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# scottish justice matters



## HEALTH AND (IN)JUSTICE

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## RESTORATIVE JUSTICE: EVEN FOR RAPE?

### Karin Sten Madsen

**“HOW COULD YOU DO THIS TO ME?”** is the question asked by most women who have been raped. We hear it put precisely like that at the Centre for Victims of Sexual Assault, wonderingly, despairingly or angrily; referring to the “you” who committed the assault and hence the only one who knows the answer. Even so, we never imagined that anyone would want to sit down face to face and ask the question directly until a young woman named Anna, asked for our help. She had been raped by a close (and at the time drunk) friend and, like many other women in the same situation, she did not want to involve the police. Anna did not see or hear from the friend again, yet she seemed to see him everywhere, in the street, on the bus, in a shop window and she became increasingly reluctant to leave her home. One day Anna told the psychologist at the centre that she thought the only thing that would help her move on was to talk to the man. She had to ask him why. How could he do it? Would we help her do that?

**What, we had to ask ourselves, if a meeting with the perpetrator could help the woman regain power and control over her life?**

The Centre for Victims of Sexual Assault is a one-stop centre situated at the University Hospital of Copenhagen. It was established in 2000 by a parliamentary decision, after years of political pressure from women’s organisations, in order to provide a coherent and interdisciplinary service to women and men who had been exposed to rape or attempted rape. A team of physicians, nurses, psychologists and social counsellors provides medico-legal examination, medical treatment in the acute phase followed up by short or long term psychological treatment and social counselling. The centre works independently but in collaboration with the Institute of Forensic Medicine, and the police, when the assault has been reported. By offering professional and skilled medical and psycho-social treatment immediately after the traumatic experience, it is the aim of the centre to help the woman regain power and control over her life and to reduce the risk of further victimisation.

Restorative dialogues that involved contact with the offender were never on the cards but what, we had to ask ourselves, if a meeting with the perpetrator could help the woman regain power and control over her life? What if a facilitated meeting in safe surroundings could help reduce her anxiety and fear? And how could we make sure that such a meeting would not further victimise the woman and jeopardise her safety?

A combination of fortunate circumstances made it possible to reach the decision to help facilitate restorative dialogues if and when a woman requested it. A devoted staff led by a visionary consultant, a counsellor already trained as a victim-offender mediator and access to funding, paved the way for what started out as a cautious experiment to become an integral part of the help available at the centre.

### **Why want a restorative dialogue?**

When we started listening to why women like Anna wanted to face the offender we learned, that they had questions to ask, anger to show. They wanted their suffering to be recognised and validated by the one who had caused it. They wanted an apology; they wanted to be justified. They wanted it never to happen to anyone else. They wanted to get on with their lives, to live no longer in 'his' shadow. They wanted to feel free and safe again. To sum up, the women wanted exactly what many victims want in the aftermath of a criminal act: to (literally) stand up for themselves, speak their mind, and become visible. They don't want the story to end here but to add another narrative that restores their dignity.

The request most often comes from women who know or know of the offender and do not report to the police, but it also comes from women whose case has been dropped by the police, but not by them. The Centre being situated in the health sector, outside the criminal justice system, gives certain possibilities and certain limitations. One is that the Centre is not allowed to contact the offender directly. It can only be done by the 'patient', the woman herself. Anticipating the vulnerable situation of the woman 'inviting' the offender to a dialogue and the possibility of a 'no answer' or a rejection is an essential part of the assessment done by the facilitator. In terms of power balance taking this initial step towards a dialogue is however very powerful for the woman, even if the journey, as can happen, ends here. No response from the offender is of course a great disappointment for the woman, but the satisfaction of having done what was in their power to do stays with them. They stood up for themselves.

If the offender agrees to meet the woman a lengthy journey of preparations begins. The facilitator meets the woman and the offender separately a number of times assessing the possibility of a face to face meeting and clarifying the motivation, interests and needs of both. Contrary to victim-offender meetings within the criminal justice system where guilt has already been established and confessed to, this is not the case when the restorative meeting takes place outside the criminal justice system. This calls for clarification of the purpose of the restorative meeting. The parties will be prepared for what can be achieved and what may not possible to achieve in a meeting where accounts may differ and the question of guilt be up for negotiation. The role of the facilitator, emphatic and impartial, will be made clear as well as the overarching aim of the facilitator: to ensure that no further harm is done.

Sometimes, though seldom, the journey ends here on the wish of one of the parties or the recommendation of the facilitator. It is however our experience, that the women and men who by their own choice engage in the process of facing each other, and agree to undertake lengthy preparation with the facilitator, are motivated to do this, in the words of Howard Zehr 'to make things right' or to do the right thing: mostly for themselves. The narratives that are exchanged, the questions asked and answered, the emotional expressions (of all kinds) that surface during the meeting help promote conciliation with what happened, but not reconciliation nor forgiveness.

### **Is justice achieved?**

Do women achieve a sense of justice by participating in a restorative process and a face-to-face meeting? In a follow up of 16 women some women express that they feel justice, wholly or partly, has been done. Others are left with a feeling that there has been no reasonable consequences for what they had been through. Meanwhile, the fact that women don't regret embarking on the restorative dialogue process, coupled with satisfaction expressed with the process, indicates that the option of a restorative dialogue, regardless of the outcome, can give women a good feeling merely by participating in the process. It is however important to recognise that the restorative dialogues are not a way to end or reach closure of a traumatic experience, nor an option for all women, but it is a step that some women find helpful to take in regaining meaning and dignity in their lives after a sexual assault.

**"No crime victim should be forced to confront her perpetrator, but neither should she be denied the opportunity if she desires it." (Koss, 2000)**

None of the women I have referred to had imagined before they were raped, that they would elect to sit face-to-face with the man who assaulted them. But, being denied your personal right of choice and rendered powerless, is a changing experience. So it is for those of us, whose job it is to support victimised women in the struggle to regain their dignity, to be open and receptive to whatever the women feel can help them, even when it strikes at the heart of our own deep-rooted fears and prejudices or challenges our professional views.

The restorative dialogues carried out at the Centre for Victims of Sexual Assault have over the years received much attention from professionals from near and far. Only few other institutions though have been able to adapt a similar practice and even at the Centre in Copenhagen keeping up the restorative practice is an ongoing challenge. The wind is not always behind new ideas exceeding normal boundaries. It is however our hope that others will follow our example and create institutional platforms for restorative justice approaches to women (and men) who've been raped.

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