



edited by James Ptacek

Restorative Justice and Violence Against Women

OXFORD

RESTORATIVE JUSTICE AND VIOLENCE AGAINST WOMEN

Edited by
James Ptacek

OXFORD
UNIVERSITY PRESS

2010

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Published by Oxford University Press, Inc.
198 Madison Avenue, New York, New York 10016

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Library of Congress Cataloging-in-Publication Data
Restorative justice and violence against women / edited by James Ptacek.

p. cm. — (Interpersonal violence)

Includes bibliographical references and index.

ISBN 978-0-19-533548-4

1. Women—Violence against. 2. Abused women. 3. Restorative justice.

I. Ptacek, James.

HV6250.4.W65R465 2010

364.6'8—dc22

2009016950

5 7 9 8 6

Printed in the United States of America
on acid-free paper

Restorative Justice and Violence Against Women

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Restorative Justice and Violence Against Women
Edited by James Ptacek

To my son,
Alex Ptacek Zimmer

EDITOR'S INTRODUCTION

JAMES PTACEK

We need to create new ways for abused women to find justice. Despite significant accomplishments by the feminist antiviolenence movement over the past 35 years, community activists know well that justice is out of reach for most victims. Seeking ways to expand options for women and increase accountability for violent men, the contributors to this book have examined both the dangers and potential benefits of using restorative justice to address crimes against women. Feminism and restorative justice are both strong, global social movements that see violence against women as a problem; each movement, however, has a unique view on how this problem can be best resolved.

The informal mediation practices referred to as “restorative justice” (RJ) seek to decrease the role of the state in responding to crime and increase the involvement of personal, familial, and community networks in repairing the harm caused by crime. In the many parts of the world where it is practiced, RJ is most commonly applied to youth crimes. However, in many areas, RJ is prohibited from being used for crimes against women. Nevertheless, there is increasing use of these practices to address intimate violence, rape, and child sexual abuse. This has created deep concerns among feminist antiviolenence activists, especially because very little research supports using RJ in these cases. Conflicts have occurred between the feminist and RJ movements over this topic in Canada, New Zealand, Australia, the United States, and many other countries.

Restorative Justice and Violence Against Women faces this growing controversy by gathering together feminist scholars and activists who offer a range

of different perspectives on RJ. The contributors to this book have done extensive work on the problem of violence against women. Some are strongly in favor of using restorative practices in cases of violence against women, some are strongly opposed, and the opinions of many lie somewhere in between.

This book poses challenges both for the RJ movement and for feminism. Restorative practitioners have much to learn from feminists about the consequences of victimization and the dangers of "one size fits all" interventions. At the same time, feminist activists—who understand too well the limitations of the criminal legal system—have much to learn from restorative practitioners. Restorative justice proposes powerful ideas about expanding the options for victims of violence. This book is designed to advance a dialogue between these two social movements, and to convince people working in each that they have much to learn from one another.

ABOUT THE BOOK

This collection offers perspectives from scholars and community activists in the United States, Australia, Canada, and New Zealand. The topics address woman battering, rape, the physical and sexual abuse of children, and youth violence against mothers. A number of the chapters address how racism poses problems for addressing violence, both for feminists and RJ practitioners.

Overview: Restorative Justice and Feminist Activism

Chapter 1 outlines the central arguments in the book. In this chapter, I describe how the U.S. criminal legal system "co-opts" or undermines feminist activism, and how feminists are responding. Feminist-designed restorative practices represent one way that activists are resisting this co-optation. This introductory chapter places restorative approaches within the context of other feminist innovations in community organizing, including work concerning violence against women of color.

Critical Perspectives on Restorative Justice in Cases of Violence Against Women

This section identifies a number of feminist concerns about RJ. In Chapter 2, Loretta Frederick and Kristine C. Lizdas offer a thoughtful critique of restorative justice that nonetheless finds its basic principles laudable. The authors draw parallels between the goals of RJ and the battered women's movement. They conclude with a discussion of the shortcomings of not just restorative justice, but of the criminal legal system and feminist antiviolence organizing as well. Frederick and Lizdas are attorneys with the Battered Women's Justice Project in the United States.

