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## **The experience and insight of survivors who have engaged in a restorative justice meeting with their assailant**

NADIA WAGER\*

*This review study explores the experiences of survivors of sexual violence who engaged in a restorative justice (RJ) meeting with their assailant to ascertain whether the process contributes to, or further compounds, their recovery. This paper forms a small part of a more extensive scoping review employing Arksey and O'Malley's (2002) framework. The search was confined to articles/reports published in English. Initially, 58 sources were identified as suitable for inclusion and each of these sources were then scrutinised to identify accounts of survivors of sexual violence who have taken part in RJ initiatives that have involved a face-to-face meeting with the assailant. This revealed 10 applicable cases, from across four different countries. The findings suggest that under certain circumstances survivors of sexual violence might receive significant benefit from participating in RJ. The specific conditions under which the benefits appear to be forthcoming and areas for future research are discussed.*

**Key words:** Restorative justice; conference; mediation; sexual victimisation; survivors of sexual assault

### **Introduction**

The impetus for this paper comes from the growing realisation of the unrelenting harm that is bestowed upon many survivors of sexual violence who enter the criminal justice system (CJS) in the aftermath of their victimisation. Examination of survivors' experiences of progression through, and often eviction or withdrawal from, the CJS indicates that justice, let alone

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the potential for healing, are often unlikely to be forthcoming from this arena. Indeed, the practices and processes inherent in the prosecution journey are more likely to exacerbate than ameliorate the resultant sense of injustice and violation, and psychological harm following a sexual assault (e.g. Campbell, Sefl, Barnes, Ahrens, Wasco, Zaragoza-Diesfeld, 1999; Herman, 2005; Orth, Maercker, 2004). Sadly, this has been exemplified at the time of completing this paper, by the suicide of survivor Frances Andrade just days after facing a hostile cross-examination in a trial relating to historic sexual abuse (BBC, 9<sup>th</sup> February, 2013). Some claim that this experience is like a 'second rape' (Campbell, Dworkin, Cabral, 2009) and refer to this experience as 'secondary victimisation' (Fattah, 1997; Koss, 2000). It is apparent that such secondary victimisation has not been alleviated by the numerous well-intentioned policy and practice developments that have taken place over the past 20-30 years in the UK and elsewhere in the western world (Temkin, 2000).

Such developments in the UK include, but are not limited to the following: The legal recognition of marital rape in 1991 and male rape in 1994; both of which served to increase the numbers of officially recognised victims. The Sexual Offences Act (2003) also had potential to increase the number of recognised victims of serious sexual offences through the expansion of the definition of rape to include penetration of the mouth and anus and to acknowledge penetration with an object as a serious sexual crime. The introduction of the Victims' Charter in 1996 and the associated 'special measures' this permitted in relation to vulnerable and intimidated witnesses to ease the process of, and prevent secondary victimisation when, testifying in court (e.g. the use of screens in court to restrict direct confrontation between the survivor and the defendant). Similarly, the Youth Justice and Criminal Evidence Act 1999 removed both the defendant's right to personally cross-examine the survivor in court and imposed restrictions on the defense counsel's ability to use the survivor's prior sexual history as evidence to discredit his/her testimony. Whilst space here does not permit an individual evaluation of each of these measures, there is evidence, in the form of the widening justice gap (Kelly, Lovett, Regan, 2005), to suggest that even in combination these measures have not had a positive impact on the likelihood of survivors gaining justice or the reduction in risk for secondary victimisation.

Whilst the laudable additions to the legally defined categories of sexual assault victims and the advancements in the police response to individuals reporting sexual assault over the last 30 years have resulted in many more

survivors choosing to officially report, this has not equated with an increase in the proportion of survivors gaining justice. The evidence indicates that this increased trend in reporting has not been matched by an equivalent increase in the number of convictions. In fact, there has been a dramatic decline in the proportion of reports that lead to a successful conviction ([Daly, Bouhours, 2010](#); [Kelly et al., 2005](#)). This finding is even more alarming when one considers that even in the mid to late 1990s the rate of conviction for sexual assault was the lowest for all serious crimes (Phillips, Brown, 1998) and the rate of attrition in cases of sexual assault far exceeded that of at least fifteen other crimes (Roberts, 1996). This is despite the identity of the perpetrator of a sexual assault being typically known and not needing to be discovered through police investigation, as with many other crimes. In fact, in 2009 Burman reported that the UK had one of the lowest conviction rates for sexual crimes in Europe.

