

A Call for Evaluation of Restorative Justice Programs

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Abstract

Restorative justice as a response to sexual violence continues to be subject to significant criticism. To assess the evidence, we sought to appraise and synthesize evaluations of restorative justice programs for sexual and family violence offences by conducting a systematic review of peer-reviewed literature. However, our rigorous search identified only one eligible study. This dearth of evidence leaves us unable to identify how best to achieve the aims for which programs were established and poses difficulties for policy makers determining whether it is justified to introduce restorative justice programs for sexual and family violence. We recommend that evaluations of restorative justice programs that accept sexual and family violence cases be conducted as a matter of urgency.

Keywords

systematic review, evaluation, restorative justice, gendered violence, sexual assault, family violence

A Brief Note

Restorative justice as a response to sexual violence has its supporters and detractors (e.g., Hudson, 2002; Stubbs, 2010). As a contribution to the debate, we aimed to assess the evidence: Which programs are effective? How do they achieve the desired goals? What kinds of programs succeed in particular circumstances? We set out to conduct a systematic review of evaluations of restorative justice programs for sexual and family violence offences. This note is an account of how we failed to achieve our aim and a call for building the necessary evidence base.

While there is no consensus on a definition of restorative justice, our working definition focused on “repair of harms and of ruptured social bonds caused by crime,” specifically “relationships between crime victims, offenders and society” (Daly & Immarrigeon, 1998, p. 22). The perpetrator will, explicitly or implicitly, have admitted responsibility for the crime (Daly, 2016), and the process allows parties to “resolve collectively how to deal with the aftermath of the offence and its implications for the future” (Marshall, 1996, p. 37).

Articles were eligible for inclusion in the review if the program being evaluated used restorative justice methods for sexual or family violence offences and these offences constituted at least 75% of cases; the program included direct or indirect communication between survivor and perpetrator; cases being evaluated had commenced (although not necessarily concluded); and the work was published in English in a peer-reviewed journal. Articles were ineligible if the program had a child welfare or child protection component, or if programs were established in the context of state conflict and

transitional justice; these programs have aims that go beyond the repair of harm caused by gendered crimes. To ensure that our processes were rigorous, we planned to use the preferred reporting items for systematic reviews and meta-analyses (PRISMA) guidelines for systematic reviews (Moher, Liberati, Tetzlaff, & Altman, 2009).

We searched five databases (PsycINFO, Scopus, ProQuest, Informit, and HeinOnline) using the following terms: [eval*] AND [“restorative justice” OR “victim offender mediation” OR “victim offender dialogue”] AND [“sexual assault” OR “sexual violence” OR “youth violence” OR “gendered violence” OR “sibling sexual assault” OR “intimate partner violence” OR “domestic violence” OR “sex crimes” OR “family violence” OR “partnership violence”]. To ensure that eligible articles not found on the databases were located, we searched Google Scholar using the same terms. The search results are shown in Figure 1.

Only one paper satisfied the eligibility criteria; it reported an evaluation of the Arizona program Project RESTORE, based on 22 cases (Koss, 2014). The program was found to decrease the rates of diagnosed post-traumatic stress disorder in survivor victims, most participants agreed or strongly agreed that their preparation for the conference achieved its intended goals, and