In Chapter 3, Canadian legal scholar Rashmi Goel examines how sentencing circles in Canada are failing to meet the needs of Aboriginal women. Sentencing circles are a type of restorative practice used in Canada

and in Native American communities in the United States. Goel traces how dynamics of race and gender operate at cross purposes to complicate the ability of these practices to deliver safety and justice to Aboriginal victims of domestic violence.

Pamela Rubin gives a rich description of a conflict between feminists and the Canadian government in Chapter 4. Faced with a new initiative by the Nova Scotia Department of Justice to apply RJ to cases of sexual assault and intimate partner violence, women's groups mobilized to secure a moratorium on this initiative and to establish a more inclusive process for developing justice policies on crimes against women. Rubin is the coordinator of the Women's Innovative Justice Initiative in Nova Scotia.

Julie Stubbs, an Australian law professor, has been a critic of restorative practices as they have been implemented in Australia and New Zealand. In Chapter 5, Stubbs reviews the current research on restorative practices and what they offer to victims of gendered violence. Her chapter includes a discussion of Indigenous justice and Indigenous views of restorative justice.

Heather Nancarrow interviewed members of two Australian task forces on violence against women that came up with conflicting perspectives on the usefulness of RJ. One was an Indigenous women's task force; the other was made up largely of non-Indigenous women. The Indigenous women's task force issued a report stating that restorative processes empower Indigenous peoples and facilitate community involvement in preventing crime. In contrast, the non-Indigenous women's task force recommended that restorative practices should never replace criminal prosecution for violence against women. Nancarrow's research in Chapter 6 seeks to make sense of these competing positions. Nancarrow is the Director of the Queensland Centre for Domestic and Family Violence Research.

In Chapter 7, Kathleen Daly and Heather Nancarrow present an examination of youth violence against mothers in Australia. This kind of violence has barely been named, let alone researched in the United States. Daly and Nancarrow offer an in-depth analysis of three cases of violence against mothers that were processed through youth conferences, a kind of RJ commonly used in Australia and New Zealand. They analyze the experience of victims, the dynamics of the offenses, and how conference coordinators viewed the cases before, during, and after the conference. Since the dynamics in these youth-offender cases are similar to those for adult offenders, they illustrate the strengths and limitations of restorative practices in cases of gendered violence. Kathleen Daly is the Director of the Gender, Race, and Justice Research Program at Griffith University in Australia.

From Critique to New Possibilities: Innovative Feminist Projects

This section contains descriptions of new antiviolence interventions that either explicitly use RJ or that use similar kinds of methods for achieving justice.

Joan Pennell is a professor of social work who founded the first shelter for battered women and their children in Newfoundland, Canada. Working with her colleague Gale Burford, she developed the Family Group Decision Making project to deal with battering and child abuse in Newfoundland and Labrador. Now living in North Carolina, Pennell has developed a new restorative approach to domestic violence called "safety conferencing." Chapter 8 is co-written by Joan Pennell and Mimi Kim. Kim is a social worker with 15 years of experience working on domestic violence and sexual assault, including work with the Asian and Pacific Islander Institute in the United States. Their chapter is a dialogue about their two different approaches to stopping violence against women and children.

In Chapter 9, Mimi Kim presents her innovative project, Creative Interventions. This project seeks to create community-level antiviolence interventions that mobilize women's immediate social networks. This chapter locates this project within the context of RJ and other new antiviolence projects being developed by radical organizations such as Incite! Women of Color Against Violence and Critical Resistance. Kim will discuss how these radical organizations have created a growing political space in which antiviolence and anti-prison-industrial-complex activists are challenging both state-sponsored and interpersonal forms of gender-based violence.

Psychologist Mary Koss is the author of more than 200 publications on sexual assault. She developed a pilot RJ project for sexual assault cases in Arizona called RESTORE: Justice that Heals. In Chapter 10, Koss describes this innovative, feminist-designed restorative approach to rape. She explains, in rich detail, how this program was designed to meet the needs of survivors, needs largely neglected by the existing criminal legal system.

Shirley Jülich, a researcher at the Auckland University of Technology, has studied child sexual abuse in New Zealand. Drawing from her research on survivors' views of justice, in Chapter 11 Jülich examines a new restorative project in New Zealand, Project Restore. This project, inspired by Mary Koss' program, was initiated by adult survivors of child sexual abuse. Project Restore-NZ seeks to overcome the shortcomings of the traditional legal system and provide survivors with a sense of justice.