In light of such failure, despite a plethora of developments, some have suggested that it is time to consider alternative solutions. One such solution is restorative justice (RJ) or more inclusively, the use of restorative practices, particularly in the form of a face-to-face meeting between the survivor and the offender, and possibly their supporters. According to [Marshall \(1996\)](#), the defining feature of an restorative justice initiative is the potential it holds for the survivor to be involved in the decision-making process when constructing an agreement as to how the offender will repair the harm done to them.

RJ, as a response to sexual violence, may be used as an alternative to the adversarial justice system, whereby sexual violence cases could be diverted from the traditional justice system and referred to an RJ system, or as an adjunct (run in parallel) to the traditional system. When used as an adjunct, it appears that there are a number of different opportunities for conferencing to occur; as a diversion from court, pre, or post-sentencing or pre-prison release. This would therefore permit victims a greater sense of choice as to when they could potentially meet with their offender.

However, the notion of the applicability of RJ to sexual offences is a highly contested debate; with strong views being expressed in both support and in opposition to the notion. Due to the perceived ethical concerns voiced by those in opposition to the application of RJ there is a paucity of randomised-controlled trials, or other rigorously designed evaluation studies investigating the impact of RJ on either victims or offenders of sexual violence. Consequently, it is unclear what evidence is used to support the different claims and it has been argued that the debate has proliferated in an 'empirical vacuum'

([McGlynn, Westmarland, Godden, 2012](#)). Furthermore, the debate has largely been between a variety of academics and practitioners, who whilst they may feel they are serving the interests of survivors, may not indeed be expressing the views of survivors themselves; a common phenomenon in issues related to gendered-violence (Ronel, 2012). Whilst the desire to protect survivors of sexual violence from further harm is commendable, it is objectionable that such concern may serve to perpetuate the view of survivors as being weak, vulnerable and lacking capacity to speak and decide for themselves. Thus, it is the intention of this paper is to review 10 publically available accounts of survivor's experiences of taking part in a RJ conference in order present an insight into survivors' perspectives. Additionally, the arguments inherent in the debate are examined and suggestions future research offered.

## **Method**

This paper is drawn from a scoping study conducted using Arksey and O'Malley's (2002) six stage framework. Whilst there is no single unified definition of a scoping study, in this instance Davis, Drey and Gould's (2009) definition is deemed sympathetic to the current research intentions. They state that a: 'scoping review involves the synthesis and analysis of a wide range of research and non-research material to provide greater conceptual clarity about a specific topic or field of evidence (p.386)'. In the context of the current study the appeal of the scoping methodology is its flexibility which permits the inclusion of non-empirical literature into the review process (Levac, Colquhoun, O'Brien, 2010), since there were relatively few empirical studies addressing this research question. The search terms used were: 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. The following electronic databases were utilised in the search: SocIndex, Google, Google Scholar, PsychInfo, Sage Criminology Collection, Psychological and Behavioural Sciences Collection and PubMed. No limits were placed on the search with regards to year of publication since the use of restorative justice in any context has been only recently introduced into Western societies. However, the earliest paper identified was published in 1998 and the data collection was completed at the end of June 2012. The

search was confined to articles/ reports etc. published in the English language. The reference lists of articles were searched to identify other sources for inclusion. Initial reading of titles and abstracts identified 58 publications, which included 10 victims' accounts, which were suitable for inclusion.

### **Objective one: Consideration of the arguments for and against the applicability of RJ**

The range of arguments proffered by the proponents of the applicability of RJ conferencing to sexual violence cases include benefits that might be evident when RJ is offered as an alternative to adversarial justice and those that might also be evident when RJ is used an adjunct. In both instances, the survivor is believed to be given a more central role in the justice process, which could serve to rectify, or at least not replicate, the disempowerment experienced during the assault ([McGlynn et al., 2012](#)). Where RJ is used as an adjunct, it has been suggested that the process will address survivors' needs that are left unmet by, or go some way to ameliorate the harm done by the secondary victimisation arising from engagement with, the adversarial system. Such arguments include that it would permit the victim to tell their story, in their own words and without interruption; a feature which is negated in the adversarial system, but which is so often desired by survivors. They contend that RJ could extend the potential for justice and healing to a wider array of victims than are currently served by the adversarial system. For instance, cases deemed unlikely to result in a conviction and thus dropped by the Crown Prosecution Service and the families/partners and friends of survivors and perpetrators who may feel equally harmed by the offence. An RJ has potential to publically validate the victims' experience and provide assurances and recognition that they are not to blame for the assault. This is believed to be particularly pertinent in cases of sibling perpetrated child sexual abuse ([McNevin, 2010](#)), where the RJ process permits not only the victim, but also their parents to develop an appreciation of how the offending family member manipulated, coerced and maintained the secrecy of the victim. This can aid the parents to appropriately apportion blame and responsibility, and also this knowledge can inform their future efforts aimed at creating a safe environment for their children. Additionally, RJ more generally is believed to focus more on subjective, rather than legal, conceptualisations

of crime; thus fostering a more holistic understanding of the offense, rather than one confined to legal relevancies ([Curtis-Fawley, Daly, 2005](#); [McGlynn et al., 2012](#)). This fact may facilitate the condemning the violence in ways that are meaningful and consequential for all parties.

