Restorative Justice in Aotearoa, New Zealand: Improving Our Response to Sexual Violence

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Abstract. The New Zealand Law Commission and other stakeholders have been exploring the potential for introducing alternative responses to sexual offending. International jurisdictions have introduced specialist courts, coordinated crises responses and new case management procedures. Restorative justice has emerged as one of the preferred alternative responses. For any alternative intervention to be successful, an understanding of the victim’s recovery process is indispensable. In this article we propose a model of recovery from sexual violence that informs justice professionals as they assess the readiness of adult victims of sexual violence, both historical and current, to engage in restorative processes. This model of recovery draws on Herman’s (1997) work, a victim’s response to trauma, and Zehr’s (1995) model that describes the reaction of victims as they deal with a crime. Further, it accommodates the influence of Stockholm syndrome or traumatic bonding to which adult victims of sexual violence are sometimes exposed (Jülich, 2001, 2005). The model proposed enables restorative justice practitioners and other justice professionals to identify where victims sit on the continuum of their journeys of recovery, predict their likely reactions, and better prepare them to engage with justice processes. For the sake of clarity, the term ‘restorative justice’ in the New Zealand context refers to proceedings in the adult criminal jurisdiction.

Keywords: criminal justice, restorative justice, sexual violence, recovery

Introduction

The law in relation to sexual offending in New Zealand is once again on the political agenda. The problem stems from low reporting, as few as 7% (Stoop, 2014), low conviction rates and a growing realization both here and internationally that the adversarial model is an unwieldy mechanism of justice for both victim and offender1. Alternative models are being considered alongside fundamental changes to the trial process. Within those alternatives, restorative justice, which has been legislated for since 2002 and with an increase in referral of cases since 2014, is a logical next step in the government’s consideration of alternatives.

In New Zealand, access to restorative justice for adult victims of sexual violence, both historical and current, is available within the current criminal justice environment. It does

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not replace adversarial justice but is an additional layer of justice funded by government and provided by non-government community groups known as restorative justice providers. Restorative interventions take place pre-sentence (following a guilty plea) and as part of the police and marae adult diversion schemes. Restorative justice allows victims a voice and provides an opportunity for them to articulate the effect of the offending against them. The sentencing judge must take into account the victim’s view via the restorative justice report. The restorative process can only occur if the offender pleads guilty and if the victim and the offender both wish to take part. In the right environment, the restorative process can provide a meaningful and constructive experience for the victim. They hear responses to questions and learn to understand what and why the offense happened and why it happened to them. When facilitated skillfully, victims can tell their story, in a place of safety to the person who caused them harm.

Project Restore is a specialist restorative justice provider addressing sexual violence. Launched in August 2005, it provides restorative processes specifically designed to address sexual violence (Jülich et al., 2010). Inspired by the work of Koss, Bachar, and Hopkins (2003) and the research of Jülich (2001), Project Restore is situated in the community across agencies that support victims and offenders of sexual violence and is funded by the government to provide services throughout most of New Zealand. Referrals are received from the Courts, where a guilty plea is entered. Others are self-referred from the community, in which case Project Restore offers a restorative process outside of the court system. Best practice guidelines have been developed (McPhillips, 2009) and an evaluation is forthcoming (Jülich, Landon, In Press). Indications are that restorative justice can and does provide a sense of justice to participants of restorative processes.

Violence and particularly sexual violence cause feelings of isolation for the victim. A meeting where the victim tells the offender about how the offense has affected their life is a way to hold the offender accountable. If the offender is held to account in the presence of the victim, this provides not only an opportunity of healing, but also for transformation of the relationship. Restorative justice is already seen as a viable alternative to address the inadequacies of the current sentencing framework. Against this background, and in light of the recent changes to the law allowing more cases to be considered for restorative justice, it is appropriate for consideration to be given as to how best meet the needs of victims of sexual offending in a restorative justice context.

