious and cultural traditions, justice comes from forgiveness. We need to consider other ethical responses to injustice that are less forgiving to stop violence against women.
- Forgiveness should be withheld so that justice can be served and to help make offenders accountable for their actions. By immediately forgiving an abuser, it is less likely to allow emotions like hate to change.
- Forgiveness only achieves justice and fairness for the “sinner” and ignores cognitive emotions of the victim.
- The victim needs to be given time to heal, whereas the abuser needs to be given time to change.

**Author's position:**

- The author takes a feminist perspective and supports the notion of offenders taking responsibility for their actions but rejects the idea of forgiveness. The author is not supportive of using a RJ approach to heal sexual violence against women. The author looks towards a more retributive justice where offenders take responsibility for their actions, to acknowledge the harm caused, rather than forgiving the offender right away.

**Beck, M., Bolívar, D., & Vanseveren, B. (2017). Responsibility, care and harm: The involvement of the community in cases of child sexual abuse. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 229-247). New York, NY: Routledge, Taylor & Francis Group.**

**Purpose:**

- The aim of this book chapter is to reflect on child sexual abuse and the ways that victims' and offenders' closest social relationships can participate in RJ interventions.
- The chapter seeks to address the concept of community responsibility, as it is argued that this is a neglected issue in the extant literature.

**Methodology:**

- The authors present two case studies of victim-offender mediation experiences in Belgium that involve child sexual violence.
- The cases are analyzed and reflected upon in relation to the literature on RJ and child sexual violence.

**Findings:**

- In cases of child sexual abuse, participants are not asked to describe details of what happened; rather, processes focus on the consequences of the offence.
- Whereas in traditional victim-offender interventions parties must take one side, participants in these case studies had the potential to be involved from one of three positions—from the harmed community, the community of care, and a member of the responsible community.
- In RJ, responsibility can be understood as an active process whereby the offender acknowledges the harm that was caused and comes to understand the origin of the problem in order to prevent reoccurrence.
- Active responsibility on behalf of the community is required in order to restore the harm experienced by the victim.
- Addressing child sexual violence requires a holistic view and holistic intervention.

**Author's position:**

- In RJ, responsibility is an active process, which, in cases of child sexual violence specifically, is not *only* an offender's task but may include family members or others.
- Responsibility is an action that must involve ensuring the future well-being and restoration for victims, offenders, and other members of the community.

**Cheon, A., & Regehr, C. (2006). Restorative justice models in cases of intimate partner violence: Reviewing the evidence. *Victims & Offenders, 1*(4), 369-394.**

**Purpose:**

- This study analyzes the use of RJ as an alternative to the criminal justice system in cases of intimate partner violence.
- The review focuses on the appropriateness of using RJ in cases of intimate partner violence and its ability to address the concerns of those affected by intimate partner violence.

**Methodology:**

- This paper reviews literature supporting the use of RJ with various populations and how they address the particular concerns of those affected by intimate partner violence.
- The review contrasts criminal justice approaches with RJ approaches in the context of intimate partner violence, the role of trauma in mediation, the evidence on treatment for violence and abuse, concerns/reservations, and promising practices.

**Findings:**

- RJ is moving beyond property crimes and youth offending. For instance, since 1998 the Mediation and Restorative Justice Centre in Edmonton, Alberta has been conducting RJ dialogue sessions in cases of intimate partner violence or domestic assaults.
- RJ models show promise but there is insufficient evidence to support its use in all intimate partner violence cases.
- There are definitional issues in the RJ literature. Some literature views RJ as a philosophy/way of looking at crime, others as a practice or process, and for others, RJ is defined in terms of its outcomes.
- Research tends to focus on participants' experiences, rather than an assessment of RJ's effectiveness as an intervention.
- Research findings are mixed when it comes to victim satisfaction of RJ when used in the context of intimate partner violence.
- There are many RJ strategies and these may be differently suited for different types of victims, offenders, and relationships.
- RJ can help build communities and mobilize resources. RJ is able to support victims and offenders to create conditions for relationship change and offer approaches that are not available in the traditional criminal justice system.
- Approaches or strategies to address intimate partner violence need to increase collaboration and learning between different fields involved with intimate partner violence.
- There is a need for research and practice to engage the knowledge and experience of all involved to assess how perpetrators of violence change and how victims recover.
- RJ professionals and facilitators should be well trained on: the impact of abuse, trauma (for both the victims and offenders), relationship dynamics, and the various forms of abuse.

**Authors' position:**

- The authors see RJ as a set of core beliefs, principles, and objectives. They see RJ as an alternative model worth exploring to address intimate partner violence due to

inadequacies of the conventional criminal justice system. However, using alternative justice models or RJ models must ensure that it does not create new risks for participants.

- The suite of criticisms of criminal justice approaches highlight the need to investigate and study alternatives.
- The authors conclude that RJ should be viewed as one step in a longer and broader process of transformation. The transformation is one of changing an abusive relationship into a safe and respectful one.

**Coker, D. (2016). Crime logic, campus sexual assault, and restorative justice. *Texas Tech Law Review*, 49(1), 147 -210.**

**Purpose:**

- This paper summarizes social science research, political efforts, and priorities in addressing campus sexual assault.

**Methodology:**

- A literature review of campus sexual assault and restorative policy and programs.

**Findings:**

- There are limitations to the Department of Justice and Department of Education models to address campus sexual assault as they do not pay enough attention to forms of subordination, experiences, and race, class, sexual identity, and gender dynamics.
- According to research on campus sexual assault, sexual offenders are more likely to report that their peers support sexual aggression towards women, hold hostile attitudes towards women, and engage in problematic drinking.
- Campus sexual assault of men is far less researched than assault of women, but what research exists suggests that problematic drinking is correlated with assaults on men, as is the case for assaults on women.
- RJ processes can be used to respond to sexual violence on campus. Ideally, this includes an intersectional awareness and public health initiatives to inform the response to campus sexual violence.
- “Feminist/ Restorative Justice” models and “Transformative/Anti-Subordination” RJ models provide alternative responses to instances of sexual misconduct that can better meet the needs of some victims. They are also more likely to result in changes to the social environment on campus.
- There are challenges to using RJ in campus contexts. First, the Department of Education prohibits use of mediation in sexual assault cases and some schools reject RJ because of a fear of violating this policy. Second, there is a risk of statements becoming admissible in court.
- Integration of RJ into larger public health and intersectional responses to campus sexual assault can provide a better alternative for victims, contribute to changes in the behaviour of perpetrators, and change campus life.

**Author(s) position:**

- The author argues that schools should adopt, and feminists should support, public health approaches and look to change social structures and conditions that encourage sexual assault. This includes abandoning crime-logics to respond to sexual assault.
- When there are safeguards, RJ can be useful. The integration of RJ into the bigger public health and intersectional response to campus sexual assault may provide a better alternative for victims, which can lead to a change in behaviours and campus life.

**Daly, K. (2017). Sexual violence and victims' justice interest'. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 108-140). New York, NY: Routledge, Taylor & Francis Group.**

#### **Purpose:**

- The focus of the chapter is to systematically assess and compare the varying justice mechanisms available to respond to sexual violence and violent victimization more broadly.
- The author's aim is *not* to demonstrate how RJ works for individuals and the relevant consequences for victims, offenders, and others, nor to assess whether RJ is appropriate for sexual violence cases.

#### **Methodology:**

- In order to achieve the goals set out, Daly develops a model called the Victimization and Justice model, comprised of three components: (1) contexts of victimization, (2) justice mechanisms, and (3) victims' justice interests.
- This model concisely compares and assesses different justice mechanisms by naming and organizing the existing literature that examines components of RJ in different contexts and by presenting her analysis in the form of a matrix.
- The matrix is comprised of a vertical list of research to analyze and a horizontal list that breaks down the three components of the model

#### **Findings:**

- The first two legs of the model are explored (contexts of victimization and justice mechanisms):
  - In the chart/matrix presented, Daly names and organizes what is known about varying contexts of victimization and offending (among families, in workplaces, closed institutions, etc.) including the types of offences committed and who is involved
  - A justice mechanism is a response, process, activity, measure or practice related to justice and can be conventional or innovative (she notes that RJ is a justice mechanism). Also on the chart, Daly assesses whether different justice mechanisms were used for each different research listing.
- The third component of the author's model, victims' interests, is explored in more detail than the previous two. Elements of 'victim's justice needs' include: participation, voice, validation, vindication and offender accountability-taking responsibility