Arguments for RJ which seem more pertinent when it is used as an alternative to the adversarial system include: The process is more likely to encourage admissions of guilt by the perpetrator ([McGlynn et al., 2012](#)), rather than the more common denials inherent in the adversarial setting; thus the perceived necessity of publically humiliating the survivor through attacks on her/his character and behaviour, in order to discredit her/his testimony, becomes redundant. Furthermore, this avenue for justice could also be available for survivors who did not wish to formally prosecute the offender.

When considering the alternative arguments against the application of RJ to cases of sexual violence, again it is evident that some arguments are essentially opposing the use of RJ as an alternative to the adversarial justice system; whereas others would apply equally to cases where it might be used as an adjunct. Key concerns with diverting cases of sexual violence from the court system is that such an action might serve to diminish the apparent seriousness of the crime ([McGlynn et al., 2012](#)) by demonstrating what might be perceived as a lenient or 'soft option' to the punishment of offenders (Roberts, 2002). There are fears that this would ultimately have a regressive effect on that the progress made by the feminist movement in elevating the position of sexual violence on the political and public agendas.

Concerns that would apply to any application of RJ in cases of sexual violence include; that such an informal process holds potential risks for both revictimising the victims, due to the power imbalance between victim and offender, and for jeopardising the actual safety of the survivor(s) ([Cameron, 2006](#); [McGlynn et al., 2012](#)) and potential safety of future victims if additional steps are not in place to reduce the risk of recidivism. With regards to the potential for revictimising the survivor, issues raised revolve around survivors being pressurised into conference participation, reaching/accepting an unsatisfactory agreement, responding to the offender with forgiveness, and/or the offender being forced into offering an insincere apology ([McNevin, 2010](#)), or that offenders will use the opportunity to manipulate the survivor and further endorse the survivors' engagement in self-blame. Concerns have also been expressed that the dynamics within conferencing which are ordinarily assumed to promote a positive change for both victim and

offender (e.g. the telling of the harm done and igniting of empathy for the victim) may not be evident in the case of sexual assault. There are claims that sex offenders, rather than developing empathy and a commitment to do no more harm, can experience excitement on hearing their victim tell of the distress they successfully inflicted, which might reinforce their pro-offending attitudes (Rubin, 2003). It is argued that the likelihood of this might be greater where the RJ system is one developed in response to the needs of offenders, is offender-initiated and conforms to the offender's timeline and procession through the CJS (Mika, Archilles, Amstutz, Zehr, 2002). Additionally, the process could be revictimising, where the victims are permitted to maintain, or inculcated with, unrealistic expectations of their potential experience during, and outcome from, meeting with their offender (Mika et al., 2002).

Finally, opponents express concern over the resource intensive nature of RJ (Julich, 2010) and argue that this might result in either the development of a system which is inadequately resourced to serve both the victims' and the offenders' needs, or that valuable and scarce resources will be diverted away from established victim services in order to support RJ initiatives. The potential effect of this is two-fold. Firstly, this is problematic since RJ in terms of a face-to-face meeting is only possible when the offender has been apprehended and thus not all victims would have access to this form of redress for the harm they have experienced (Mika et al., 2002). However, there are schemes where survivors in these circumstances have been offered the opportunity to be a surrogate victim for an offender who has committed a crime which resonates to their own victimisation experience. Secondly, such diversion of funds would restrict victims' choices and possibly erode support for essential services that function to meet the victims' non-justice needs.

With regards to criticisms of using RJ as an adjunct to conventional justice, victims of various crimes, who participated in the *Listening Project* (Mika et al., 2002) which aimed to explore their experience of engagement of RJ, feared that the RJ system would replicate the unsatisfactory treatment of victims of the adversarial system, which is particularly likely in a system that has been established with the welfare and rehabilitation interests of the offenders at its core (Herman, 2005).

The arguments for and against applicability of RJ in sexual assault cases have not necessarily been made by individuals who hold opposing polarised views; rather they are the reflection of hopes and fears that these individuals may simultaneously hold. Where the application of RJ is being deliberated



as a potential option for survivors, consideration of the hopes for RJ and strategies to ensure the mitigation of the expressed fears must be evident at every stage of programme creation, delivery, evaluation and refinement.

