Restorative Justice Can Heal College Communities

By Michelle Carroll

For the past few years, the college sexual assault movement has been unable to answer a simple question: what do we do with people who commit sexual violence? In 2015, Dana Bolger of Feministing asked her readers to consider whether incarcerating a segment of the male population is a viable solution. She highlights a 2015 study from JAMA Pediatrics that she argues successfully challenges the movement's assumption that a majority of campus sexual violence is perpetrated by repeat offenders, and that in reality, only 25% of campus sexual violence is committed by repeat offenders. Instead, a significant portion of campus rapes are committed by men who rape only once in their college career (this study finds that 10.8% of a university's male population are 'one time' offenders). Bolger concludes her article by arguing that it is not feasible to lock up nearly 11% of our university male population in the hopes that by isolating the "real criminals" from our population, we can eradicate campus sexual violence.

I agree with Bolger's conclusion. But, not with her reasoning. Beyond the logistical difficulties, incarcerating 11% of our university male population will further solidify the United States as the most prolific country in rates of mass incarceration. And we know that our criminal justice system actively perpetrates institutional racism and terrorizes communities of color. Black people in this country are five times more likely to be imprisoned than their white counterparts, and Hispanics are imprisoned at double the rates of white people.

If we want to radically transform our campus communities and eradicate the cultural norms that underpin sexual violence, imprisoning more black and brown people will only sustain this system of violence. The answer to college sexual assault is not to replicate the racism of our penal system in colleges and universities, but rather to initiate a prevention and response strategy that prioritizes healing for the victim, perpetrator, and the whole community.

What do we do with people who commit sexual violence on college and university campuses? The answer is to employ Restorative Justice techniques.

WHAT RESTORATIVE JUSTICE ISN'T

When I was a junior at Franklin and Marshall College in Lancaster, Pennsylvania, there was a public incident of sexual harassment. A male sports team rated women as they walked through the center of campus during the middle of the afternoon. Within hours the entire student population had heard. I didn't see the team rate women, but I certainly discussed the team's behavior in conversations with my fellow Women's Center members as well as on Facebook. However, the college didn't release a statement or explanation to the student body.

As anyone who attended college knows, sexual violence investigations and sanctions are sacrosanct—you may hear about the incident, but you'll never hear about the aftermath. In this case, our college Title IX coordinator reached out to me to design a Women's Center conversation around catcalling so that the team could attend and hear the perspective of their female peers.

To no one's surprise, the conversation was a disaster. The team came ready for a fight, bringing female reinforcements to testify in Franklin and Marshall's Women's Center that "No, catcalling doesn't bother me" and "I know I look good when I'm catcalled." The conversation lasted for an hour and at the end, neither the team nor the Women's Center members felt heard or supported. Everyone left the room angry and I spent the afternoon sobbing in my dorm room.

WHAT CAN JUSTICE LOOK LIKE FOR COLLEGE STUDENTS?
Colleges and universities across the country have used similar sanctions, such as mandating students responsible for sexual violence to read a book or write a report. However, there is a tacit understanding among student affairs professionals and anti-sexual violence advocates that these punishments make no difference in changing the attitudes of perpetrators. Nor do such sanctions promote the culture change necessary to decrease the rates of sexual violence at our universities. Currently, our campuses lack the tools they need to re-educate offenders, hold them accountable, and provide viable pathways for them to rejoin the college community or another community in a healthy, safe way.

Most importantly though, students and activists argue that survivors of sexual violence do not have enough options to obtain justice. Survivors can choose between only three options—justice through the civil or criminal systems, participate in their university's Title IX process, or do nothing.

In late February, co-founder of End Rape on Campus Soe Karasek published an op-ed in the New York Times demanding alternative justice avenues for campus sexual assault victims. Karasek writes: “Over time, many student activists have become disillusioned with an emphasis on punitive justice—firings, expulsions and in some cases, prison sentences. We've seen firsthand how rarely it works for survivors. It's not designed to provide validation, acknowledgement or closure. It also does not guarantee that those who harmed will not act again.” Although Karasek does not name Restorative Justice as a potential solution, she describes programs and solutions that are grounded in Restorative Justice concepts.

Restorative Justice is grounded in the belief that if harm-doers accept responsibility for the harm that they have inflicted on others and their community through a series of carefully facilitated dialogues, then the victim, the perpetrator, and the community have an opportunity to heal and move forward. It is the core of Restorative Justice that an offender must accept responsibility for the harm that they have caused and be prepared to humbly themselves before their community. Although RJ may not be appropriate for every instance of sexual misconduct, violence, or harassment, implementing RJ as a core philosophy of a college community offers survivors the opportunity to be heard on their terms, and provides offenders the chance to become better people. But most importantly, it calls-in all members of a community to come together and strive for a community that is healthy and whole.

A number of universities already use RJ techniques for managing community issues beyond sexual violence. For example, James Madison University has a program that resolves community standard violations through a variety of RJ practices (such as facilitated circles). Despite the relative popularity of using RJ in student affairs, universities shy away from offering Restorative Justice options for collegiate victims of sexual violence. Generally, the reasoning is that through the Obama administration, the Office for Civil Rights prohibited universities from using informal mediation in response to sexual misconduct. However, recent changes to Title IX guidance have opened the door for universities to experiment. In 2018, The College of New Jersey implemented a new interim Title IX policy that offers victims and perpetrators the opportunity to include RJ practices on their terms.

WHAT RESTORATIVE JUSTICE IS

A year after the first very public sexual harassment incident at Franklin and Marshall College, another group of young men decided to rate women as they walked to and from their final examinations. Again, I didn't see the incident. And again, the entire campus community debated the incident in the coffee shop and on Facebook. However, this time, our Title IX coordinator asked me to participate in a Restorative Justice circle.

There are a number of Restorative Justice tools that one can employ in a college setting that support campus sexual assault prevention, response, and accountable re-integration. An RJ circle is a facilitated dialogue where the offenders, survivors, and community members (or secondary victims) sit in a literal circle. The facilitator then leads the circle in voicing harms, discussing what solutions and reparations can be made, and strengthening the community at large. Prior to the circle, the facilitator meets with the perpetrator and the survivor to ascertain if they are ready to participate fully in RJ, especially if the perpetrator is capable of taking responsibility for their actions. In the circle, the facilitator begins by asking the perpetrator to voice how they harmed the survivor and community. Then, the survivor is given time to discuss how they've been harmed, followed by members of the community. The purpose of an RJ circle is not to come to a resolution but instead to hold space so that everyone can speak and be heard.

During the RJ circle at Franklin and Marshall College, I saw how the structure of a circle prevented the conversation from becoming adversarial, as it did the previous year in the Women's Center. Instead, offenders were given the opportunity to explain their actions, voice their commitment to F&M's values, and take responsibility for inadvertently hurting their peers. The community, including myself, was given the space to explain how their actions reverberated across campus, recalling past episodes of sexual harassment. From the conversation, it was clear that the young men believed they had pulled off a prank and didn't consider the gendered implications of their actions. At the conclusion of the circle, I felt that I was heard as a woman in the F&M community and believed that the young men had a new respect for how women move through the school as well as the general world. I felt that during that circle, the F&M community had committed to our values and that those young men would remember how their world view and experiences are not the default.

Although the use of RJ techniques in response to collegiate sexual misconduct is in its infancy, there is the hope that by offering another pathway we can successfully address the cultural norms and behaviors that lead to sexual violence, while also providing victims with the tools to define justice for themselves.

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