- Defining victims' justice interests – here the author provides explanations for each element of the third component of her model. She conceptualizes her own definitions and reflects on those of others.
  - *Participation* – victims are informed of the options and different aspects of a case (including different justice mechanisms); asking questions and receiving information; having a say in shaping redress; understanding the process.
  - *Voice* – receiving public recognition and acknowledgement for the telling of what happened and its impact in a significant setting; also called truth-telling.
  - *Validation* – ensuring that the victim and their story is believed by acknowledging that harm occurred, with key actions being *believing* and *acknowledging* the wrongs.
  - *Vindication* – affirming, both morally and legally, that the act was wrong and that the offender's actions were wrong; can be expressed symbolically and/or materially and vary by graveness of the offence; when communities take a clear stand against an offence; “public condemnation and censure and actions prescribed by a polity for an offender to make up for the wrong” (p. 118).
  - *Offender accountability-taking responsibility* – two aspects of accountability are distinguished between: calling out a wrong-doer and holding them accountable; one who has committed harms must be called to account and held to account for their actions; the expectation is that they will take active responsibility for the wrongs committed (by sincere apologies, expressions of remorse, or completing mandated justice requirements).
- In the analysis of the term accountability, Daly investigates the relationship of punishment to vindication and accountability and declares that punishment is not part of accountability but is part of vindicating the crime and the victim.
  - The author compares how some analysts consider accountability:
    - Herman (2005), for example, equates punishment with vindication and offender accountability; however, these terms should not be synonymous.
    - The Law Commission of Canada (2000), another example, conflates accountability with the finding of criminal guilt; while holding people to account is one aspect of accountability, guilt-finding is an element of vindication.
    - Clark (2015) also equates accountability as punishment by asserting that accountability implies vindication; Daly argues that this is incorrect.
    - Jülich et al. (2010) comes close to Daly's definition of accountability-taking responsibility – accountability implies that an individual must carry out an action plan that takes the victim's psychological safety into consideration

#### **Author's position:**

- RJ practices in cases of sexual violence are appropriate when good practice protocols are used and when the process is adjusted according to the dynamics and complexity of gendered violence.
- Through a victim's perspective and in order to advance the evidence base and potential of innovative approaches to justice, Daly argues that it is essential to go beyond satisfaction

as the sole measure of victims' experiences and judgments of justice, and of reoffending as the only measure of change in offender behavior. She asserts that it is crucial to systematically examine the strengths and limitations of different justice mechanisms.

- RJ is not a type of justice, it is a justice mechanism that exists under the innovative justice umbrella.

**Dickson-Gilmore, J. (2014). Whither restorativeness? Restorative justice and the challenge of intimate violence in aboriginal communities. *Canadian Journal of Criminology and Criminal Justice*, 56(4), 417-446.**

**Purpose:**

- The author adds her thoughts and experiences to debates about whether restorative approaches can be effectively and safely implemented to address intimate partner violence in Indigenous communities.
- The author analyses the challenges of partner and family violence for Indigenous families and communities, the role of RJ in addressing these issues, and the barriers impeding responses to intimate partner violence, especially in remote communities.

**Methodology:**

- Drawing upon work with Cree communities, this article explores the realities of intimate violence and restorative responses.
- The questions posed in the article include: How might one effectively and safely engage in restorative processes, when trust is largely absent, and apology is a critical tool of abusers? And, where might such cases enter into restorative or community justice processes, when the risk/need profiles of many Indigenous offenders suggest that the risks of RJ may greatly outweigh the qualified benefits of traditional criminal justice responses?

**Findings:**

- In the Indigenous context, violence is a family experience that affects partners, parents, children, the extended family, and dependent elderly. The impacts are inter-generational and affects health, well-being, and self-determination.
- Some well-established arguments challenge restorative approaches in the intimate partner violence context. Notably, critics are concerned about coercion, normative problems related to the ability for communities to understand intimate partner violence, the possible ambivalence towards intimate partner violence, and the “cheap justice” criticism.
- The challenging dynamics of restorative processes may pressure survivors to accept apologies and risk re-victimization.
- There are many challenges and limitations when implementing RJ approaches in the context of intimate partner violence, including complications related to cultural context and communities.
- There are also limitations to criminal justice system processing through zero tolerance, mandatory charging, and prosecution. Another limitation rests in assuming dissolution of

the family as both prevention and cure. This gives rise to the urgent need to address, stop, and heal violence among aboriginal families and communities.

- Resources are important, notably because safety and healing are important considerations. Safety in rural and isolated communities may be challenged because of the lack of access to shelters, crisis centres, or other supports.
- The best and most effective interventions will include community responsibility and accountability.

**Author's position:**

- The author notes the complexity of intimate violence in Indigenous communities and how these communities are implicated in retributive and restorative solutions.
- Additional work and research needs to be done before restorative processes can be applied to intimate violence in Indigenous communities. Resources are needed to successfully implement RJ in intimate partner violence cases in remote communities.
- While the author doubts the use of restorative responses to partner violence, she argues that there must be a better way to deal with this crime to support survivors of intimate partner and family violence.

**Godden-Rasul, N. (2017). Repairing the harms of rape of women through restorative justice. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 15-27). New York, NY: Routledge, Taylor & Francis Group.**

**Purpose:**

- The focus of this article is on the harms of rape and analyzing the critiques of RJ. The hope is to provide a platform from which to develop evaluations of RJ in rape cases.

**Methodology:**

- Begins by discussing key debates around the conceptualization of rape and different theories about the harm of rape. Then assesses the feminist critiques of RJ in light of the conceptualization of rape as damaging the personhood of the female subject.

**Findings:**

- According to the author, the best way to understand the harm of rape is as something that damages the personhood of the victim/survivor.
- People can be “remade” through building connection with others.
- RJ offers the victims and survivors the opportunity to speak of their experiences which can contribute to a remaking or rebuilding of “the self”, providing validation of the wrong and recognition of the harm, and providing reparations to repair the harm.
- RJ can help survivors incorporate the violent experience into their own self-constructed narrative.
- However, sharing the experience exposes the survivor to the risk of being disbelieved or rejected, or having the harm minimized, which could impede the recovery process if the

RJ process is not done carefully. This risk also exists in the conventional criminal justice system.

- In order for harm to be restored, victims need to feel safe again, which requires more than individual accountability on the part of the perpetrator and involves addressing the material, political and social conditions of women's lives and experiences of violence.

**Author's position:**

- RJ should be evaluated on its capacity to restore the victims' sense of self and the risks of entrenching the harm or causing further harm.
- The risk of causing further harm through poorly handled RJ is "greater than has typically been conceived."
- The involvement of sexual violence specialists to participate in RJ in order to guarantee the recognition of the harms to the survivors' personhood is important to the survivors' recovery.

**Hanan, M-E. (2016). Decriminalizing violence: A critique of restorative justice and proposal for diversionary mediation. *New Mexico Law Review*, 46(1), 123.**

**Purpose:**

- This article discusses the feasibility and desirability of resolving violent crimes outside of the criminal justice system; the limits of RJ as an alternative approach to violent crimes; and the possible criticisms to alternatives to prosecution in cases of violent crime.

**Methodology:**

- This article reviews and critiques the literature.

**Findings:**

- Diversionary dispute resolution is framed as quasi-decriminalization.
- There are two central concerns of diversion:
  - Fear that prosecution has a coercive effect on the defendant participating in a diversionary program.
  - Fear of the potential increased involvement with the criminal justice system by mandating more onerous requirements than the defendant might otherwise face.
  - Out of court dispute resolution could be beneficial when there are procedural safeguards in place.
- RJ's therapeutic agenda limits the potential for dispute resolution.
- The mediator is not neutral because the focus of the discussion is on an apology and forgiveness.
- RJ focuses on the healing and the needs of the victims, as well as offender accountability. Therefore, RJ is not applicable where the accused's culpability is uncertain.
- RJ's claim that it is independent from the criminal justice system masks its role as part of a state system of crime control, punishment, and public prosecution.
- In criminal mediation, the undervaluing of safeguards built into the criminal justice system including the right against self-incrimination, the right to a trial by jury, to

confrontation and to cross-examination of witnesses, to appeal in the event of a verdict of guilty, and to be represented by counsel for constitutional purposes.

- If the RJ process takes place post-adjudication, as part of sentencing, the defendant's liberty and property interests are implicated.
- The elements of an alternative to RJ include a neutral form of mediation and the involvement of due process professionals in the design and implementation of criminal mediation programs. This would help meet the goals of reducing overall contact with the criminal courts and providing procedural safeguards.
- There are possible objections to mediation. Mediation procedures are solitary and private; it does not address systemic problems or advance social justice. Therefore, the rights of the offender may be compromised.
- There are safety concerns for victims of serious crimes and domestic violence including where the offender manipulates, frightens and further injures the victim. Therefore, the rights of the victim may be compromised.

#### **Author's position:**

- RJ's emphasis on therapeutic healing and offender accountability raises several concerns, including due process concerns and coercive power differentials. Diversion efforts, in cases of violent crimes, should be refocused towards neutral mediation, procedural protections, reducing contact with the criminal court system, and the engagement of due process professionals.

**Johnsen, P., & Robertson, E. (2016). Protecting, restoring, improving: Incorporating therapeutic jurisprudence and restorative justice concepts into civil domestic violence cases. *University of Pennsylvania Law Review*, 164(6), 1557-1585.**

#### **Purpose:**

- The article examines the challenges with the civil protection order process and looks at a more holistic and less adversarial approach to disputes. Specifically, the authors advocate for an alternative approach to protection order proceedings that draws on two legal theories, therapeutic jurisprudence and RJ.

#### **Methodology:**

- The authors used the *Pennsylvania Protection from Abuse Act* (PPAA) and the Philadelphia Family Court Division as a template to highlight the shortcomings of current family court systems before offering a solution to supplement and improve the current civil protection order process.