In this article we discuss the current criminal justice framework for addressing sexual violence in New Zealand and highlight the emerging support for modifying or replacing the existing adversarial system with an alternative structure such as restorative justice. We focus on adult victims of sexual violence, irrespective of whether the sexual violence is historical or current. We highlight the importance of understanding the complexity of recovery and propose a model that can support professionals as they assess risk and readiness of victims and victim-survivors to engage with restorative justice.

In the next section we provide an overview of how sexual violence is addressed in New Zealand.

The adversarial criminal justice framework addressing sexual violence

Sexual offenses are currently dealt with by way of an adversarial criminal justice system within a prescriptive legislative framework as set out in the Crimes Act 1961, Evidence Act 2006, and the Criminal Procedure Act 2011. A maximum penalty of 20 years imprisonment for those convicted of sexual violation by way of rape or unlawful sexual connection is
prescribed in S 128B(1) of this statute. In 2013, 92% of offenders convicted under this section were sentenced to imprisonment and this result was consistent over the preceding 5 years (Stoop, 2014).

Largely, when complainants make a complaint of sexual violence, they are exposed to secondary trauma as a result of the trial process. Complainants are required to be medically examined, to take part in interviews by the police, to be subject to lengthy trial delays and to subject themselves to the scrutiny of defence lawyers and questions from the jury during the trial. They are a witness to a crime for the purpose of the hearing. Their subjective and objective experience in relation to the offense is questioned at every level. They are required to re-live the event in a specific way so that the evidence can be recorded and their experience can be tested as against other evidence during the trial process. Not only is their actual physical experience questioned but also their credibility is called into question if they fail to remember accurately or if they make a mistake in recalling the events.

Within the adversarial system, ‘complainants’ are named as a complainant until the offense is proven when they then become a ‘victim’. The reality and absurdity of this legal framework is an example of the ‘disconnect’ between the adversarial system and the victim’s lived experience. Trial processes for both complainants and witnesses under cross-examination and rules of evidence often unduly scrutinize the behavior of the complainant and crown witnesses.

The current legal regime allows for the loss and effect of the crime to be specified by way of the victim impact statement, but prohibits the victim’s view as to penalty. The mechanism of the victim impact statement is clumsy at best, compared with the opportunity to communicate the nature of the actual impact via a restorative process. The Victim’s Rights Act 2002 s 17 (1) states: ‘where information is obtained from the victim, the prosecutor is required to submit a statement under s 21 of the Act unless the victim objects to this under s 19 (1)’. This includes ‘any loss of or damage to property suffered by the victim and any other effects of the offense on the victim’. In determining an appropriate sentence and in assessing the impact on a particular victim, the judge takes into account the information obtained in the victim impact statement. This is only one of a number of criteria the judge gives weight to in determining an appropriate sentence. It has been established that ‘victim impact statements should not contain opinions as to penalty’ (Stoop, 2014, 11). The court has stated that a judicial assessment of the seriousness of an offense should not take into account a victim’s plea for leniency (Stoop, 2014). Thus, there is confusion and lack of transparency in that victims are encouraged to provide information to the court by way of a victim impact statement, but their opinion as to an appropriate sentence is not determinative on sentence.

Restorative justice as a response to the diversity of victims of sexual violence

In addition to the limitations of the adversarial system itself, the New Zealand Law Commission has questioned whether the current system is responding adequately to the diverse nature of sexual violence victims. The 2006 New Zealand Crime and Safety Survey (Mayhew, Reilly, 2007) estimated that New Zealand women indicated a lifetime prevalence of 29% women and men indicated 9%. Most sexual violence is committed by someone known to the victim (Jülich et al., 2015). It is estimated that between 75 and 90% of victims know the offender and up to one third are or have been in a familial or intimate relationship with the victim (Stoop, 2014). The experience of a victim in this situation compared within the context of a stranger attack is significantly different and it follows that a different response is appropriate.
Māori women have twice the risk of being victims of sexual violence than non-Māori (Jülich et al., 2015; Mayhew, Reilly, 2007). There is a general reluctance amongst Pacific peoples to define their experiences as a crime and/or to disclose sexual interference (Jülich et al., 2015; Morrison, Soboleva, Chong, 2008; Percival et al., 2010). Women with disabilities have increased risk of becoming victims of sexual violence. Overseas studies indicate sexual violence against them at a rate at least twice the rate of the general population (Howe, 2000; Jones et al., 2012; Jülich et al., 2015; Sobsey, 1994). Restorative justice is well placed to respond in ways that are culturally appropriate and address the unique circumstances of such individual cases (Brown et al., 2012).