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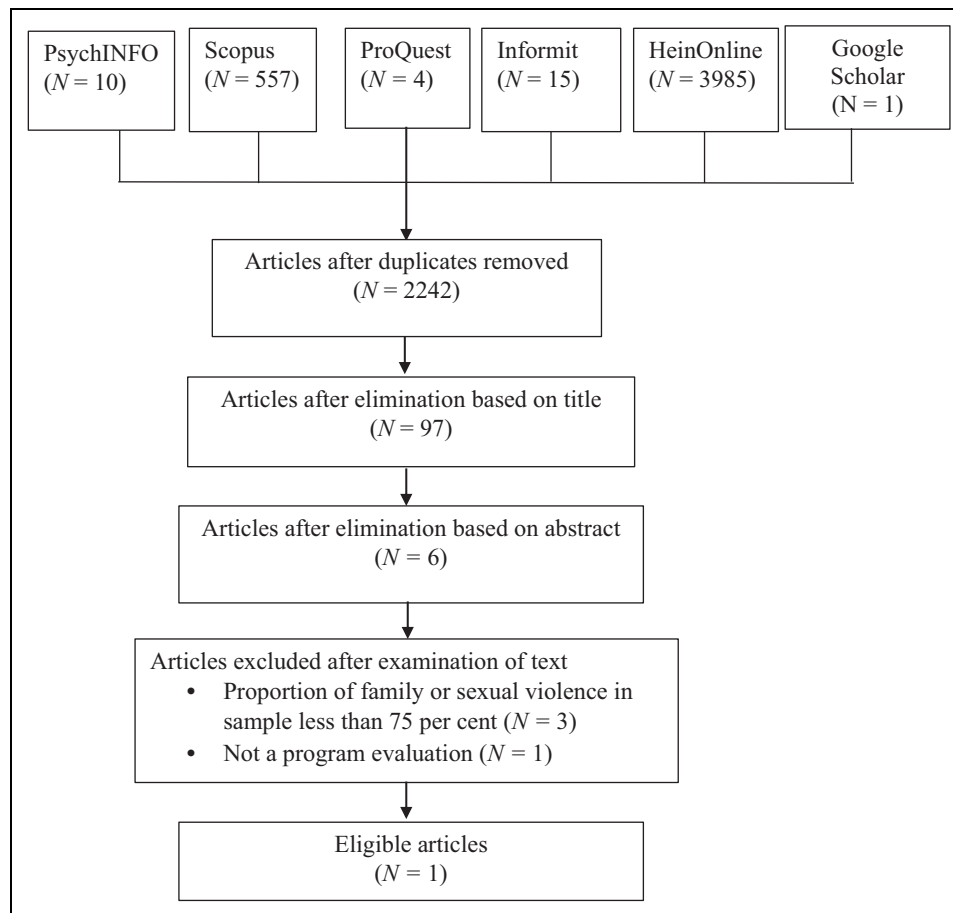


Figure 1. Flowchart of articles identified by the search and exclusion of ineligible articles.

all survivor victims who attended their conference were satisfied with the conference.

The evaluation of Project RESTORE is an important early contribution, but its results cannot be generalized to other programs that may have different aims and features and service different populations. For example, Project RESTORE received referrals only from prosecutors; self-referrals were not allowed (Koss, 2014, p. 1626). It also included a higher proportion of male survivors than is true of the United States as a whole (Rape, Abuse & Incest National Network, n.d.; National Sexual Violence Resource Center, 2015). It has been found in Victoria, Australia, that police reporting favors male victims in laying charges against perpetrators (Heenan & Murray, 2006, p. 5); results of a program disproportionately servicing male victims should, therefore, be treated with caution.

We did not unjustly reject papers identified in the search. Those eliminated by title did not report empirical research (e.g., Choi & Severson, 2009; Daly 2008), and those eliminated on the abstract did not report research on a restorative justice program (e.g., Cossins, 2008; Ney, 2014). One paper found to be ineligible after reading the text did not evaluate a program but aimed to “understand the effect of the pilot programme on its participants . . . and whether any identified problems could be remedied through policy or procedural changes” (Gaarder,

2015, pp. 348–349). Three papers discussed or reported on programs that included substantially less than 75% of family or sexual violence cases in which results could not be disaggregated (Bolitho, 2015; Boriboonthana & Sangbuanglum, 2013; Umbreit, 1998).

The lack of evaluations is shocking and disappointing. Restorative justice programs have been available for sexual and family violence for several decades (see, e.g., Couture, Parker, Couture, & Laboucane, 2001). There are at least 17 such programs (e.g., Daly & Nancarrow, 2010; Daly & Wade, 2014; Focus Consultants, 1995; Jülich, Buttle, Cummins, & Freeborn, 2010; Kingi, 2014). This includes two programs in Australia where the authors are based: in the South Australian youth justice system since 1994 (Courts Administration Authority of South Australia, 2012) and New South Wales since 1999 (Bolitho, 2015).

Feminist advocates have long fought to convince governments that sexual and family violence should be treated with the same degree of seriousness as other kinds of crime (Curtis-Fawley & Daly, 2005, pp. 603–604). However, reforms to the traditional justice system have not produced the hoped-for changes. Survivors remain marginalized in prosecutions (Naylor, 2010, p. 663) and can be retraumatized by their participation in the prosecutorial process (Koss & Achilles, 2008, p. 3).

Some now argue that restorative justice for sexual and family violence may be a justice option with potential to be more responsive to the needs of survivors (and perhaps perpetrators) than the criminal justice system (Naylor, 2010).