#### **Findings:**

- The article provides background information related to the traditional civil remedies for domestic violence cases. The authors also highlight the challenges and ineffectiveness of *Pennsylvania Protection from Abuse Act* in court, such as: congested court dockets and inadequate resources; unrepresented litigants; challenging subject matter; and courts' mishandling of civil domestic violence cases.
- The comprehensive law movement has two main goals:

- Maximizing the emotional, psychological, and relational well-being of individuals and communities involved in legal proceedings.
- Focusing on concerns outside of strict legal rights, responsibilities, duties, obligations, and entitlements
- RJ and therapeutic jurisprudence share common foundational principles. They both serve a therapeutic purpose with focus on emotions, empathy, healing, and psychological well-being.
- A suggestion is made to amalgamate both theories to form a holistic therapeutic approach to legal practice to civil protection order process.
- There are arguments against therapeutic jurisprudence and RJ approaches:
  - Private reconciliation of domestic violence cases may fail to acknowledge the severity of domestic violence and put victims at serious risk.
  - Victim–offender collaboration can contradict traditional domestic violence intervention theory.
  - Certain communities may not be willing or able to fulfill responsibilities in domestic violence cases for two reasons: victims may become isolated from friends and family as a result of continuing abuse and may lack meaningful community connections; and family and community ties might fail to denounce domestic violence and instead perpetuate harm.

#### **Author’s position:**

- The article takes the position that despite the concerns noted in using a therapeutic approach to domestic violence cases, most can be alleviated. There remain common goals between RJ, therapeutic jurisprudence, and traditional responses to violence.
- The authors believe that incorporating therapeutic jurisprudence and RJ approaches to domestic violence cases would be beneficial to address shortcomings in current approaches and improve access to justice. Therapeutic concepts would also preserve valuable court resources and facilitate a more sensitive response to civil protection order proceedings.
- The authors support the use of alternative approaches as a supplement to, rather than a replacement for, the current civil justice system.

**Joyce-Wojtas, N., & Keenan, M. (2016). Is restorative justice for sexual crime compatible with various criminal justice systems? *Contemporary Justice Review*, 19(1), 43-68.**

#### **Purpose:**

- This article explores the possibility of a hybrid justice system that combines RJ and the traditional criminal justice system, in cases of sexual violence. The article examines key justice considerations, the limitations of the criminal justice system, and why RJ is needed.

#### **Methodology:**

- This article was exploratory in nature and focused on common law jurisdictions such as Ireland, the UK, the US, Canada, New Zealand, and Australia.

### **Findings:**

- Legislative changes and other reforms have led to some improvements for victims of sexual violence. However, limitations still remains such as: high rates of attrition; the victim's role is confined to that of a witness; lack of offender accountability; insufficient offender reintegration; and the limited role of the community in criminal proceedings.
- RJ can offer some justice for victims whose case never gets to trial, and for offenders who attempt to repair the harm.
- RJ gives the victim an active role in the justice process, based on the immediate acknowledgement of guilt from offenders; offers the opportunity to repair harm; supports and augments the reintegration of offenders; and reintegrates of the community in the justice process.
- Legislation is very important in reconciling RJ and the criminal justice system. However, sexual violence crimes are not often referred to RJ due to suitability concerns.
- There is a need to consider the role of the judiciary in the use of restorative solutions among other sanctions when adjudicating on criminal matters. Sentencing policy is capable of accommodating alternative responses or additional responses to crime such as RJ.
- There are many due process considerations in the RJ context:
  - Presumption of innocence: the concern is that participation in RJ might lead to false confessions or to plea bargaining. RJ advocates need to be mindful and work in collaboration with legal professionals to develop procedural safeguards to prevent the right to the presumption of innocence to be infringed.
  - Right against self-incrimination: the concern is that what was said during a RJ process could be used against the offender in criminal proceedings. Procedural safeguards should be put into place such as: voluntary participation, availability of legal advice all stages, and clarity and transparency regarding confidentiality.
  - Right to a fair trial: this is not in jeopardy if the criminal justice system and RJ processes are treated as distinct and parallel processes of justice.
  - Right to legal representation: this is not compromised in RJ processes, but rather the role of the lawyers differ from the conventional criminal justice processes.
  - Victims' rights: the concern is that RJ processes might have power imbalances and possibly re-victimized the victim, especially in cases of sexual violence where power imbalances already exist. The article emphasize the need for specialized training and facilitators to work in pair to include a gender balance.

### **Authors' position:**

- The authors believe the needs of victims can be effectively met by reconciling RJ processes with conventional criminal justice responses, all while protecting the due process rights of offenders.

**Jülich, S., & Bowen, H. (2015). Restorative justice in Aotearoa, New Zealand: Improving our response to sexual violence. *Revista De Asistenta Sociala*, 14(4), 93.**

### **Purpose:**

- This article proposes a model of recovery that helps RJ practitioners and other justice system professionals identify where victims are located in the journey to recovery, identify their likely reactions, and prepare victims to engage with the justice process.

### **Methodology:**

- This article explores the literature and proposes a model of recovery for victims of sexual offending that combines Herman's (1997) model of recovery from trauma and Zehr's (1995) model of recovery from crime.

### **Findings:**

- RJ in the New Zealand criminal justice context does not replace the adversarial process, but rather provides an additional layer of government funded justice processing.
- In light of the review of the existing criminal justice framework, there is growing support for modifying or replacing the existing adversarial system with an alternative structure such as RJ. In fact, there is growing support that the conventional criminal justice system is not geared towards meeting the complex needs of victims.
- Adversarial processes expose victims of secondary trauma, medical assessments, interviews, lengthy trials, delays, and assessments of personal credibility.
- For RJ to be successful in addressing sexual violence, practitioners need to understand the complexities and dynamics of sexual violence, to assess risk and readiness.
- A five stage model for recovery is discussed. It takes into account processes of victimization and recovery, highlights the roles of bystanders and outsiders in the recovery process and in initiating criminal charges, and emphasizes the complex nature of victim recovery. The model is as follow:
  - Stage one: The initial impact of trauma. RJ at this time will not likely be successful.
  - Stage two: The end of sexual violence, but not necessarily the end of emotional and psychological abuse. Victims may experience conflicting emotions and RJ may be premature and harmful at this stage.
  - Stage three: This marks the beginning of the recovery process where victims recognize the abusive experience. RJ at stage three could produce mixed results for victims; it is unlikely to be beneficial.
  - Stage four: Recovery continues for victims and they begin to discover personal strength and power, but remain impacted by the perspectives of offenders. RJ at this stage has a good likelihood of success. Victims have greater capacity to withstand denial and minimization of behaviour but still require support and preparation for RJ.
  - Stage five: The offender no longer dominates the life of the victim and the experiences of abuse become integrated into the life stories of the victim. Offenders no longer have the same influence over the victim's recovery. RJ at this stage is likely to be successful for all parties but all parties in the RJ process need to be prepared so that they can contribute to the RJ process in a way that is supportive for the victim.

### **Authors' position:**

- The authors are supportive of RJ in cases of sexual violence with the use of this model to inform professionals about the appropriate timing of the RJ process. According to the authors, RJ can provide a real experience of justice to these victims.

**Kasparian, A. (2014). Justice behind bars: Exploring the restorative justice alternative for victims of rape and sexual assault. *Suffolk Transnational Law Review*, 37(2), 377-410.**

**Purpose:**

- This article explores the implementation of RJ in sexual offence cases by looking at various pilot programs dealing with sexual assault cases that have been implemented across the world.
- The author examines the roots, evolution, and responses to RJ. The author also explores the process of RJ programs including current trends and criticisms.

**Method:**

- This article reviews the current state and historical features of RJ. The review includes contrasting RJ with traditional criminal justice approaches, reviewing global problems with the criminal justice system's response to rape, and describing sexual assault policies around the world.

**Findings:**

- Only a handful of programs have attempted to use RJ practices in cases of sexual violence, but recently there has been an increase in use and awareness of the programs.
- Rape policies in jurisdictions experimenting with RJ pilot programs for rape victims:
  - Australia recently implemented new policies to provide victims with legal representation and started to consider RJ programs.
  - New Zealand currently has a legislative provision permitting the use of RJ at multiple points during the criminal justice process.
  - In 1998, the Danish Parliament implemented guidelines from the Danish National Board of Health. The guidelines recommend that medical examination, police questioning, and psychological care should all be offered at the same centralized location and that Danish multidisciplinary centers should be established by health services of the each jurisdiction.
- There are many shortcomings and criticisms of RJ. Critics of RJ assume that a victim will suffer from face-to-face interactions with the offender, the offender will blame or control the victim, and a victim's safety may be put at risk and it will result in victim intimidation or re-victimization.
- Some feminists argue that RJ practices lack an understanding about the dynamic of violence against women in the context of gender inequality.
- Some question whether RJ can truly hold offenders accountable and that RJ sends the message that society is not taking sexual offenses seriously.
- Pilot RJ programs across the globe:
  - Some countries, like Australia, have instituted RJ programs before a case enters the criminal justice system.