There is a widespread view by those who work in the sexual violence service sector that the adversarial nature of most Western criminal justice systems is not geared to meet the needs of victim (Jülich, 2010). Recent legislative reform in New Zealand has occurred to acknowledge and address this deficit and the purpose of the Victims’ Rights Act 2002 states that it is to improve provisions for the treatment and rights of victims of offenses. The Victims’ Rights Amendment Act 2014, provides a new section (s 9) that should the victim wish to meet with the offender to resolve issues relating to the offense, a member of court staff, a police employee, or, if appropriate, a probation officer must request, arrange and facilitate a restorative justice meeting. In conjunction with the Victims’ Rights Amendment, amendments to the Sentencing Amendment Act 2014 now provide for offenders to meet with victims via a restorative justice process in all cases where there are one or more victims and where they consent to take part and where the offender has pleaded guilty. This, by necessity, means that victims of sexual assaults and family violence are now given the opportunity to meet with offenders if they choose to do so.

These legislative changes mean that restorative justice has become an ‘opt out’ process rather than an ‘opt in’. Although the changes have increased the number of cases referred to restorative justice, specialized services and alternative processes must be put in place to ensure the safety of vulnerable complainants. An increase in specialized family violence and sexual offense facilitators are required so that victims are assured a safe and supportive restorative intervention. If a meaningful restorative justice intervention is to occur, consideration must be given to the readiness of the victim. This paper seeks to identify a model of recovery which informs criminal justice stakeholders and specialized restorative justice practitioners about the circumstances of when and if a restorative justice intervention is to take place. We advocate that knowledge and understanding of recovery from sexual violence is essential if any reforms are to be successful.

McDonald (2011, 64) in her article ‘Sexual Violence on Trial’ offered ‘innovative possibilities’ in terms of trial process in cases of sexual offending, which currently are not available in New Zealand. Such innovations take place either by way of legislative reform or changes to practice within the existing processes. Examples such as access to prosecutors prior to trial and alternative methods of giving evidence during a trial are some of the innovations she recommends. The author also posited consideration of alternative ways of offering and testing evidence, one of which is the giving of evidence in a ‘narrative form’ (McDonald, 2011, 66). This would have the effect of allaying the concern of complainants at not being able to tell the story in their own words in a court room. Again, this is not current practice in New Zealand courts given the inherent problems with admissibility rules of evidence.
Recovering from the trauma of sexual violence

Recovering from trauma of sexual violence is a complex process. When victims of sexual violence are in this recovery process, they may also be recovering from the effects of Stockholm syndrome. Moreover, as they progress on their journeys of recovery they slowly begin to understand that they are also victims of a crime. Further complicating this already complex recovery process is the response of people surrounding the victim. The closer the relationship is between the offender and other members of family and social networks, the more complex the responses are. Adding to this complexity is an emerging awareness of how being charged with an offense could impact on the offender. The experience that non-victimized family members have of the offender could be quite different to the experience of the victim. It may be very difficult, and in some instances impossible, for people to repaint the picture they hold of the offender. Victims of sexual violence are dealing not only with their own recovery, but also are influenced by the recovery of others around them.

Zehr (1995) argued that an experience of justice, although it has many dimensions, was so basic that without it healing could be impossible. Herman (1997) similarly endorsed this stance noting that public acknowledgement and justice are a central preoccupation for victims. Restoration for the victim depends on the response of the community. Once it has been publicly recognized that a person has been harmed, the community must take action to assign responsibility for the act and to repair the harm (Herman, 1997). These two responses – recognition and restitution – are necessary to rebuild a sense of order and justice. However, as victims of sexual violence attempt to seek redress or justice, they are further traumatized by the responses of the community surrounding them, which for some includes the responses of the conventional criminal justice system.