## **Objective Two: Survivors' experiences of RJ**

Details of the 10 cases studies are represented in Table 1. All of the survivors were female. The cases include a plethora of victimisation experiences; two cases of historic child sexual abuse, one of recent child sexual abuse perpetrated by a step-brother (survivor aged 12 at the time of reporting), two of acquaintance rape, three of rape by a stranger, one of marital rape and one sexual assault of a minor (aged 13) by a youth. Regarding the countries from where the cases originated, three were from the UK, four from the US, two from South Australia and one from Spain. The two South Australian cases (Tanya and Rosie) were diverted from court to RJ and Lucy's case from the UK was directed to RJ following the police decision not to proceed beyond cautioning the perpetrator. All remaining seven cases were initially processed through the conventional criminal system and the RJ aspect was thus run in parallel. Six of the RJ meetings were victim-initiated, two were the result of CJS decisions, one was offender-initiated (Olga) and one where this information was missing (Clare). With regard to the age range of survivors at the time of the RJ event, whilst this information was not always available, it appears that the range was from about 13 to the mid-50s. The duration between the sexual assault, or reporting the abuse in the context of child sexual abuse, and the RJ meeting ranged between 4 months and 25 years. The shortest durations were for cases that were diverted from court (Tanya and Rosie), or where the case had been dropped from formal proceedings (Lucy). Five meetings took place between three and five years later and three were more than 10 years later. With regards to the extent of preparation, the cases where RJ was a diversion from court appeared to entail the least amount of survivor preparation. Indeed, the facilitator in Tanya's case had only spoken to her on the telephone prior to the meeting, suggesting little focused preparation; whereas, victim-initiated programmes seemed to offer between six months and several years of preparation to both survivors and offenders. Out of the cases explored here, those whose meeting was organised through *Victims Voices Heard* in Delaware, US appeared to have the most extensive preparation prior to the RJ meeting

itself (see [Miller, 2011](#)). This would involve homework with both survivor and the offender independently and establishing a dialogue (possibly including an apology) between the two before the actual meeting.

**Table 1: Case Studies**

<b>Survivor</b>	<b>Case details</b>	<b>Details of the RJ event</b>	<b>Outcomes</b>
<b>Lucy</b> (McGlynn et al., 2012) UK	Historic CSA by a young male relative. (Reported ~20 years after the abuse police did not proceed). Perpetrator cautioned following a confession.	RJ ~20 years after the abuse ended. Initiated by a counsellor from Rape Crisis at the request of Lucy.	Apology—which she didn't accept. The offender keeping his distance as requested. Reduction in self-blame
<b>Joanne</b> (Guardian Newspaper) UK	Acquaintance rape. Offender was convicted.	RJ 5 years after the rape Instigated by the victim liaison officer at the request of the victim.	Received what was felt to be a genuine apology. Forgave him—wanted him to go on to have a successful life Complete closure Perceived positive impact on offender
<b>Claire</b> (Kent Police) UK	Stranger Rape. Offender was convicted.	Not indicated	Not a sense of full closure Initiated the process of a positive change in thought patterns.
<b>Laurie</b> (Miller, 2011) US	Marital Rape. Also concerned he had sexually abused the children. Offender was convicted of the rape of his wife.	RJ about 3 years after the rape Organised by Victims Voices Heard (VVH) Event held in prison	Gained an apology and forgave the offender. Offender admitted sexually abusing the daughter (her main motivation for the meeting) Reassured he posed no threat to her or the children upon his release.
<b>Allison</b> (Miller, 2011) US	Stranger Rape. Offender convicted.	RJ 25 years after the rape Organised by VVH. Several years of letter writing and preparation. Letter of apology prior to meeting.	Forgave the offender -continued contact with him—become his mentor and supporter following his release from prison. Has gone on to be an advocate for VO dialogue
<b>Donna</b> (Miller, 2011) US	Stranger Rape. The offender was convicted	RJ 10 years after the rape. Organised by Victims Voices Heard. Several years of letter writing and preparation Letter of apology prior to meeting.	No longer feared a revenge attack upon his release. Sense of safety and security was re-established Again to go outside after dark and open the curtains to let the light in. Has become a public spokesperson for VVH

