AN EMERGING MOVEMENT SUGGESTS HOW HEALING CAN HAPPEN OUTSIDE OF THE CRIMINAL SYSTEM

by JULIE ZEILINGER

6/8/2016

On January 18 of last year, 20-year-old Stanford University student Brock Allen Turner met a girl at a party. She was drunk. He could have helped her home, helped her find a friend, kept her safe, or left her alone. Instead, he assaulted her behind a dumpster while she was unconscious. He (with help from his father) has since shifted responsibility for this choice to everything from alcohol to a culture of “promiscuity” to being far away from home — anything but himself.

Last Thursday, Turner was sentenced to just six months in county jail and probation, with judge Aaron Persky arguing, “A prison sentence would...”
have a severe impact on him.” At the sentencing, the woman Turner assaulted read him a letter vividly describing the hell she has been living in since the incident, a nightmare she will continue grappling with for a lot longer than six months.

This trial is hardly the first case of the misogynistic gymnastics our culture often performs to protect and excuse a rapist and undermine, if not outright dismiss, a survivor’s experience. But in the Turner case, somewhat miraculously, it seems justice might still be within reach. A Stanford professor is leading a campaign to recall Persky’s decision, and, ideally, increase Turner’s prison sentence.

But is this enough? As the woman said in her letter, while Brock might “deserve” to be behind bars, what she “truly wanted was for Brock to get it, to understand and admit to his wrongdoing.”

For many, jail time equates to justice; violating another human being warrants months, years, a lifetime behind cement walls. But others see imprisonment differently — as a racist, broken solution that doesn’t actually address the problem at hand, and that may even make it worse. They’re left wondering: Is this the only way to imagine justice?

An emerging movement suggests it’s not. “Restorative justice” poses that, for many, true justice after sexual assault may be found outside of the criminal justice system altogether.

Restorative justice (“RJ”) boils down to “the idea of repairing harm,” David Karp, a Skidmore College professor and coauthor of a recent report released by the Skidmore College Project on Restorative Justice, told MTV News. Karp (and many others) believe the current criminal justice system largely pits survivors against their assailants. The goal is to prove an offender’s guilt and work toward their imprisonment. Offenders, then, feel pressured to “deny responsibility, deny in every possible way” to avoid this fate, which makes offenders more resentful and leads them to “see themselves as victims, as ill-treated” by the system.

The problem here isn’t offenders’ hurt feelings or future prospects; it’s the fact that such a process can make it harder on people who have faced injustice to confront it in court. Many who have gone through this process have described it as a “re-victimization” or “second assault.” For one thing, they must overcome very real obstacles like victim-blaming and discrediting in order to make their case — that is, if they have access to this less-than-enticing process in the first place; some state laws still don’t protect men who were assaulted, or those whose assailants are the same sex as them. In fact, most people don’t even attempt to pursue criminal justice after being assaulted at all (68 percent, according to RAINN).

RJ, on the other hand, radically asks the people who have experienced injustice what justice looks like to them. It recognizes that for many, justice means validation, healing, accountability, and the prevention of future acts of violence — not necessarily extensive jail time. RJ acts not through vengeance, avoiding mind-
numbing rounds of “he-said-she-said” or questions about short skirts, but by reconsidering the relationship between survivors and their offenders, post-assault, from a place of common humanity.

This reconsidered relationship starts before the RJ processes even begin. Offenders must first admit their guilt. In the RJ room, everyone involved sits around a table, intentionally creating “both physical and psychological distance and safety.” Whereas criminal trials largely focus on offenders — usually by forcing them to defend their innocence, which usually involves diminishing and denying their accuser’s experience — the RJ process focuses on survivors. They can share their experiences and name their pain. They can look their offender in the eye, search for evidence of their humanity, ask them questions to help them prove it exists.

The point is ultimately to allow both parties to confront what happened between them, together. RJ does not assume that offenders are vicious monsters, but that they are flawed human beings raised in a broken system — and that they can understand this, be educated, and move beyond it. This process also recognizes that this understanding can’t exist in a vacuum by involving facilitators and community members in the RJ room and group of community members beyond it. For those perpetrators who are “desperate to talk through what happened and what they can do to reassure [their survivor] that they understand the harm they caused, apologize, and take whatever steps are necessary to regain trust,” criminalization may not be the answer, Karp says.

So far, RJ seems to work for those who choose it. Early research has found that compared to court processes, small-scale RJ can better reduce recidivism and victims’ post-traumatic stress symptoms, increase both sides’ satisfaction with the justice process, and increase offender learning and development, according to the same Skidmore report.

RJ makes sense on a broader scale, too. Throwing one assailant in a jail cell doesn’t do much to combat society’s backward approach to consent education (http://www.womensmediacenter.com/feature/entry/campus-rape-the-power-of-early-sex-education-to-make-a-difference), or to destroy rape culture and toxic masculinity standards. RJ is also an alternative for those who see imprisonment not only as an inadequate response to sexual assault, but a destructive, damaging, often racist (http://www.sentencingproject.org/publications/black-lives-matter-eliminating-racial-inequity-in-the-criminal-justice-system/) force in its own right.

Still, RJ isn’t necessarily a replacement for the criminal justice system itself. “For some people, the idea of sitting down with their abuser to talk about that experience is the last thing that they would ever want,” Alexandra Brodsky, co-founder of Know Your IX, told MTV News. But others have told Brodsky they would very much appreciate the option.

And RJ also doesn’t always account for perpetrators’ varying motivations. While some may have acted out of ignorance (which, to be clear, isn’t an excuse), be capable of empathy, and want to make amends, what about those like Bill Cosby — repeat offenders who appear to have coldly calculated a sickening number of violent acts? Or Turner, who has avoided anything resembling contrition? Under what terms would they ever admit their crimes, let alone benefit from doing so or provide survivors with the justice they seek?

RJ may also influence how women in particular respond to their assailants — even if indirectly. “There’s such a gendered expectation that victims of sexual violence forgive their accusers,” Brodsky also observed. RJ may not require forgiveness, but for many this expectation is “very hard to disentangle” from the process.

Ultimately, reconsidering justice itself forces us to realize that just as there is no “perfect (https://mic.com/articles/109446/the-treatment-of-emma-sulkowicz-proves-we-still-have-no-idea-how-to-talk-about-rape#ilYL3HtNq)” survivor, there is also no average or typical survivor — a reality well-
demonstrated by a case like Cosby's, in which one perpetrator has allegedly violated dozens of very different women.

There are many for whom justice simply does not equate to any kind of prison sentence — no matter how lenient or how severe. As Brodsky said, “I think that our politics have to be driven by the real needs of real people … people are different from one another and want really different things and that is really tricky when you’re trying to design a system.” Rather than look toward a single solution, then, perhaps we’d do well to accept we cannot create a universal understanding of justice. Instead, we might just have to do the very thing our nation is perhaps worst at, the thing we failed to do for Cosby’s survivors, for the Stanford victim, and so many more: Give them choices, and trust that they’ll make the one that’s best for them.

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