In the following section we explore responses to trauma and demonstrate that the theory of Stockholm syndrome could provide valuable insights to the process of recovery.

The Stockholm Syndrome

There is an established body of literature documenting the contradictory relationship that develops between hostages and hostage-takers (Goddard, Tucci, 1991), which recognizes that bi-directional bonding within the relationship is often perceived to be necessary for the survival of hostages. This phenomenon, often referred to as the Stockholm syndrome, is also known as traumatic bonding. Graham et al. (1994) identified similarities in the relationships and subsequent interactions between hostages and hostage-takers and victims of abusive interpersonal relationships. In their analysis of the literature, Graham et al. (1994) found that bonding between an offender and a victim occurred when the four following precursor conditions co-existed: (1) a perceived threat to survival and the belief that the offender is willing to carry out that threat; (2) the victim’s perception of some small kindness from the offender within a context of terror; (3) isolation from perspectives other than those of the offender; and (4) a perceived inability to escape.

In her research, Jülich (2001, 2005) analyzed interviews with adult victims of child sexual abuse and concluded that they had been exposed to the four precursors of Stockholm syndrome identified by Graham et al. (1994). Further, she found that many had developed the survival strategies described by Graham et al. (1994). She concluded that while not all victims of child sexual abuse are exhibiting the Stockholm syndrome, it appears they are susceptible to developing this syndrome.

Adults too are not immune to the Stockholm syndrome. Those who are subjected to sexual violence as adults are as vulnerable as children, and so are the professionals that support them. Goddard and Tucci (1991) noted that social workers were vulnerable to the
development of Stockholm syndrome. Exposure to the syndrome can lead to the development of survival strategies that enable victims to survive their ordeal. These can include self-blame, seeing the offender as a victim, and believing if they loved the offender enough the sexual violence would stop. Stockholm syndrome provides valuable insights regarding the reluctance of victims to lay criminal charges and could explain their ambivalence as witnesses.

**Responses to trauma: bystanders, outsiders and offenders**

Earthquakes, floods and the like provoke sympathy and empathy for victims, but psychological trauma, a consequence of the actions of people, often invokes differing responses (Herman, 1997). Sexual violence is no different and is complicated by the reactions of those around the victim. Bystanders are those who are close to the victim, and they are subjected to similar dynamics existing in their family and social networks. These are the very people who should have been able to protect the child victim but for a variety of reasons were unable to. It is impossible for bystanders to remain neutral. At a time when members of a family and social network could draw strength from each other and support each other they often become fractured and polarized. If bystanders are not aware of the influence they are being subjected to they may not be able to adequately advise or support victims of sexual violence. They are not the unaffected outsiders that Graham et al. (1994) referred to in Stockholm syndrome.

Outsiders are not subjected to the same dynamics as the victim. They find it difficult to understand why victims as adults do not lay criminal charges against the sexual violence to which they have been subjected. They become frustrated by victims’ ambivalence and reluctance to appear as witnesses in any court proceedings. Outsiders’ perceptions are often distorted by a need to believe that if they were in similar circumstances they would respond differently (Graham et al., 1944). They can be identified as society in general, or more specifically as those people victims engage with as they negotiate various societal systems throughout their lives. For a child, this will include adults within the educational system, health care system and other agencies the child might have contact with. For an adult, this could extend to colleagues in the workplace, professionals in various organizations including the criminal justice system. Not all outsiders have knowledge and understanding of the complexity of sexual violence.

Offenders’ responses add an additional layer of complexity. Often, they silence victims and use secrecy to avoid accountability (Herman, 1997). They may undermine the credibility of the victim by presenting an array of arguments from denial through to sophisticated rationalization (Herman, 1997). Some offenders are more powerful than others and these offenders will likely be more influential in having their point of view accepted (Herman, 1997).