Survivor	Case details	Details of the RJ event	Outcomes
<p><b>Melissa</b> (Miller, 2011) US</p>	<p>Historic CSA perpetrated by her father. The offender was convicted.</p>	<p>RJ 5 years after disclosing the abuse which has ceased 3 years prior to the disclosure. Organised by VVH. 6 months of preparation and correspondence by letter prior to the meeting in prison</p>	<p>A sense of letting go and moving on. Received an apology No longer feared revenge for reporting him No longer has nightmares or difficulty sleeping.</p>
<p><b>Rosie</b> (Daly, Curtis-Fawley 2006) Australia</p>	<p>Sexual assault committed by a youth–victim was 13 and the youth 17. The case was referred from court to RJ.</p>	<p>RJ conference was 15 months after reporting the incident to the police (very soon after the assault).</p>	<p>Received an apology–saw it as triggering a positive change in herself Felt like the world had been lifted from her shoulders. Felt agreement was too lenient and upset by inability to object to this.</p>
<p><b>Tanya</b> (Daly, Curtis-Fawley 2006) Australia</p>	<p>Intra-familial abuse by a step brother who was 17 at the time of reporting and the victim was 12. The abuse lasted 1 year and involved sexual intercourse. Offender had mental health and substance misuse issues</p>	<p>RJ 16 months after the initial assault (~ 4 months after reporting). The reporting had caused a rift in the family. Mother believed this was mutual and consensual sex- saw the conference as an opportunity for both parties to apologise. Step father insisted that the victim was lying. Referred to conference as a diversion from court.</p>	<p>An apology which was felt to be insincere. Not satisfied with how the case was handled.–believed that in court that the offender would have received a far stiffer sentence. Found helpful to see the offender again in a safe environment. Pleased with chance to present her side of the story. Repair of relationships in family, especially with mother</p>
<p><b>Olga</b> (Guillamat et al., 2006) Spain</p>	<p>Rape by friend’s brother–offender convicted. Father, bother and husband seeking revenge. All lived in a small locality. Victim felt counselling allowed her to process her grief (pregnant at time of meeting)</p>	<p>RJ–prison psychologist initiated for offender, 5 yrs post-assault. Offender about to begin occasional release from prison. Victim engaged in preparation but not meeting. Significant individual and group prep. work with all the ‘victims’</p>	<p>Desires for revenge dissipated in the meeting Father claimed they all now felt a sense of peace and calm Olga was able to move on no longer concerned what would happen when the perpetrator was released.</p>

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*What are survivors' justice and healing requirements?*

When considering survivors' experiences of engaging in an RJ meeting with their offender it is worth considering these in relation to survivors' motivations for engaging with the CJS and their own perceptions of what constitutes 'justice' and identification of their own healing needs. Where survivors have been asked *why* they reported and/or did not withdraw their cases from the CJS, they overwhelmingly express that it was their desire to prevent the potential victimisation of other people (Kilpatrick, Resnick, Ruggiero, Conoscenti, McCauley, 2007; [Patterson, Campbell, 2010](#)) or to protect themselves from additional assaults from the same perpetrator ([Patterson, Campbell, 2010](#)).

Two different sources were used to gain an understanding of survivors' healing and justice needs and both of these highlight the need for a re-establishing a sense of safety for both themselves and generalised other, which unsurprisingly, is consistent with their motivations for engaging with the CJS. The first is Herman's (2005) exploration of survivors' views on justice in the aftermath of victimisation held by 22 survivors of gendered-violence. The second source is a meta-synthesis of 51 qualitative studies by [Draucker, Martsolf, Ross, Cook, Stidham, Mweemba, 2009](#)), which aimed to elicit the 'essence of healing' following the experience of sexual victimisation. Regarding Herman's (2005) study, more than half of her interview sample had experienced sexual assault in adulthood, adolescence and/or childhood, the other half had witnessed or experienced domestic violence. With regard to conceptualisations of justice Herman identified four needs from their accounts: *Validation* which relates to needing others (including the perpetrator, close friends and family and the wider community) to acknowledge the crime, which equates this being believed; *Vindication* which is deemed as absolving the survivor from any hint of blame, instead significant others clearly condemn the actions of the perpetrator; *An apology*, often not only from the perpetrator, but also from others in the community (family, friends etc.) who may have failed to protect or believe the survivor, or in some way had insinuated that the survivor was at least partly to blame. An apology from the perpetrator is significant in that it demonstrates that they take responsibility for the harm done and apology from significant others may help to restore damaged, but important relationships; *Accountability* which could be achieved through the exposure of the perpetrator as someone

with whom others should deal with cautiously, and this would then serve to assist in both the survivor's own self-protection efforts and the protection of possible future victims.