- In New Zealand and most of the United States, RJ is applied within the criminal justice system.
- Some American states implement RJ programs after a case goes through the criminal justice system.
- In some regions, like Denmark, RJ is completely *outside* of the criminal justice system.
- Implementation of a pre-conviction program that works with the criminal justice system, and is carefully selected, properly managed, and professionally facilitated, would create a new way to meet the justice needs of sexual assault victims.
- An ideal project would work alongside the criminal justice system and may be initiated prior to sentencing. RJ programs must work within the existing system in order to facilitate processes like retaining referrals and eliminating the risk of double punishment for offenders.
- RJ accomplishes the same goals as the criminal justice system such as, deterrence, (stopping) recidivism, rehabilitation, and reintegration, and offering victims support.
- There are many next steps for future RJ work. More pilot programs with empirical data regarding sexual assault are needed before RJ can have a positive impact for everyone involved. It is also important that pilot models share their research and overcome the hurdles faced by previous programs. Finally, future RJ pilot programs should continue to emphasize the core values of honesty, openness, discipline, and restoration.

#### **Author's Position:**

- The author believes that RJ offers a viable alternative to the criminal justice system, though there is a need for further research and experimentation in order to improve justice responses for sexual assault victims.

**Keenan, M. (2017). Criminal justice, restorative justice, sexual violence and the rule of law. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 44-68). New York, NY: Routledge, Taylor & Francis Group.**

#### **Purpose:**

- This book chapter examines a number of reasons for considering RJ as an additional (and in some cases an alternative) justice mechanism in cases of sexual violence are. The chapter also documents legal considerations that must be accepted when enabling RJ and criminal justice to co-exist for sexual violence cases. This discussion reflects on the *public interest* aspect of sexual crime, the protection of *due process* for the accused, and the importance of victims' *rights* in response to sexual violence.

#### **Methodology:**

- The chapter is a review of perspectives on restorative justice. It begins by acknowledging the different legal and philosophical traditions that underpin common and civil law jurisdictions.
- The case for RJ as an important justice mechanism for victims, perpetrators and communities affected by sexual violence is then be considered.

- The final part of the chapter analyses the challenges involved in reconciling RJ with criminal justice.

### **Findings:**

- The reality of the under-reporting of sexual violence and the high rates of attrition mean that for the majority of victims there is no justice whatsoever. For the majority of offenders there is also no accountability. In these circumstances the case for a *purist* position regarding RJ as an *additional* rather than an *alternative* mechanism in some cases is difficult to endorse fully.
- The jurisdictions in which RJ co-exists with criminal justice for *all* types of crimes, including sexual assault, are in the majority ones in which criminal justice is underpinned by continental or civil law traditions (such as Belgium, Denmark and Norway), with some exceptions (such as New Zealand, Canada and Australia). Common law jurisdictions have tended to be slower in considering restorative justice initiatives.
- While criminal justice has been criticized for focusing on the *public* aspects of sexual crime (such as prosecuting wrongdoing, punishing offenders, rehabilitating offenders, preventing future offending) at the expense of victims, RJ has been criticized for focusing on the *private* interests of victims and offenders while the *public* desire for punishment and protection is neglected.
- The criminal justice system was not established to address directly the harm caused to victims. The criminal trial format leaves little space for the personal account of the victim's experience and trauma as a result of the assault.
- RJ situates the displaced victim at the center of the justice process by ensuring that victim participation is a key feature of justice delivery.
- The key to making the trial process meaningful for victims is the early acknowledgement of guilt by defendants. All of the current features of the criminal justice system militate against this.
- The court process does little to encourage offenders to understand the consequences of their actions or to empathize with victims.
- Increased criminalization and stigmatization of offenders also results in their willingness to deny responsibility and take the risk of forcing the state to prove the case against them. In effect they have little to lose by pleading 'not guilty'.
- RJ methodologies on the other hand can actively include citizens and immediate communities of care in the justice process, both as secondary victims and as parties to repairing the social bonds.
- The offender's participation in RJ must always be on a voluntary basis with the support of legal advice. The offender must also always have the option to limit himself to the criminal process if he feels his right to a fair trial would be otherwise violated.
- A policy framework for non-reported and non-prosecuted cases would also include guidelines on the sanctions or other criminal mechanisms that would apply if an offender fails to abide by the conditions of the RJ as specified in the assessment and agreement.

### **Author's position:**

- Both the *public* and *private* interests must be addressed in cases of sexual assault.

- RJ does not replace criminal justice as a justice mechanism in sexual violence cases. Rather RJ is seen to complement criminal justice by offering victims, offenders and communities a menu of justice options that promotes greater victim participation, perpetrator accountability and community involvement in justice delivery.

**Keenan, M., & Zinsstag, E. (2014). Restorative justice and sexual offences: Can 'changing lenses' be appropriate in this case too? *Monatsschrift for Criminology*, 97(1), 93-106.**

**Purpose:**

- This article presents the general characteristics of RJ and describes the specific aspects of RJ in cases of sexual violence. The report also notes theoretical considerations of RJ, outcomes, challenges and possible next steps.

**Methodology:**

- The authors assess the theories of RJ and focus on its appropriateness in cases of sexual violence. The review consists of normative and empirical assessments of RJ in instances of sexual violence. The article examines existing theories of RJ and then compares and contrasts them with traditional criminal justice system approaches in addressing sexual violence.

**Findings:**

- Many document the origins of RJ and it can be dated back to the ancient Greeks.
- The structure of the criminal legal system makes it difficult to address sexual crimes, notably because of the adversarial process.
- Literature on using RJ in cases of sexual violence distinguishes among different types of sexual crime, and this is an important factor to determine what can be handled restoratively. For example, greater violence and offending of sexual violence brings warnings of the need for careful participation in RJ so there are no other instances of abuse or power-imbalance.
- In family or acquaintance cases, there are different types of power and control at work that need to be considered. In these cases, the literature suggests that RJ facilitators must be well versed in the dynamics of domestic abuse and guard to protect against re-victimization.
- According to some scholars, RJ for sexual violence should be assessed on a case-by-case basis and may consider factors such as the offence, age of offender, and whether this is a first time offence.
- There are values, procedural safeguards and principles to keep in mind. Some include a RJ process that is victim-led, voluntary, encourages offender and system accountability, promotes safety, and ensures victim choice. The procedural safeguards may also include some type of risk assessment or screening.
- While there are no standards for measuring RJ outcomes, most evaluations focus on victim satisfaction. Other indicators may include: reduction of stress; perceptions of fairness; and if there would be participation in the process in the future.
- There is a growing body of evidence on the increase of victim satisfaction and the enhanced therapeutic impact of RJ for victims.

- Some research focuses on offender satisfaction, the decreased desire to re-offend, the help RJ provides in reintegration, and the positive impact of RJ on offenders' psychology and well-being.

#### **Authors' position:**

- The authors note the positive impact of RJ. However, the challenges of RJ suggest a need for future research and legislation on the use of RJ in cases of sexual violence.

**Lopez, E. C., & Koss, M. P. (2017). The RESTORE Program for sex crimes: Differentiating therapeutic jurisprudence from restorative justice with therapeutic components. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 212-228). New York, NY: Routledge, Taylor & Francis Group.**

#### **Purpose:**

- This study explores the similarities and differences between RJ and therapeutic jurisprudence (TJ) in cases of criminal sex offences.

#### **Methodology**

- The authors begin by presenting an overview of the literature on TJ and RJ, including definitions and functions thereof, then case studies are presented.

#### **Findings**

- It is stated that TJ and RJ are not synonymous – a relationship between the two is not agreed upon in the literature.
- The similarities include that they both involve empathy and problem-solving. Both also focus on addressing the underlying factors that may have led to offending and any constructive solutions available to prevent reoffending.
- The difference, however, is that while both TJ and RJ are meant to humanize the justice experience, TJ court programs (i.e., specialized courts) are not intended to be restorative in process. For example, a mental health court still requires adversarial fact-finding and may not be concerned about restoring harm to a victim or community; offenders who plead guilty in specialized TJ courts may also still receive punitive sanctions for their actions (such as prison time).
- Offender accountability is encouraged in court programs that employ a TJ philosophy, yet this adversarial system remains distinctly different from the non-adversarial nature of RJ conferencing programs.
- RJ programs are based on a premise of active responsibility, requiring that offenders accept responsibility of their actions in order to be admitted into the program or process; it is not concerned with fact-finding or weighing of evidence as is required in an adversarial (TJ) process
- Another difference between RJ and TJ is that TJ is primarily focused on offender well-being while RJ programs are victim-centered.
- While RJ and TJ have their differences, they both are considered examples of procedural justice (King, 2008), or when the offender feels as if they are treated fairly and are respected by all parties.

- RJ programs with therapeutic components produce better outcomes, in terms of victim satisfaction, than adversarial court processes.
- The authors present two case studies that employ TJ practices for sexual offences and found that while they were successful in offender management and reducing re-offence rates, they entirely failed to focus on victims and repair harms done.
- Finally, the RESTORE conferencing model is presented as the RJ case study. This program follows a RJ conferencing model and facilitates community-based therapy services. An evaluation of the program found that overall satisfaction levels were high among survivor-victims.

### **Author's position**

- TJ and RJ cannot be interchangeable terms in practice due to their distinct philosophical difference – while TJ courts are more frequently starting to address sex offences, the authors warn that it is “dangerous for RJ conferencing to be considered a TJ practice” due to the fact that specialty courts are entirely offender-outcome focused and are adversarial in nature (p. 222).
- It is suggested that RJ programs do not use the term ‘therapeutic’ to promote their programs in order to avoid confusion with TJ-inspired specialty courts.
- A RJ process alone should not claim to be a clinically therapeutic intervention.