**Herman and Zehr’s models**

The models of Herman and Zehr are inter-related and are better informed by the theory underlying Stockholm syndrome. Herman (1997) identified three stages in the recovery process that follow the establishment of a traumatic syndrome: the first stage is the establishment of safety, the second is remembrance and mourning, and the third is the reconnection with ordinary life (Herman, 1997). She acknowledged that not all observers identify three discrete stages for recovery, noting that some writers identify as many as five or eight stages. She highlighted the circular nature of recovery as an important understanding for victims of sexual violence.

Zehr (1995) similarly identified a three-stage model describing the reactions of victims as they deal with the trauma of crime. Zehr’s first stage is the initial impact of the actual crime and the second is the recoil stage. He argued that moving from the second stage to
the third stage, the reorganization phase, marks the first step in the recovery process as a victim of crime. However, considerable recovery must occur before victims of sexual violence can begin to frame their experience as a crime. At some point in the recovery process, victims will consider reporting sexual violence to the police. Doing so could trigger a victim to return to an earlier stage of recovery, exemplifying the circular nature of recovery. While similarities exist between the two models, Zehr’s model explicitly including the process of victimization and Herman’s model identifying the role of bystanders, neither model incorporates the perception of outsiders identified in Graham et al.’s (1994) Stockholm syndrome.

If restorative justice is to be used successfully as an alternative model to address sexual violence, justice professionals and practitioners – the outsiders – need to understand the complexities and dynamics of sexual violence. First and foremost they need to be able to assess risk and we propose the following model as a tool for not only assessing readiness of the adult victim of sexual violence, both historical and current, but also predicting and preventing further victimization.

A model of recovery from sexual violence

Jülich (2001), as a result of her work with adult victims of child sexual abuse, identified a five stage model that not only incorporates Herman’s model of recovery and Zehr’s model of recovery from a crime, but also accommodates the implications of Stockholm syndrome. Jülich’s model combines the process of victimization and recovery, highlights the roles of both bystanders and outsiders in the recovery process and in initiating criminal charges, and emphasizes the very complex nature of the recovery process.

Stage one

This is the initial impact stage, or the period when the trauma occurred. This stage could last for a prolonged number of years for those victims, both adults and children, who are subjected to ongoing sexual violence. It is typified by the establishment of Stockholm syndrome to some degree or another. Through this stage victims are in a constant state of hypervigilance. To enable survival, they minimize or deny the sexual abuse, equate it with love, focus on self-blame and see themselves through the eyes of the offender. This stage is best explained by the underlying theory of Stockholm syndrome. The longer this period lasts the more difficult is the process of recovery. Although it may be argued that this stage is not strictly a part of the recovery process, if it is not included, then the influences of Stockholm syndrome could easily be overlooked.

Bystanders or outsiders are more likely than victims to initiate to lay criminal charges at this stage. The effects of Stockholm syndrome contribute to the silencing of victims, and could similarly affect some bystanders. If the victim is a child, schoolteachers and other adults in contact with the child are the more likely source of reporting the crime to the police. It is likely that a restorative process convened at this time would be unsuccessful.

Stage two

This stage is marked by the cessation of the sexual violence, but not necessarily by the cessation of the emotional and psychological abuse. Through this period victims experience conflicting emotions. They may not yet identify the experience as abusive; if they are children they may not have the language to do so. They may still be living with the offender or have regular contact. To maintain survival, victims may deny the abuse and continue to view the
world through the eyes of the offender. Hypervigilance may continue at this time which may lead vulnerability in other relationships. This stage is best informed by the theory underpinning Stockholm syndrome.

Victims, bystanders and outsiders are unlikely to initiate criminal charges at this stage. Sexual violence may have stopped, and some may be living apart from the offender. On the face of it the victim appears less vulnerable. Therefore, outsiders are less likely to observe indicators of sexual violence as they might in stage one. Victims and bystanders tend to remain silent at this stage.