Draucker et al.'s (2009) analysis included quotes from 1,219 male and female (90%) interviewees who were survivors of child sexual abuse and adult sexual assault. This revealed three facets of healing: First, the compulsion to create a whole memory of the event(s), which included having explanations for why it had happened. For many survivors, their memories of abuse and assaults are fragmented and the only person, who can assist fill these memory gaps or offer an explanation, is their offender. Secondly, the reestablishment of relationships that have been disrupted as a consequence of a betrayal of trust; be this through the perpetration of the acts of sexual violence themselves, the failure of others to protect from them from harm, or inappropriate responding of others to a disclosure made by the survivor. Thirdly, the creation of a safe life-world for themselves and others and finally, there is the restoration of self, and the overcoming of the tendency to engage in self-blame or thinking in terms of oneself as being dirty or damaged.

It is evident that there are synergies and similarities between promoters of healing identified by [Draucker et al. \(2009\)](#), the justice needs identified by Herman and the motivations for engaging with a formal justice system by Kilpatrick et al. (2007) and Patterson and Campbell (2010). These factors can be collapsed into four combined healing and justice needs: (1) re-establishing a sense of safety for self and others which can include the offender being held accountable by all those involved in the event; (2) gaining answers to questions; (3) the repair of damaged relationships with others, which relates to both validation and vindication, and (4) restoration of self, such as overcoming self-blame which may arise though vindication and the receiving of an apology.

#### *Survivors' experiences of RJ in relation to their justice and healing needs*

There was evidence of survivors regaining a sense of safety in the material available for Lucy, Laurie, Donna, Melissa, Tanya and Rosie. For Lucy, whose offender was at large in the community, it was the adherence to his assurance to keep his distance from her that reinstated her sense safety. Tanya, whose case was diverted from court and where the perpetrator was her step-brother, appreciated the opportunity afforded by the RJ event to meet the offender

again in a safe environment. For the other four survivors, their main concern appeared to be their fear of revenge attacks (for having reported the assault/abuse to the police) upon themselves and/or their children when the offender was eventually released from prison. All of them gained reassurances from the offenders during their meetings that this would not be the case. Where the meeting took place a considerable time after the assault, several of the survivors had requested a current photograph of the offender during their pre-meeting dialogue. Allison specifically asked for a photograph so that she could 'put a face' to her attacker and not generalise his predatory status to all men. It is reported that this helped in alleviating her generalised fear and thus enhancing her sense of safety. For a number of the survivors, it appears that their increased sense of safety post-RJ meeting might have manifested through their own sense of increased empowerment and regaining control over their lives. For example, Laurie, Melissa and Rosie had reported wanting to demonstrate to their offenders that they were now strong (possibly suggesting that the offenders would no longer have control over them). For Laurie, this was reinforced for her through being able to watch the video recording of the RJ meeting with her offender and identifying how she had managed not to concede to his manipulating. Importantly for Laurie, she also claimed that this process gave her a renewed confidence in being able to not only stand up for herself, but also her children. Finally, empowerment seems to have also manifested for Joanne, Tanya, Laurie and Claire through having the opportunity to tell their stories and actually being heard. Joanne reports that she felt that her offender was profoundly changed by having heard her story; by which it is imagined that she feels that he now poses less risk of reoffending.

With regards to gaining answers to questions necessary for their own healing and their ability to help others heal, this was evident in the material for Laurie, Melissa and Donna. For Donna, hearing the offender's account of the assault assisted her attaining completeness to her own missing memories of having attempted to physically defend herself against her attacker. Prior to the RJ meeting the lack of recall of her own defensive actions had resulted in her feeling burdened by self-blame, which had arisen, or was further fuelled, by insinuations of blame levelled at her by a friend to whom she disclosed her 'abridged' story. For Laurie, the question she needed to be answered was whether the offender had also sexually assaulted their daughter. It is anticipated that having the answer to this would then have enabled Laurie to offer and acquire support for her daughter's own healing.

With regards to restoration of self, the material for Lucy, Laurie, Donna and Melissa suggest some evidence of this process. All these case materials make reference to feeling less burdened, 'having a weight lifted', letting go of self-blame and the ability to move on with their lives as a consequence of the RJ meeting. Finally, the restoration of damaged relationships was evident for both Tanya and Olga. For Olga, this was demonstrated through the impact of the RJ meeting, which was between her three male relatives and the offender, upon lessening her fears that her relatives would seek revenge on the offender when he was released from prison. For Tanya, the RJ meeting is alleged to have served as a catalyst for unexpected supportive behaviours from both her mother and step-father. This was particularly important due to her young age and the perpetrator being her step-brother. Her mother had originally seen the abuse as 'consensual intimacy' and that both Tanya and her step-son were to equally responsible. Furthermore, her step-father, who had previously disbelieved Tanya, reproached the offender (his son) during the conference when the son spoke inappropriately about or to Tanya.