### **Muir-Pfeiffer, G. (2017). Restorative justice responses to sexual violence as non-domination promoting instruments. (Dissertation/Thesis, LLM), ProQuest Dissertations Publishing.**

#### **Purpose:**

- This graduate research in law assesses two international RJ models that deals with sexual violence. The concept of non-domination is used to explore and contrast RJ processes with the traditional criminal justice system response.

#### **Methodology:**

- The author conducts a literature review and assessment of scholarly work on RJ, features of the traditional criminal justice system responses, and RJ responses to sexual violence.

#### **Findings:**

- It is possible for RJ to promote goals that are common to the criminal justice system, notably by serving victims and offenders.
- In RJ, the victim and the offender of sexual assault should be given an opportunity to participate in a process and be heard during that process.
- Current legal responses where offenders wish to admit responsibility for harm are inadequate and do not give the victim a say in the process.
- There are limited options for dealing with sexual violence outside of traditional sentencing. This closes off opportunities for victims and offenders to challenge decisions, rectify harm, and hold the criminal justice system accountable. Other problems with criminal justice/sentencing responses include a lack of opportunity for participation, de-personalizing the process, not recognizing harms, and creating new harms with the collateral consequences of sexual violence convictions.
- RJ allows for a personalized response and the consideration of the voice of the victim.

**Author's position:**

- The author believes that RJ is a serious attempt to rectify harm caused by sexual violence.

**Naylor, B. (2010). Effective justice for victims of sexual assault: Taking up the debate on alternative pathways. *Law Journal*, 33(3), 662-684.**

**Purpose:**

- This article proposes an alternative pathway for appropriate sexual violence cases based on principles of RJ and therapeutic jurisprudence. The article explores possibilities, challenges, and presents approaches which may better serve victims and the community.

**Method:**

- The article reviews literatures and provides a review of debates and solutions in the area of sexual violence.

**Findings**

- Victims may want the following from the justice system: public retribution and/or punishment; acknowledgement of the harm by the community and the offender; a voice in the process; reassurance that the violence will stop; an apology from the offender and compensation or reparation; and some control over the process.
- Remorse and empathy will be more effective than stigmatisation for achieving an offender's restoration.
- Recent meta-analyses of RJ programs internationally (all of which excluded sexual assault cases) report mixed results on reduced recidivism but did find that overall they were more effective in reducing reoffending for more serious crimes.
- RJ pathway would begin with a report of sexual assault to the police and referral to the prosecution. The prosecution would work with a multiagency team, including medical and welfare staff, to consider whether the case was suitable for referral to the alternative pathway. Protocols would be established to consider the appropriateness of the type of case and the scope for guilty plea and/or admission.
- The starting point for the use of the alternative pathway would be, first, the desire of the victim to take an alternative pathway and, second, the willingness of the offender to accept responsibility for the harm and to proceed through the restorative pathway.
- The alternative pathway is directed to address serious offending, balance the interests of victims and offenders and the expectations of the community, and to ensure procedural fairness.
- Requirements for conferencing include: participants must be fully informed; conference facilitators must be trained and the conference itself must be structured; there must be clear guidelines as to outcomes; the offender must have clear advice about the consequences of participating; the process must be accountable; it must be possible for both victim and offender to decide not to continue with the parallel option; and, the conference must incorporate effective community representation.
- Studies of victims' experiences of RJ have shown high levels of satisfaction, although the recent reviews did not include cases of sexual assault

- RJ can offer valuable responses for some victims of sexual assault and it should be considered, given the failure of the criminal justice system and the unmet needs of victims of sexual assault
- There are many challenges with RJ. For example, there may be a limited range of types of cases which the community would see as appropriate for a non-adversarial pathway; there may be a small range of cases where the offender will acknowledge responsibility; and consideration of sexual assault outside the criminal justice system appears to preclude a retributive or punitive response to a serious harm.
- There are three possible approaches:
  - Most Aligned with the Restorative Justice Model: obtaining the offender's general acknowledgement of responsibility, followed by referral out of the criminal justice system to a separate conference. The outcome would be an agreement with no criminal justice system sanctions.
  - Most Aligned with the Adversarial Criminal Justice System Model: would be court-based and available only upon a formal guilty plea. On pleading guilty, the offender could be referred to a RJ conference, if the victim and offender wished to engage in this process. The matter would then return to the court for sentencing, taking account of the agreement reached at conference.
  - A Third or Middle Way: This model could be based in a collaborative court process ensuring a role for the victim, a more restorative sentencing regime, and a greater role for the judge to actively challenge attitudes of the offender and the community about sexual offending.

#### **Author's Position:**

- The adversarial criminal justice system serves an important symbolic function in the censure and punishment of sexual assault, but in practice provides little justice to victims. A RJ-based alternative can address at least some feminist and therapeutic goals. It can provide clear and fair incentives to offenders to accept responsibility and engage in a restorative procedure. A more proactive justice system will be better able to empower victims and have the potential to achieve long term change.

**Pali, B. (2017). Towards integrative frameworks for addressing sexual violence: Feminist, abolitionist, social harm and restorative perspectives. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 28-43). New York, NY: Routledge, Taylor & Francis Group.**

#### **Purpose:**

- The restorative framework can learn from other perspectives within critical criminology to provide answers to sexual violence.

#### **Methodology:**

- The article highlights the feminist perspective, the abolitionist perspective, and the social harm perspective in broad strokes and looks at what they can contribute to a RJ framework.

**Findings:**

- No single perspective alone is able to counter all the problems that are related to sexual violence.
- The feminist approach notes that sexual violence has historically been tolerated and relegated to the private sphere, stopping public recognition and condemnation of the harm it causes.
- Abolitionists believe in alternatives to punishment based on conflict resolution, reconciliation, and creating the social conditions for pain reduction.
- Abolitionism puts almost all crimes on the same political level and ignores the serious and gendered impact of sexual violence.
- The social harm perspective notes that the criminal justice system is overly individualistic. The criminal justice system disproportionately punishes the transgressions of the crimes of the poor and people of colour.
- Something as complex as “doing justice” cannot be measured in the number of years the offender spends in prison.
- RJ considers wrongdoing to be a disruption of social bonds. In RJ, the needs and interests of the persons involved must be addressed in order to solve the disruption.
- RJ seeks to contextualize the wrongdoing and aims for agreement or consensus on how to “make good” among those affected by the wrongdoing.
- RJ allows for participants to discuss and reflect upon the connections between specific acts and the related social conditions which can raise awareness about social harms.

**Author’s position:**

- A multi-perspective approach is necessary in addressing sexual violence.
- Context-dependent strategies are always needed to deal with sexual violence.
- RJ, if informed by different perspectives, can balance and address the diverse needs of victims, offenders, and community.

**Randall, M. (2013). Restorative justice and gendered violence? From vaguely hostile skeptic to cautious convert: Why feminists should critically engage with restorative approaches to law. *Dalhousie Law Journal*, 36(2), 461-499.**

**Purpose:**

- In this paper, the author discusses key principles and directions for further engagement between feminists and proponents of RJ in the development of approaches to the harms of gendered violence.

**Method:**

- The article consists of a review and critical engagement with bodies of literature on the criminal justice system, RJ, and RJ models for gendered violence. It offers conceptual arguments on alternative and restorative approaches to gendered violence.

**Findings**

- Many of the criticisms of RJ, regarding gender violent crimes, are legitimate and must be addressed in any development or adaptation of RJ for gendered violence. Any RJ model

for gendered violence must be victim centered and include the victim(s), offender(s), and the community.

- There are criminal justice system problems when it comes to processing gendered violence. Most gender violence crimes are not reported and if they are, many are dropped before trial. Few accused are convicted. The sentences, for those who are convicted, tend to be lenient. The adversarial process of the criminal justice system re-victimizes and re-traumatizes the victim.
- Some key features of RJ include holding the offender responsible and the active participation of the offender to address the harm. RJ aims to repair the harm and heal those affected including the victim, offender, and the community. The community is important because RJ views violence against women as being a social and public issue, not an individual and private one.
- In RJ, the starting point is the offender's admission of guilt. In a criminal trial, where admissions of guilt are rare, the facts of what happened are contested and denied. This results in attacks on the victim's credibility.
- Feminist criticisms of RJ include: insufficiency with regard to women's safety, its softness on offenders, its lack of offender accountability, its insistence on forgiveness, its potential to coerce victims to participate and compromise women's integrity, and its inability to deliver justice for its victims. A lot of these criticisms involve cases where RJ has been applied without adequate training or understanding of gender inequality and gendered violence.
- There is a need to shift away from only documenting defects of the criminal justice system to alternative approaches to justice. This may involve considering what justice means from the perspective of the victim.
- A RJ approach to gendered violence must include: prioritizing the victim; risk assessment and safety planning; extensive preparation; program standards that are regularly reviewed; the involvement of community members; the abandonment of the idea of neutrality and a focus on anti-violence and gender equality; challenging victim blaming, social denial and the minimization of the harms of gendered violence; specialized training about gender inequality; being cognizant of racism and other social inequalities; a requirement of ongoing monitoring and follow-up; and being trauma informed and include specialized trauma training.
- A successful RJ approach must include careful planning and preparation, development of standards of practice and transparent, self-critical, self-evaluating, and public reporting.
- Despite fiscal constraints, state resources are essential to the development of adequate RJ programs.