A restorative process at this stage is likely to be premature, and could be harmful to the victim. In this stage victims may be unreliable witnesses and may recant any statements they give to the police. Bystanders may not be supportive of the victim.

Stage three

This stage is marked by the beginning of the recovery process, as described by Herman. Victims slowly begin to recognize the experience as abusive. Issues regarding safety have been attended to. If the victim is still living with the offender she may take steps to secure separate accommodation. In the instance of chronic ongoing abuse, victims begin the difficult process of psychologically separating from the offender. Victims make significant steps as they move from stage one of Herman’s recovery model to stage two. They begin to challenge the perspective of the offender, which may lead them to seek counselling or join self-help groups. They may still be influenced by the perspective of the offender, and as they move through the recovery process, as described by Herman, the influence of the Stockholm syndrome is likely to abate.

Victims may initiate reporting the matter to the police in this phase, as they come to understand that the sexual victimization is also defined as a criminal offense. Because the psychological separation from the offender is incomplete or at best tenuous, the victim is particularly vulnerable to revictimization by the adverse reactions of bystanders and the unrealistic expectations of the criminal justice system. Outsiders, such as counselors, may initiate criminal charges if they have reasons to believe there are safety issues regarding other potential vulnerable victims within the offender’s network. This action could undermine the developing trust the victim has in such outsiders, and could pose ethical and professional dilemmas for those who are supporting the victim. However, victims may feel pleased that the responsibility for laying criminal charges has been removed, or feel guilty because criminal reporting was not initiated earlier. Interventions initiated by others can serve to disrupt the bond between the recovering victim and the offender, and while they can contribute to the process of psychological separation, they may temporarily trigger victims to revert to an earlier stage of the recovery process. This may result in the victim appearing ambivalent in the witness role, in any court proceedings.

A restorative intervention at this stage could produce mixed results for victims and is unlikely to be beneficial. The journey of recovery, although it has begun, is at an early stage and is particularly vulnerable to the influence of those bystanders seeking to protect the offender.

Stage four

The recovery process continues, as described by Herman. Although victims are beginning to discover their personal strength and power, they are still influenced by the perspectives of the offender (Graham et al., 1994). They may identify the offender as a victim who needs their help, love and understanding, and may want to continue protecting the offender. At the same time, they are increasing the psychological distance between themselves and the
offender. Slowly, victims move beyond story telling in safe forums such as self-help groups, to seeking opportunities for disclosure to other family members and friends. This step is significant: in many instances they are breaking their silence and preparing themselves for confronting the offender. As victims speak of their experiences, they may learn of others who have been victimized by the same offender. This information enables them to view the offender from a different perspective. Although the psychological separation between the victim and offender becomes more established, the recovery remains tenuous.

The likelihood of victims initiating criminal charges increases through this stage of the recovery process, as does the need to confront the offender. Both these actions may undermine any progress the victim has made. Proper preparation and support of the victim, offender and bystanders minimize negative effects from possible confrontation with the offender. Prior to criminal charges being laid, a victim requires similar preparation and support, but also requires an understanding of the process of the criminal justice system to avoid unrealistic expectations.

A restorative process at this stage has a good likelihood of success. The victim has some capacity to withstand any denial, minimization and avoidant behavior of the offender and bystanders, but will require much support and preparation before, during and after a restorative process. The influence of bystanders should not be overlooked. All intending participants will need much preparation to ensure they do not revictimize the victim. It is crucial that outsiders, such as justice professionals, understand the dynamics of sexual violence and the complexity of the recovery and their particular circumstances.