It is apparent, that in each and every case, irrespective of the degree of preparation, the nature of the offence or relationship between survivor and offender, the age of the survivor etc., all survivors who engaged in the RJ process (even when they did not actually meet the offender themselves, as in the case of Olga), received some outcome which had potential to foster a sense of justice or facilitate healing. However, the survivors' cases also highlight a number of features that possibly contributed to their positive experiences, which if negated in the process may not have achieved the same satisfactory outcomes.

#### *Survivors' insights into aspects of best practice*

The survivors' accounts offer a range of suggestions for factors and practices to either guard against or to promote; some of which appear to be trivial and mundane, yet they may hold the potential for a significant impact on the survivors. Lucy in particular, reported that both the preparation for, and participation in, the meeting itself was emotionally draining and at times distressing, but this was rendered manageable only through her on-going counselling support. Expectations need to be suitably managed and considered when preparing the survivor for a meeting so as not to foster disappointment, disempowerment and revictimisation. Both Tanya and a Rosie

who received the least preparation out of all of the cases, both felt betrayed by the fact that the offender did not receive a harsher sentence. It appeared that they had not been fully informed as to what the diversionary process meant in terms of the potential punishment. A number of the survivors indicated that the preparation itself was very empowering, so the outcome in the meeting itself may not be the only healing/justice component.

Where RJ is victim-initiated and it is the survivor who offers the invitation for a meeting, it is important to prepare the survivor for the possibility of the offender declining their invitation and where this happens, alternative avenues for survivor engagement in RJ should be considered (e.g. acting as a surrogate victim, shuttle dialogue etc.). It might be that the invitation by the survivor becomes an 'open offer' in that whilst the offender might initially decline, the offer stays open should he/she wish to change his/her mind at a later stage. A similar, but opposite process operates in the US where it is the offender who writes a letter of apology and an expression of a willingness to engage in dialogue. This feature should be considered in light of two of the survivors who felt that it would have been inappropriate to have met the offender earlier in their sentence. Donna felt that earlier the offender might have still been 'too caught up' in being angry about being convicted and imprisoned; whereas Melissa, believed that she was too consumed by hatred and a desire for revenge for the meeting to have had to such a positive conclusion if it had taken place sooner.

Planning the meeting event requires careful attention to the survivor's requirements in terms of safety and feeling in control. Whilst the location may have to be determined by restrictions placed on the offender (e.g. prison), some have suggested that it was helpful to visit the venue prior to the actual meeting in order to consider factors such as who will be seated where and who will be waiting in the room. The survivors expressed mixed views in terms of their preferences regarding who should be seated in the room first. Some claimed they felt empowered by knowing the offender was sat waiting for them to walk in the room (e.g. Joanne), whilst others felt the opposite was true (e.g. Rosie and Lucy). The survivor should also decide upon who will begin the dialogue. They may feel it is helpful to give their story first or they might prefer to hear what the offender has to say before they relay their account. Some suggested that having supporters with them who are willing to advocate if they suddenly feel they are able to talk to the perpetrator helped overcome fears of regressing to a child-like state when confronted



with the offender. Ensuring that sufficient time is permitted for the meeting itself, which includes all of the participants seeing this as a priority in the day's schedule, is essential. An example of poor practice in relation to this can be seen in Tanya's case. The offender's professional supporter interrupted the Tanya's recounting of the harm done to her so that she could give her account of the offender's good character since she needed to leave the meeting early to keep another appointment. Such actions could be disempowering for the survivor and potentially reinforce the perceived desirability for survivors to remain silent about their victimisation. The duration set aside also needs to take into account the possibility for refreshment, comfort and 'time out' breaks. A number of the survivors reported being emotionally drained or exhausted by the experience and in need of stopping to discuss with their supporters, in private, what was happening in the meeting.

### **What avenues require exploration to progress the debate?**

One of the areas of knowledge that is currently missing from the literature, but which seems so central to the debate, is an understanding of survivors' perceptions regarding the desirability of and expectations in relation to, restorative justice. That is, it would seem imperative to gain insight into which categories of survivors (based on both the nature of the victimisation and level of engagement in the CJS) show a preference for RJ, how many people would seek this form of redress if it were available, would they wish this to be offered as an adjunct or as an alternative to conventional justice, at what stage do they feel they would most likely wish to engage in such a process etc. Without this information, it is unclear whether the debate about the applicability of RJ to sexual violence is grounded in a meaningful context; if it is not desired by survivors, why even consider it as an option? Additionally, where RJ practices are being implemented in response to sexual violence, evaluation of the projects, in relation to survivor's experiences, needs to extend beyond seeking levels of satisfaction with the process. Alternative outcome measures might be informed by the healing and justice needs identified by Herman (2005) and Draucker et al. (2009). Such measures might include; change in the degree of self-blame, evidence of letting go and moving on with one's life, restoration of damaged relationships, an increased sense of safety and perceptions of increased social capital (Putnam, 1993). These types of outcome measure

could indicate the potential for tangible benefits for the survivors, whereas assessment of mere satisfaction suffers from the potential confounding effect of cognitive dissonance (Festinger, 1957).