Andrea Smith is a Cherokee feminist, human rights activist, and Assistant Professor of Media and Cultural Studies at the University of California, Riverside. She coordinated the 2000 Color of Violence: Violence Against Women of Color conference in Santa Cruz, California, and co-founded the national organization that arose from this conference, Incite! Women of Color Against Violence. In Chapter 12, Smith examines the politics of RJ and outlines a number of new antiviolence strategies developed by women of color.

Conclusion

In the final chapter, I draw out common themes and questions raised by the contributors and offer recommendations for future antiviolenace work.

This book contains passionate arguments, insightful criticism, innovative approaches, and messy, practical details about what justice practices really look like. It is my hope that this animated collection will spark new conversations about how to meet the needs of survivors.

ACKNOWLEDGMENTS

I want to thank the contributors to the book for their inspirational work and their generous spirit. This book grew out of lively conversations over many years with activists, scholars, and practitioners. In addition to the contributors, I must acknowledge Donna Coker, Kay Pranis, Gale Burford, Quince Hopkins, Ted German, Fernando Mederos, Michele Bograd, Tom Denton, Kersti Yllö, Madeline Adelman, Sally Engle Merry, Sharene Razack, and Mindie Lazarus-Black. I had rich exchanges with Mary Lauby, Debra Robbin, and Craig Norberg-Bohm at the Massachusetts Coalition Against Sexual Assault and Domestic Violence; with Lisa Hartwick and Peggy Barrett at the Boston Area Rape Crisis Center; and with Juan Carlos Areán and Lonna Davis at the Family Violence Prevention Fund.

I am further grateful for the encouragement of my colleagues at Suffolk University, especially Carolyn Boyes-Watson, Lynda Field, Michèle Plott, Amy Agigian, Susan Sered, Felicia Wiltz, Erika Gebo, and the late Sharon Kurtz. Maura Roessner and Mallory Jensen at Oxford University Press were wonderful to work with at every stage of the process.

Special thanks go to Judith Herman, Kathleen Ferraro, Raquel Kennedy Bergen, Walter DeKeseredy, Jeff Edleson, Kim Cook, Susan Ostrander, and Kendall Dudley for their support of this project. Claire Renzetti has been so good to me I don't know where to begin!

My greatest thanks go to my life partner Bonnie Zimmer, who founded and directed a domestic violence advocacy program. I draw tremendous inspiration from her. I have also learned much from her remarkable advocates, and from the women her program has served.

BIOGRAPHICAL NOTES

ABOUT THE EDITOR

James Ptacek has been working on issues of violence against women in the United States since 1981. He has been a batterers' counselor and has conducted training on domestic violence intervention for hospital, mental health, and criminal justice professionals. He has done research on men who batter; on rape and battering on college campuses, and on battered women's experience with the courts. His new research focuses on the social class dimensions of intimate violence. Jim was guest editor of a special issue of *Violence Against Women* on "Feminism, Restorative Justice, and Violence Against Women" (May 2005;11[5]). He is an Associate Professor of Sociology at Suffolk University in Boston, where he is also on the faculty of the Master's Program in Crime and Justice Studies and the Master's Program in Women's Health.

ABOUT THE CONTRIBUTORS

Kathleen Daly is Professor of Criminology and Criminal Justice, Griffith University (Brisbane). She writes on gender, race, crime, and justice; and on restorative and Indigenous justice. From 1998 to 2006, she received three Australian Research Council (ARC) grants to direct a program of research on the race and gender politics of "new justice" practices. She has launched an international project on innovative responses to sexual violence, also funded by the ARC (2008–2011). In addition to six books or edited collections, she has published over 60 articles in journals, edited

collections, and law reviews. She was president of the Australian and New Zealand Society of Criminology from 2005–2009, and is a fellow of the Academy of the Social Sciences in Australia.

Loretta Frederick, J.D., is senior legal and policy advisor of the Battered Women's Justice Project, a national resource center in the United States on domestic violence criminal and civil legal issues. Since 1978 she has done training and consultation on domestic violence legal issues with judges, advocates, attorneys, prosecutors, and law enforcement officers in the United States and internationally. Loretta serves as faculty for the National Judicial Institutes on Domestic Violence and was a consultant for the U.S. Marine Corps on the development of its Coordinated Community Response to domestic violence. Her work with the Minnesota State Bar Association has included her current role as chair of the Domestic Abuse Committee as well as a past term as chair of the Family Law Section.