**Author's position:**

- The author believes that there is a need for more effective, expansive, creative, and victim-centred and victim-sensitive legal remedies for crimes of gendered violence. Women may benefit from RJ rather than the traditional criminal justice system.

**Shapland, J. (2014). Implications of growth: Challenges for restorative justice. *International Review of Victimology*, 20(1), 111-127.**

**Purpose:**

- The author examines what RJ practices exist, its implementation mechanisms, and theoretical viewpoints.
- The article identifies difficulties with RJ and focuses on starting points for RJ practices in new areas, such as RJ with serious crimes.

### **Methodology:**

- The author reviews the RJ literature and organizes the discussion as follows: 1) the development of RJ worldwide, 2) typing up with criminal justice, 3) moves toward professionalization, 4) a need for new theoretical developments, and 5) developing an ethic of RJ.

### **Findings:**

- Conferencing occurs in 26 countries and on all continents. Conferencing is used with young offenders and with a wide range of offences (including domestic violence and sexual violence). Referrals can be made by police, prosecutors, and the courts. There are two ways in which programs are designed: a) the offender has to participate, or b) offender and victim may participate. Participation options include: in person, video/audio links, letters and the use of a proxy. Most programs aim to reach an agreement between the parties present at the conference.
- Mediation occurs in 28 jurisdictions in Europe and 11 jurisdictions outside of Europe. Most programs are for young offenders, with a wide range of offences. Referrals were the same as for conferencing though a bigger proportion come from the courts. The main difference in mediation and conferencing is seen in the finding that though supporters are not formally part of mediation most of the programs described allow both victim and offender to bring a supporter. Mediation programs were less likely to allow a victim replacement (a proxy). Mediation tends to strive for outcome agreement.
- There is a lack of availability, awareness, and trained facilitators of RJ.
- Generally, RJ is used successfully in the majority of cases where it has been mainstreamed as a statutory service and is no longer dependent on referral decisions by criminal justice personnel.
- The growth of RJ and its use in cases of serious offences are likely to lead to a move towards the professionalization of RJ.
- It is only through government action that criminal justice agencies will be encouraged to refer cases and to play their part.
- Problems with RJ include: low public awareness, lack of clarity, lack of a government-based forum, a need to strengthen the 'statutory footing', misunderstanding of the roles and outcomes, access to RJ, on-going monitoring and evaluation, and the lack of best practices.
- Potential action include: improving access to RJ, increasing awareness, increasing capacity of skilled facilitators, building evidence for best practice, legislating, creating a database of skilled facilitators, creating a national protocol for information-sharing, and creating local partnerships.
- Professionalization could be facilitated by a national association, even though these new professionals (i.e. RJ facilitators) may remain volunteers (but trained, coordinated and resourced volunteers, funded by the state).

- There are real tensions, dangers and theoretical challenges in increasing professionalization of RJ.
- There is a need to develop an ethic of RJ. Some important values may include: voluntary participation, inclusivity, community, safety, voluntary agreement, and neutral facilitator or mediator.

**Author's position:**

- The author believes that the growth of RJ and its increasing closeness to the criminal justice context have brought benefits in terms of the possible use of RJ for different stages of the criminal justice system and for all types of offences (even more serious offences).
- More discussion is required regarding concerns about core values of RJ, developing its ethics, and elaborating a theoretical basis.

**Wager, N. (2013). The experience and insight of survivors who have engaged in a justice meeting with their assailant. *Temida 16(1), 11-32.***

**Purpose:**

- This article explores the experiences of survivors of sexual violence who engaged in a RJ process with their assailant to determine whether the process helped their recovery.

**Methodology:**

- This scoping study involves the synthesis and analysis of research and non-research material.
- Search words include: sexual assault or sexual abuse or sexual violence or sexual offen\* or gendered violence or child sexual abuse or serious violence or severe violence and restorative justice or conferencing or victim-offender mediation or victim offender dialogue.
- Databases include: SocIndex, Google, Google Scholar, PsychInfo, Sage Criminology Collection, Psychological and Behavioural Sciences Collection and PubMed.
- The study reviews a total of 58 publications and 10 publically available cases/accounts of survivors' perspectives about their experience in participating in a RJ process that involved a face-to-face meeting with their assailant. The cases used for this study were from the UK, US, Australia, and Spain.

**Findings:**

- Referrals to a RJ process happen at various stages: diversion from court, following a police caution, and at the same time as the traditional criminal justice system process.
- The cases (historic child sex abuse, marital rape, rape by a stranger, sexual assault of a minor) were either a victim-initiated RJ process or an offender-initiated RJ process.
- The age range of the survivors at the time of the RJ process was from 13 to mid-50s.
- The duration between the sexual assault, or the reporting of the abuse in the context of child sexual abuse, and the RJ meeting was between 4 months and 25 years.

- The duration of the preparation of cases where it involved a victim-initiated program was between 6 months to several years. Cases where RJ was a diversion from the court, the duration of preparation was less.
- Some suggestions for best practices include: 1) offer on-going counselling support, 2) expectation management, 3) preparation/fully informed, 4) offer alternative avenues for survivor engagement in RJ in the event that the offender declines participation, 5) organizing and planning the meeting (e.g. visit of location beforehand), and 6) options to have supports present.
- Arguments supporting RJ include: 1) victim/survivor has a more central role, 2) it can avoid possible secondary victimization under the adversarial processes, 3) validation of experiences during the RJ process, and 4) subjective and holistic focus with RJ, instead of legal conceptualizations, that can work to condemn violence.
- Arguments against RJ include: 1) diminishing the seriousness of the offence / seen as a “soft” approach, 2) RJ may be regressive for the progress made in elevating the seriousness of sexual violence in political and public agendas, 3) victim/survivor safety concerns, and 4) lack of available funding.
- There are a number of gaps in the literature. Some areas/questions for further development include:
  - Understanding survivors’ perceptions of the desirability and expectations of RJ.
  - What kind of survivors show a preference for RJ (e.g., the nature of the victimization and level of engagement in the criminal justice system)?
  - How many people would seek RJ if it were available?
  - Should RJ be offered as an addition or an alternative to conventional justice?
  - Likelihood of engagement based on the criminal justice system stage.
  - Evaluation of existing programs to go beyond the levels of satisfaction (e.g., the change in the degree of self-blame, evidence of letting go and moving on, restoration of damaged relationships, increased sense of safety).
- Some limitations of this work include: small sample of cases examined and certain uncertainties (when these experiences were sought out/how soon after the RJ process); and the possibility that only favourable accounts of RJ will make their way into the public domain.

#### **Author’s position:**

- The author believes that there are certain circumstances where survivors of sexual violence could benefit from participating in RJ. However, RJ programs need to be specifically designed for sexual violence cases. There needs to be more funding opportunities or opportunities for investments for programs that exist outside of the criminal justice system to commit time and resources.

**Woessner, G., (2017). On the relationship between restorative justice and therapy in cases of sexual violence. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 248-265). New York, NY: Routledge, Taylor & Francis Group.**

#### **Purpose:**

- This chapter compares the therapeutic and criminogenic needs of victims and offenders in order to understand the advantages and disadvantages of RJ in cases of sexual violence. The author also explores the relational pathways between therapy and RJ.

### **Methodology:**

- The author reviews existing RJ literature and synthesizes it in response to various questions regarding the relationship between RJ and therapy.
- Questions include:
  - What is the relationship between therapy and RJ?
  - Do they interfere with or complement each other?
  - What are the challenges for RJ practitioners and therapists when the victim or the offender is undergoing both RJ and therapy?
  - Can RJ and therapy be pursued at the same time and are they mutually dependent on each other?
  - Does RJ correspond to the aims of therapeutic work?

### **Findings:**

- RJ may aid in a victim's therapeutic process of maladaptive to adaptive coping. Further, by allowing victims to address their negative feelings (of anger or shame) the RJ process may assist in increasing or strengthening victims' positive feelings. For example, post-traumatic stress disorder (PTSD) is characterized by recurrent and intrusive recollections and dreams of the incident, very often including flashbacks associated with dissociation, persistent avoidance with stimuli associated with the sexual assault, hyperarousal and negative emotional and/or cognitive changes, and being unable to experience positive emotions; therefore, the combination of therapy with RJ is a way to overcome trauma and regain power over one's feelings and thoughts.
- Another possible benefit of RJ for victims with PTSD is that it may help them to lose their fear of the offender after hearing that they will not commit further crimes.
- For offenders, RJ may be used in conjunction with sex offender therapy in order to improve empathy deficits, which is a primary treatment goal for sex offenders.
- Another theme in the author's synthesis of the literature is that therapy and RJ must be clearly separated, including the role of the therapist and that of the RJ facilitator. It should be clear that although RJ may have a therapeutic effect for victims and offenders that it is not in and of itself a form of therapy.
- It is possible for RJ to occur at varying stages within the criminal procedure – police, prosecution, sentencing, or post-sentencing – and who initiates the process may vary.
- The question of whether a victim or offender should be or have been in therapeutic care prior to participating in a RJ process cannot be answered as it is highly dependent upon the situation. It is important that any possible impacts of RJ are identified and how best to manage them before victims or offenders engage in a RJ process.
- Intensive preparation for the RJ process is necessary.
- The timing of a RJ process is crucial to examine. Although some argue that there is no 'wrong' stage for it to occur, others assert that the ideal stage is in a post-prison context. RJ should not be hurried as it may take an extended period of time from a therapeutic standpoint to prepare the RJ participants.