**Stage five**

At this stage, the offender no longer dominates the life of the victim who is now surviving and thriving, and pursuing life goals and objectives. The abuse experience becomes more integrated into victims’ life stories. Offenders no longer have the same influence on victims as they had in the earlier stages of recovery. Bystanders may not have been working at recovery as intensely as the victim and may not reach this stage at the same time. Although victims are less concerned with the fate of the offender and have a more developed understanding of the victimization process, they remain susceptible to the influence of bystanders. Victims may have come to the realization that they cannot be adequately compensated for the abuse, but want to ensure that the offender does not re-offend. They may also seek some consequences for the offender. This may produce a tension for victims. Victims are fully aware of the damage caused by the sexual violence and the need to protect other vulnerable potential victims, but they do not want to be the cause of further harm in their family and social networks.

If criminal charges are laid at this stage, they are mostly likely to be initiated by victims. Although victims are able to pursue criminal reporting from a position of power and strength, they continue to experience considerable pressure from bystanders who perhaps have not yet reached the same level of understanding. As with earlier stages of recovery, victims will continue to need much support if they intend to initiate criminal charges.

A restorative intervention at this stage is likely to be successful for all parties, but with the proviso that some bystanders may still be an impediment to the process. It is essential that all intending participants of restorative processes be sufficiently prepared so that they can contribute in a way that is supportive of the victim.

It is hoped that the journey of recovery would eventually enable the sexual violence to become a part of victims’ life histories, as they increasingly gain control over their lives. It is impossible to anticipate the length of time it might take to traverse the various stages of the recovery process. It may be an ongoing life journey, one that is never completed. This
model provides a greater understanding of how best to anticipate and meet the needs of victims of sexual violence, and when is the best time for them to engage with restorative justice intervention.

Conclusions

New Zealand has made a cautious start in addressing sexual violence with restorative justice. Currently restorative justice, although it is embedded in the criminal justice system, is an additional layer for justice and not a standalone system for justice. Various New Zealand government departments, community organizations and academics have reviewed the current criminal justice regime highlighting its inadequacies in addressing sexual violence. These reviews have consistently included restorative justice as a potential alternative to the current adversarial system.

If restorative justice is to be incorporated into reforms of the legal framework which deals with sexual violence, it is essential that the complex nature of the experience of sexual violence victims is understood. Specific training to identify the various stages of recovery is fundamental to the utilization of any restorative justice opportunity. There will be many instances where restorative justice is contra-indicated. But for those victims who have advanced in their journey of recovery and who seek to confront the offender and validate the victimization to which they were subjected, that opportunity should be provided where expert facilitators exist and where the victim receives support during and after the restorative process. It is important for many victims to take this step as more often than not they see it as an opportunity to prevent further harm to others. Offenders learn from the restorative opportunity and have the chance to hear and observe the actual harm that has occurred and to apologize. However, this can only be achieved if offenders have the capacity to demonstrate responsibility and authentic accountability, and if bystanders and outsiders understand the complex dynamics to which the victim has been exposed. This requires careful preparation of all intending participants.

The model of recovery proposed in this article has real relevance for adult victims who are addressing sexual violence, both historical and current. It has combined Herman’s (1997) model that describes recovery from trauma together with Zehr’s (1995) model describing the recovery from a crime. It is informed by the implications of the exposure to Stockholm syndrome and how this may impact on the journey of recovery. The model accommodates chronic ongoing sexual violence and so it has relevance also for those victimized by family violence, particularly if alternative justice solutions such as restorative justice are being considered. The five stage model may be used by justice professionals – outsiders – working with sexual violence victims and those victimized by family violence as they assess the risk and readiness of victims and bystanders to engage with restorative justice or indeed other justice processes. Restorative justice can provide victims with a real experience of justice. Society benefits when serious harm caused by sexual violence is addressed so that family and social networks can move beyond traumatic experiences.

Notes

1. We use the term victim to denote a victim of any crime, including sexual violence, as acknowledgement that sexual violence is a crime. We acknowledge that victims are also survivors. There are no underlying assumptions regarding our use of the term victim as to where this person may be on their journey of recovery. We use the term offender to denote the perpetrator
of crime and or sexual violence, again as an acknowledgement that sexually harmful behavior is a crime.

2. A Māori term for meeting place.

3. Māori is the English word for the indigenous people of New Zealand.

References


