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<td><a href="http://www.scottishinsight.ac.uk/Programmes/Learningfromotherplaces/RestorativeJustice.aspx">http://www.scottishinsight.ac.uk/Programmes/Learningfromotherplaces/RestorativeJustice.aspx</a></td>
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Response: Responding to Sexual Violence: Is there a Role for Restorative Justice?

Dr Marie Keenan
University College Dublin
Response Influenced By:

• Daphne Funded Research (with Estelle Zinsstag): *Developing integrated responses to sexual violence: An interdisciplinary research project on the potential of restorative justice* (2015)

• Irish Research: *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?* (2014)

• 40 years working with Victim-survivors of sexual abuse and violence

• Prison based work with men who rape (1980s-1990s)

• Founding member and co-ordinator of treatment programme for men who had sexually abused minors (Granada Institute) (1996-2002)

• Facilitator of RJ in cases of sexual violence
Outline of Response

- Locate My Interest in RJ

- Motivations: why some victims and offenders of sexual crime would want RJ

- ‘Justice’ for Victim Survivors

- Identify some of the key areas of international debate regarding RJ in cases of SV
Locating my Interest in RJ
Locating my Interest in RJ

- Justice Gaps for Victims......
- Accountability Gaps for Offenders......
- Healing Gaps for Both......even where there have been Conventional Criminal Justice Responses
Motivation for Restorative Justice:

Why do some Victim Survivors want it and Why are Offenders willing to Participate
Motivations for RJ:
*Sexual Trauma and Abuse: Restorative and Transformative Possibilities* (2014)

- Qualitative Study, Oct 2012 - May 2014,
- 149 People interviewed (30 victim – survivors; 23 offenders)
- Qualitative interviews on average 2-3 hours [some less]
- Analysis using Atlas ti
Evidential Threshold "Beyond Reasonable Doubt" problem in (a) cases proceeding to trial and (b) in securing convictions

Secondary Victimization by process itself

Even when ‘Justice’ achieved in Criminal Proceedings there are unmet needs for Voice...
Why Some Victim Survivors want RJ – mixture of Justice and Healing Interests

- Face the Offender …with Statements
- Face the Offender …with Questions
- Face their Fears
- Change “the Memory Card”
- Healing
- As a Mechanism of Accountability
- Understand but Not Excuse Sexual Violence
- Family Reconciliation
- ‘Getting out of Relationship’ with the Offender
- Apology and Forgiveness
Concerns of Victim Survivors re RJ

- That RJ would be promoted as alternative to CJS
- RJ not as Alternative to CJS but Additional Justice Mechanism
- Exception: Intra-familial and Young Offenders (some retrospective abuse situations)
- Victims want RJ available for all who require it (even if not for themselves)
- Too much time had Elapsed – moved on, trauma
- Ownership and Control of Decision-Making
- State Support and Legitimacy – Bottom Up and Top Down
Why Offenders would agree to Participate in RJ

- Debts owed, Moral Obligation
- Opportunity for Victims to Confront person who harmed them
- For Victim to ask questions and get ‘Honest’ answers
- Apology and Expression of Sorrow
- Healing for Victim, Offender and families of both
- Desire to see Victim move on with their Lives
- Forgiveness....
- RJ would fill a gap in the CJS

- Offenders would take part if requested to do so
Justice Interests of Victim Survivors
Justice Interests of Victim Survivors

- Differentiate justice and therapeutic (‘healing’) outcomes (Daly)
- Not ‘needs’ – Justice ‘interests’ as citizens (Daly, 2017) – Moral basis for what survivors can expect
- Victimization is a process – not a category or identity
- Justice is a process – not an event or intervention
- Diverse experiences of victimization
- Diverse demands for justice
- Multiple goals for justice which can change over time… requiring multiple responses (Daly, 2014)
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<th>McGlynn</th>
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<tr>
<td>• Voice</td>
<td>• Participation</td>
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<tr>
<td>• Recognition and</td>
<td>• Voice</td>
</tr>
<tr>
<td>acknowledgement of</td>
<td>• Validation</td>
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<td>Offending</td>
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<td>• Consequence</td>
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<td>• Prevention</td>
<td>taking responsibility</td>
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Assessing differing Justice mechanisms from a Victim Survivor’s perspective (Sibling Incest Situations)

Conventional Justice (Criminal Prosecution)
- Validation (50%)
- Vindication (50%)
- Voice (25%)
- Offender Accountability taking responsibility (40%)
- Participation (almost 0%)

Innovative Justice (Restorative Justice)
- Voice – 80%
- Validation (80%)
- Offender Accountability taking responsibility (67%)
- Participation (60%)
- Vindication (60%)
Why Consider the Role of RJ in SV?

- Justice Gaps for Victims……..

- Accountability Gaps for Offenders…..

- Healing Gaps for Both……even where there have been Conventional Justice Responses
Key Areas of International Debate Regarding RJ in Cases of Sexual Violence
Key Areas of International Debate

- Is RJ Dangerous for Victim Survivors?
- Are Sex Offenders suitable for RJ?
- How can RJ co-exist with the Rule of Law, Due Process, Presumption of Innocence, Right against self incrimination, Right to a fair trial etc?
- How can *Public Interests* and *Private Interests* be both served in aftermath of sexual crime?
- Relationship of RJ to CJS – timing, legislation or policy or both, who decides etc?
Dilemma

• If we constrain ourselves to Therapeutic Jurisprudence – which centres on legal mechanisms and legal actors - are we serving Victims and Offenders well – or are we limiting the range of justice options for victims?
Conclusions

- The Practice is happening ‘Under the Radar’
- Time to consider Innovations in Justice Responses to SV as well as continuing to improve Procedural Justice and Conventional Justice Mechanisms
- Not alternative but addition to CJS – with some exceptions
- Education of CJS agents
- Special Training for Facilitators
- Preparation, Preparation, Preparation
Conclusions

• Managing Human Risk – Always risk

• Work with Imagination as well as Evidence

• Proceed with Courage as well as Caution
Thank You

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