**Author's Position:**

- RJ must not be considered as a means of therapy. It is also important for both therapists and RJ facilitators to have a comprehensive understanding of trauma and sexual violence when it comes to victimization and offending.
- Because RJ in cases of sexual violence is relatively new, further empirical research is needed with regard to therapeutic efficacy as well as the link between both offender and victims' treatment and RJ.
- Further theoretical and empirical support for RJ is needed in order to protect the rights of both victims and offenders.

**Zinsstag, E., & Busck-Nielsen, V. (2017). Wartime sexual violence and conventional and restorative justice responses: the potential of a “blended approach” within transitional justice. In E. Zinsstag & M. Keenan (Eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions* (pp. 69-91). New York, NY: Routledge, Taylor & Francis Group.**

**Purpose:**

- This book chapter expands practical justice options to wartime sexual violence against women and girls by blending conventional and restorative justice approaches.

**Methodology:**

- This study consists of a historical look at various justice system responses to wartime sexual violence in societies transitioning to peace. The conventional approach and the RJ approach are critically assessed in order to advocate for a blended approach to addressing sexual violence perpetrated during war.

**Findings:**

- Challenges to addressing sexual violence in a post-conflict setting are significant given the scale of violence, the lack of services, and limited police force and judiciary.
- Justice is imperative not only because sexual violence violates human rights, but because justice has implications for societal peace and security.
- The ideal form of transitional justice blends conventional and RJ approaches.
- Achieving fairer treatment for victims and ending the effective impunity granted to most offenders will require sustained political will on the part of international community, national governments and key local actors committed to lasting justice.
- Rigid procedural requirements, which are a staple of the conventional judiciary, can be ill-suited to handle the emotional and personal trauma generated by wartime sexual violence.
- Conventional courts fall short of addressing the complexity of harm caused by wartime sexual violence because they can only provide the imprisonment of the offender and material compensation for victims of wartime sexual violence.
- RJ prioritizes dialogue, acknowledgement of the victim's harms and the need for repair, which makes healing possible.
- Neither conventional nor RJ responses on their own respond appropriately to wartime sexual violence.

- Truth-seeking mechanisms for victims of massive human rights violations together with reparations programs are increasingly recognized as essential to deal with the legacy of civil war.
- Truth and reparation programs must be flexible enough to ensure victims are not punished, stigmatized, or retraumatized for testifying.
- The transitional justice process should favour a ‘bottom up’ approach and especially community initiatives.

**Author’s position:**

- Transitional justice mechanisms have an important educational role to play in preventing future victimization.
- Effective transitional justice mechanisms lay the foundations for a just society to emerge.

**Zinsstag, E., & Keenan, M. (2017). *Restorative responses to sexual violence: Legal, social and therapeutic dimensions*. New York, NY: Routledge, Taylor & Francis Group.**

**Purpose:**

- A 2014 meeting on RJ in Belgium brought together experts on RJ and sexual violence from academic, practice, community, and policy backgrounds. Some of those discussions are taken up in this edited collection.
- This volume addresses legal, social, and therapeutic dimensions of restorative responses to sexual violence.

**Methodology:**

- The edited collection consists of a mix of empirical, literature reviews, and theoretical assessments of RJ in the context of sexual violence.

**Findings:**

- The introductory chapter confronts conceptual and definitional issues, starting points, complexities, and nuances of: sexual violence, victims/survivors, and RJ.
- Despite the benefits of RJ, research in this edited collection is concerned with how the needs and interests of victims are reconciled with the needs and interests of offenders in the RJ process. There is a related concern about how RJ may re-victimize in subtle ways and may be challenging given power imbalances.
- There are safeguards to combat these concerns, including procedural protections that ensure the physical and emotional safety of participants.
- Training among RJ facilitators is emphasized, with a particular focus on the dynamics of sexual violence.
- Big questions posed by victims, such as ‘Why did you do this to me?’ are challenging to ask and challenging to pursue in RJ.
- There is a growing body of work supporting RJ in cases of severe harm. In the cases presented in the volume, research shows how RJ can: meet the needs of victims; allow victims to reclaim their voice; challenge notions that the life of the victim has been ruined; and provide opportunities to change the narrative around the effects of sexual violence.

- There is a perception that RJ in sexual violence is ‘more risky’ so caution, training, skills, and safety are important for practitioners.
- The chapter entitled ‘Repairing the harms of rape of women through restorative justice’ by Nikki Godden-Rasul illustrates how the harms around rape can be used in the RJ process and RJ can contribute to repairing some of these harms.
- The Brunilda Pali chapter entitled ‘Towards integrative frameworks for addressing sexual violence: feminist, abolitionist, social harm and restorative perspectives’ reviews various perspectives that can address sexual violence and argues that RJ frameworks can benefit from other perspectives within critical criminology to learn about sexual violence.
- ‘Criminal justice, restorative justice, sexual violence and the rule of law’ by Marie Keenan reviews the arguments supporting and opposing RJ and some of the legal challenges with RJ.
- Estelle Zinsstag and Virginie Busck-Nielsen’s chapter entitled ‘Wartime sexual violence and conventional and restorative justice responses: the potential of a “blended approach” within transitional justice’ uses examples of wartime sexual violence against women and girls to expand practical justice options with a combination of traditional and RJ approaches.
- Tony Ward’s ‘Restorative justice and the dual role problem confronting practitioners’ presents the dual role problem of RJ where practitioners juggle their ethical responsibilities to victims of crime, the community, and to the individual who has committed a crime.
- Kathleen Daly discusses how to build a body of evidence to assess and compare justice responses to sexual violence in her chapter ‘Sexual violence and victims’ justice interests’. This involves a model that consists of exploring: contexts of victimisation, justice mechanisms, and victims’ justice interests.
- In ‘Sibling sexual violence and victims’ justice interests: a comparison of youth conferencing and judicial sentencing’, Kathleen Daly and Dannielle Wade apply a method to assess and compare RJ conferences, particularly in the context of sibling sexual violence.
- Clare McGlynn, Julia Downes, and Nicole Westmarland’s chapter engages with victims’ justice interest by examining the understandings of ‘justice’ from victims of sexual violence. In ‘Seeking justice for survivors of sexual violence: recognition, voice and consequences’ the authors argue that restorative approaches can satisfy certain aspects of the survivors’ justice interests.
- In ‘Achieving justice outcomes: participants of Project Restore’s restorative processes’ by Shirley Jülich and Fiona Landon, the authors apply the Victimisation and Justice Model (from chapters 6 and 7) to project RESTORE to show how most outcomes are achieved and the interests of victims are met.
- Elise C. Lopez and Mary P. Koss’s chapter entitled ‘The RESTORE Program for sex crimes: differentiating therapeutic jurisprudence from restorative justice with therapeutic components’ analyzes the differences between therapeutic jurisprudence and RJ to argue for conceptual clarity. Notably, they suggest that RJ conferencing programmes should differentiate between the justice and therapeutic outcomes for victims in research and evaluations.

- Miriam Beck, Daniela Bolívar and Bie Vanseveren in their chapter entitled ‘Responsibility, care and harm: the involvement of the community in cases of child sexual abuse. A reflection from the practice experience of the Belgian mediation service Alba’ assess how the closest social relationships for victims’ and offenders’ can participate in RJ.
- Gunda Woessner’s ‘On the relationship between restorative justice and therapy in cases of sexual violence’ compares therapeutic, criminogenic and protective needs of both victims of sexual assault and of sex offenders. This is used to assess achievements and risks of the RJ process in cases of sexual violence.
- Finally, in ‘Circles of support and accountability: survivors as volunteers and the restorative potential’ by Nadia Wager and Chris Wilson assesses the restorative potential for victim/survivors of sexual violence in working with sex offenders as volunteers in Circles of Support and Accountability (CoSA). The authors explain how victims/survivors work to maintain their resilience and self-manage risks to their psychological well-being by volunteering with the program.

**Authors’ position:**

- RJ and sexual violence remains widely under-researched. This edited collection brings varied and rich messages about the use of RJ in this context.

### 3.2.2 Government reports

**Bolitho, J., and Freeman, K. (2016). *The use and effectiveness of restorative justice in criminal justice systems following child sexual abuse or comparable harms*, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney.**

**Purpose:**

- In 2013, the Royal Commission into Institutional Responses to Child Sexual Abuse commissioned an international literature review. The review examines research evidence on the use, justification and effectiveness of restorative justice approaches in relation to child sexual abuse and concerns/problems using RJ particularly as it relates to institutional and non-familial child sexual abuse.
- This report focuses on restorative justice approaches used within criminal justice systems.

**Methodology:**

- A review of international literature on RJ in cases of child sexual abuse. It focuses on four areas:
  - the current extent of RJ in cases of institutional child sexual abuse and other child sexual abuse;
  - the empirical evidence supporting RJ for child sexual abuse (or comparable areas);
  - the issues and criticisms on the use of RJ; and
  - the considerations or implications for using RJ in cases of institutional child sexual abuse.