The application of restorative justice processes to crimes of sexual and family violence is controversial. There are fears that adult perpetrators will vacate the traditional criminal justice realm for private settings with little accountability and opportunities to escape punishment (Daly, 2006, p. 336). There are doubts that restorative justice will prevent retraumatization if the process fails to address the power imbalance underpinning sexual and family violence (Stubbs, 2004, pp. 9–10). It has been argued that, if a goal of the process is to change an entrenched pattern of behavior, substantial change is unlikely after the usual single restorative justice conference (Daly, 2006, p. 337). Restorative justice would thus represent a weaker societal response to sexual assault (Curtis-Fawley & Daly, 2005, p. 610).

Restorative justice programs for sexual and family violence inevitably engage with diverse, often conflicting, theories and ideologies. These positions are firmly held by advocates who lobby politicians and policy makers who themselves are trying to assess and appeal to the views of their constituents. Scholars commonly argue for (Hudson, 2002) or against (Stubbs, 2010) the use of restorative justice for sexual and family violence without nominating specifics of the program. (There is a useful summary of the arguments in Curtis-Fawley and Daly, 2005, pp. 608–609.) Arguments tend to be made from “principled positions” (Curtis-Fawley & Daly, 2005, p. 610) without the benefit of empirical evidence (Quince Hopkins, Koss, & Bachar, 2004; Stubbs, 2004). This turbulent context both partly explains the dearth of empirical evidence and amplifies the need for it.

These diverse perspectives on restorative justice can be appraised only by rigorous evaluation of the programs being implemented around the world, preferably initiated in parallel with program initiation. An evaluation examines whether the program is being appropriately implemented, whether its aims are specified and being met, and which (if any) features of the program are effective or need improvement (Chen, 2005). At the very least, evaluation is necessary to ensure that the programs do no harm.

Given the diverse programs and their settings, it is essential to appraise and synthesize all evaluations so that results can be more validly generalized, new programs are based on rigorous evidence, and existing programs can be adapted to what has been learnt. Some programs, presumably, are not being evaluated, which is contrary to best practice. No program should be implemented without having an evaluation designed into it, especially if the program is a pilot and is likely to receive further resources (World Health Organization, 2011). At the most pragmatic level, funders have no way of knowing whether their money is being put to good use. Ethically, it is not being established whether unevaluated programs are doing harm to those for whom benefit is intended.

The traditional scientific process of peer review is designed to certify rigor through scholarly assessment by well-qualified peers. It is not sufficient to prepare a report for the funder, usually a government body.

Peer-reviewed research on restorative justice programs includes, for example, reoffending (Daly, Bouhours, Broadhurst, & Loh, 2013; Mills, Barocas, & Ariel, 2013), survivors’ motivations for seeking restorative justice (Pali & Sten Madsen, 2011), and the appropriateness of restorative justice for sexual assault or family violence (Coker, 1999; Daly, 2006; Pelikan, 2002; Uotila & Sambou, 2010). These are important contributions to knowledge but do not obviate the need for peer-reviewed program evaluation, without which the reasons for success or failure and optimum program design in various settings cannot be identified. Without critically reviewed evidence, theoretical and practical problems cannot be resolved.

Important unanswered questions include: Are restorative justice programs being appropriately implemented? Are their aims specified and being met? Which elements of restorative justice will create the best outcomes for victims? How and when will victims be best placed to engage in restorative justice? Which kinds of participants would derive significant benefit from restorative justice and for which offences? Can sexual harms that are not criminalized in that jurisdiction be included? Which (if any) elements of programs are effective in or detrimental to addressing sexual and family violence?

Without evaluations that are available for systematic review, we lack a robust body of evidence to complement other empirical research and to demonstrate whether restorative justice is an effective intervention for sexual and family violence. The use of restorative justice for sexual, family, and other gendered violence thus remains controversial, without evidence to support any point of view. Policy makers and program designers should be able to draw on a suite of evidence to justify funding these programs and to design them to ensure that program aims are both feasible and likely to be achieved.


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Bronwyn Naylor is a professor and a lawyer and criminologist specialising in human rights in detention and feminist analyses of law and gender.

Maggie Kirkman is an academic psychologist whose research is conducted in multidisciplinary environments. She is an expert in qualitative research methods, especially in planning, conducting, and analyzing in-depth and semistructured interviews.