## **Conclusion**

There are a number of limitations of this review including; the fact that only a handful of survivors experiences were examined, that even these were not always representing the the actual voice of the survivor, it is unclear how soon after the RJ meeting that survivors' views on their experience were sought and that it may be that only favourable accounts of RJ are likely to make their way into the public domain, particularly since many of the accounts here were offered by those who had delivered/managed the RJ initiative. Whilst remaining cognisant of these limitations, this exploration of survivors' experiences does begin the process of systematically considering the applicability of RJ to sexual violence based on evidence as opposed to pure conjecture. The full scoping review will endeavour to investigate the available programme evaluations both in terms of impacts for both survivors and offenders. Overall, the findings from these 10 cases suggest that currently, programmes that sit outside of the CJS possibly invest more time and resources in preparing both the victim and offender for the RJ intervention. The most profound outcomes that signify tangible positive change for the victim seem to arise for victim-initiated programmes and where the RJ intervention has taken place at some considerable time, often several years after the actual abuse/assault and where RJ is offered in addition to the conventional criminal justice arrangements. However, it is uncertain as to whether it is the passage of time or the levels of preparation for, and support during, the intervention that leads to these outcomes. The nature and degree of preparation of both survivor and offender need to be commensurate with the motivations and expectations of the individual survivor. Thus, it is unlikely that an 'of-the-self' preparation package will be sufficient to either affect a positive outcome or to protect the survivor from revictimisation. Overall, the findings suggest that RJ may have a place in responding to survivors of sexual violence, but only when the programmes are specifically designed for this type of offence. In particular, it appears that survivors are most satisfied and report the greatest benefits when: (a) the intervention

is victim and not offender-centred, (b) experts in sexual victimisation and offending are involved in the conference to equalise power differentials and to challenge denials and minimisations (see Julich, 2010), (c) the initiatives are sufficiently resourced to accommodate efficient preparation of the survivors and offender, and appropriate sensitisation of their supporters, allow for a conference experience that is not hurried and is located at a place and a time that is convenient for the survivor and their supporters and allows for on-going follow-up support of both victim and offender. Importantly, despite some deficiencies in a couple of the RJ preparations and meetings considered here, none of the survivors' accounts indicate evidence of an overall aversive experience. Indeed, all of the survivors' accounts reported some beneficial effect which would equate with achieving justice and/or fulfilment their healing needs. Such benefits included; gaining a sense of empowerment and answers to nagging questions, acknowledgement by both the perpetrator and other sceptical family members of the harm done to them by the perpetrator, restoration of relationships with family, receiving an apology, being able to 'let go and move on with life', relinquishing the fear of retaliation for reporting the assault/abuse, etc.

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NADIA WAGER

## **Iskustvo i uvid preživelih koji su bili uključeni u restorativni sastanak sa svojim napadačima**

Ovaj pregledni rad istražuje iskustva preživelih žrtava seksualnog nasilja koje su se uključile u restorativne sastanke sa svojim napadačima kako bi se utvrdilo da li je taj proces doprineo ili pogoršao njihov oporavak. Ovaj rad čini samo mali deo znatno šireg pregleda koji se služio Arksejev i O'Malijev okvirom (2002). Analiza je ograničena na članke / izveštaje objavljene na engleskom jeziku. Na početku, 58 izvora je bilo identifikovano kao pogodno za uključivanje u analizu i svaki od ovih izvora je bio pažljivo ispitan kako bi se identifikovala iskustva onih koji su preživeli seksualno zlostavljanje i uzeli učešće u restorativnoj inicijativi koja je podrazumevala sastanak licem u lice sa napadačem. Tako je otkriveno deset slučajeva iz četiri različite zemlje. Rezultati ukazuju da pod određenim okolnostima preživele žrtve seksualnog nasilja mogu dobiti značajnu socijalnu pomoć kroz učestvovanje u restorativnim sastancima. Prodiskutovani su specifični uslovi u kojima je došlo do pozitivnih ishoda, kao i oblasti za buduća istraživanja.

**Ključne reči:** Restorativna pravda, sastanci, posredovanje, seksualna viktimizacija, preživele žrtve seksualnog napada.