- To compile the literature to review, the authors conducted a keyword search of 12 databases, a search of grey literature repositories, and engagement with six international RJ networks to explore current practices and research.

### **Findings:**

- There are 15 discrete programs that offer RJ to address harms following child sexual abuse or similar harms. Among these programs, zero reported completing cases relating to institutional child sexual abuse, six use RJ to address other forms of child sexual abuse, five used RJ after some form of adult sexual abuse, and four work with other kinds of harm.
- Three programs are tailored to address the needs of victim-survivors and offenders after sexual abuse. These programs include: ‘Project Restore’ in New Zealand (began in 2005), ‘RESTORE’ in Arizona in the US (operated between 2003 and 2007) and the New South Wales Pre-Trial Diversion of Offenders, known as ‘Cedar Cottage’ (Child Sexual Assault) Program (1989 to 2014).
- Restore and Project Restore (inspired in part by the program in Arizona) are located within explicitly feminist frameworks, advocating for the needs of victim-survivors of sexual abuse.
- The majority of programs (12 out of 15, or 80 per cent) are designed to meet the needs of victims and offenders in the aftermath of serious (usually violent) crime.
- Of the 15 programs, just over half (eight, or 53 per cent) operate pre-sentencing, four (27 per cent) operate post-sentencing with the offender either still in prison or being managed in the community by the relevant criminal justice department, two (13 per cent) accept referrals at either the pre or post-sentencing stage, and one operates pre-court (with referrals made by the prosecutor).
- The programs have four main goals: (i) to support offenders in non-offending by increasing their insight; (ii) to improve victim-survivors’ experience of justice by considering their wellbeing and needs (for example, for information); (iii) to improve victim access to justice by offering a different avenue to address harm; and (iv) to build healthy communities where relationships are strengthened.
- All 15 programs have been evaluated. Some of the findings include:
  - There is good evidence for offender-oriented treatment practices such as the Cedar Cottage Pre-trial Diversion Program.
  - Internationally, there is good evidence for using RJ post-sentencing. There is a 95 per cent success rate (based on pre and post meeting justice needs being met) documented in the Victim Offender Conferencing (see Bolitho 2015) and this is similar to long-established post-sentencing programs in the US (see Victim Offender Sensitive Dialogue, Umbreit et al. 2006) and in Canada (see the Community Justice Initiatives Association’s Victim Offender Mediation Program, Roberts 1995 and Gustafson 2005).
  - The most useful research (assessed based on rigour, relevance and sample size) relates to the South Australian Family Conferencing model. The findings illustrate how harms are dealt with more quickly with conferencing than court, more offenders agree to stay away from victims, offer apologies and are more likely to

participate in a treatment program tailored to address the reasons for sex offending.

- There are conditions for good outcomes when using RJ. Some of these include: specialism including the skills of the facilitator, vigilant screening, the use of experts, flexibility and responsiveness to the needs of participants, timing and survivor readiness, and targeted participation in treatment for offenders.
- RJ may also be offered independent of the criminal justice system. The review identified 29 programs that operate outside of a formal civil or criminal justice context. There were 25 empirical studies on programs outside of the justice system.
- For the studies on RJ outside of the justice system, there is evidence for the effectiveness of the Circles of Support and Accountability models in the USA (see Duwe 2013), Canada (see Wilson et al. 2009) and the UK (see Hoing et al. 2013), and the Victims' Voices Heard program model (see Miller 2011).

#### **Authors' position:**

- The evidence suggests that RJ can be used to achieve good effect following sexual abuse.
- RJ may operate both within and independently of the criminal justice system.
- RJ is seen to have certain qualities, both a mechanism for obtaining justice and a kind of justice.
- The authors expect that extending RJ to cases of sexual violence will be challenging but they rely on emerging evidence illustrating how RJ can be practiced safely and benefits for victim-survivors, offenders and communities after experiencing the harms of sexual abuse.
- RJ is seen as one option on the menu of imaginative and innovative responses to harm.

**Centre for Innovative Justice. (2014). *Innovative justice responses to sexual offending – pathways to better outcomes for victims, offenders and the community*. Melbourne, VIC: RMIT University/ Centre for Innovative Justice.**

#### **Purpose:**

- The Centre for Innovative Justice was commissioned by the Australian Attorney General's Department to identify important innovations in the justice system.
- The objectives include: identifying innovative justice processes that have the potential to meet the needs of victims of sexual offending; addressing public interest concerns; and preventing reoffending in ways that the conventional justice system cannot achieve.

#### **Methodology:**

- The report builds upon existing theoretical work and proposes a best practice for sexual offence RJ conferencing. The work is influenced by national and international innovations that can be tailored and implemented in all Australian jurisdictions.
- The report consists of a national and international review of research and current practices, as well as consultation with stakeholders.

#### **Findings:**

- Sexual assault is complex and pervasive yet the criminal justice system response is inadequate for a large majority of victims. Especially given that victims have historically been met with denial, disbelief, limited understanding, gendered assumptions, and inadequate responses.
- Legal responses seen in tough penalties, stringent release conditions, and long sentences do not address the majority of sexual offending and make offenders reluctant to accept responsibility. It simultaneously makes victims reluctant to pursue prosecution.
- RJ tends to exist at the periphery and is not extended to sexual offending for adults.
- If there are comprehensive safeguards, and a coordinated and properly resourced system, RJ for sexual offences through conferencing has the potential to meet more justice needs of victims who are currently being failed by the system.
- A RJ conferencing model for sexual offending includes: legislation and overarching principles, a RJ oversight body, specialist teams on gender violence, expert assessments to determine the suitability of RJ, skilled specialists as RJ facilitators, basic eligibility criteria, clear pathways in and out of RJ, consultation with Indigenous communities, RJ that is responsive to the needs of victims and their cognitive impairments, disabilities, and mental illness, funded and accessible community-based sex offender treatment, and balance of the victim's autonomy and public policy considerations.
- A suite of recommendations are presented to: achieve greater justice for more victims, hold more offenders accountable, more effective crime prevention, offer tailored and flexible response from the justice system, operate as part of the solution not only to individual offences but also to the systemic nature of sexual violence, and draw on expert knowledge of sexual offending.

**Author's position:**

- Victims need more choice in their pursuit of justice. They need options to best meet their circumstances, they need opportunities to tell their story, they need to have their harm acknowledged, they need to participate in the process, and they need to have a say in the outcome.
- The justice system should be responsive, inclusive, flexible, and fair.
- The choice is not between "tough" or "soft" responses to sexual harms, but reform depends on "appropriate" responses that meet victims and offender's needs, rights, and integrity.
- There should be no explicit offender or offence exclusions. Rather, victim autonomy, consent, and expert forensic assessments should guide the decision about RJ suitability.
- Justice processes should be seen as an essential service and therefore not be beyond the reach of a majority of sexual assault victims.

**Fox, K. J. (2013). Circles of Support and Accountability, Prepared for the State of the Vermont Department of Corrections, United States.**

**Purpose:**

- The Circles of Support and Accountability (CoSA) re-entry program in Vermont is funded by the Second Chance Act of 2007: Community Safety through Recidivism Prevention (H.R. 1593/S. 1060), which is funded by the U.S. Congress. Part of the funding is allocated to evaluations.
- CoSA is a community-based, nonprofessional model offering a reintegration support team for high-risk released offenders to help develop mutual relationships, navigate their social life, and be held accountable to the team, victim(s), and community.
- In 2010, the State of Vermont Agency of Human Services, Department of Corrections, contracted with Professor Fox to conduct a qualitative evaluation of their CoSA program funded by the federal Second Chance Act. The in-depth qualitative analysis examined how CoSAs work.

**Methodology:**

- The evaluation consists of a qualitative assessment of CoSAs in Vermont. It is based on semi-structured, open-ended interviews with core CoSA members including released offenders, community volunteers, and coordinators.
- The evaluation analyzes the nature of CoSAs' relationships and how the program works. The evaluation focuses on answering three questions:
  - How do CoSAs work?
  - What is the nature of the relationships formed within Circles?
  - How do the relationships support desistance from crime/why do CoSAs work?
- The study evaluated 21 CoSAs including 21 core members (released offenders), 59 volunteers, and 9 re-entry coordinators for a total of 89 participants.

**Findings:**

- The CoSA program has a profound impact on core members and volunteers.
- CoSA has also helped core members abide to stringent release conditions.
- Volunteers noted the positive effect, value, and benefits of the program.
- Core members noted feeling grateful for the support and enthusiastic about the program. All but one core member was fully positive about the program. Core members also expressed more positive sense of self as contributing members to society, a commitment to pro-social relationships, a sense of mutual obligation toward and trust of circle members, and greater optimism for the future. Most core members noted that they would have returned to jail without the help of the CoSA.
- CoSAs fill the gap that exists among programs inside prisons, compliance, and supervision in the community. These gaps include the lack of support from family and/or friends; institutionalized sense of self because of a long term of confinement; and relationship and life skill deficits.

**Authors' position:**

- The author recommends:

- Retaining and expanding the use of a CoSA-inspired model;
- The need to focus on staff buy-in; and
- Using CoSA as a roadmap for correctional practice.