Rashmi Goel was born and raised in Canada. She is currently an assistant professor in the Sturm College of Law at the University of Denver in Colorado, where she teaches criminal law, comparative law, and a seminar entitled Multiculturalism, Race and the Law. Her research focuses on culturally specific adjudication and its manifestations in a number of legal arenas, including family law, international and comparative law, and criminal law. Professor Goel's work addresses the cultural constraints surrounding domestic violence and RJ, and examines the political context for Aboriginal peoples in which these reforms must operate or fail. Outside the law school, Professor Goel puts her knowledge in these areas to work in Colorado and California, helping to establish dispute-resolution mechanisms for high school students.

Shirley Jülich is a senior lecturer in the Centre for Business Interdisciplinary Studies and the program leader for restorative justice at AUT University, Auckland, New Zealand. Her Ph.D. investigated the complex relationship between the criminal justice system, RJ, and child sexual abuse from the perspective of adult survivors of child sexual abuse. Shirley is a founding member of Project Restore, a program that aims to address gendered violence by using RJ processes. Her research interests focus on the intersection of gendered violence, recovery, and justice, including the economic consequences of this relationship for victims, offenders, their families, and the broader society.

Mimi Kim is a long-time antiviolence advocate who has worked primarily in Asian communities. She is a steering committee member of the Asian and Pacific Islander Domestic Violence Institute, a national resource center in the United States. Mimi is also a founding member of Incite! Women of Color Against Violence, where she has been working collectively with women of color nationally and internationally to create community-based solutions to violence. Mimi continues her domestic violence advocacy as the founder and executive director of Creative Interventions, an Oakland, California-based resource center supporting community-based interventions to domestic violence and other forms of intimate violence. She is also a program consultant

for Shimtuh: Korean Domestic Violence Program, an Oakland-based program that she co-founded in 2000. Mimi is currently a Ph.D. candidate in the Department of Social Welfare at University of California, Berkeley.

Mary P. Koss is a Regents' Professor in the Mel and Enid Zuckerman Arizona College of Public Health in Tucson, Arizona and founder of the RESTORE and the Safety Connections programs. Professor Koss has worked in the field of violence against women for more than 30 years. She served on the National Academy of Sciences Panel on Violence Against Women and currently co-chairs the American Psychological Association Presidential Initiative on Violence Against Women and Children. She has twice testified before the U.S. Senate on matters relating to sexual violence surveillance and sexual assault in the military. She is past co-chair and current member of the Coordinating Committee of the Sexual Violence Research Initiative, funded by the Global Forum and the Ford Foundation and based in Pretoria, South Africa. She coordinates the Sexual Violence Applied Research Group of VAWnet.org, the Centers for Disease Control (CDC)-funded national online research resource on sexual and physical violence.

Kristine C. Lizdas serves as staff attorney for the Battered Women's Justice Project (BWJP), a national resource center on domestic violence legal issues in the United States. Kristine researches and monitors legal and policy development in the field of domestic violence. She specializes in such areas as law enforcement policy and practice, firearms, dedicated domestic violence courts, interagency data-sharing, custody law, and RJ. Prior to joining BWJP in 1999, Kristine spent several years with the Duluth Domestic Abuse Intervention Project (DAIP) as a community organizer, co-writing the Duluth Domestic Violence Safety and Offender Accountability Audit manual, and piloting the Safety Audit through several projects. Kristine has trained for and provided consultation to a variety of local, state, and national organizations, governmental agencies, and academic institutions.

Heather Nancarrow, MA (Hons) is the director of the Queensland Centre for Domestic and Family Violence Research, Central Queensland University, Australia. She has more than 25 years of experience in the field of domestic violence prevention, including roles in community-based women's refuges and government policy and legislative administration. Heather's research interests include justice responses to Indigenous family violence, the utility of RJ for cases of domestic and family violence, dating violence, and the associations between spousal domestic violence and child abuse.

Joan Pennell, MSW, Ph.D., is professor and head, Department of Social Work, North Carolina State University. She is the principal investigator of the North Carolina Family-Centered Meetings Project, which receives funding for work in child welfare and schools. Through the American Humane Association, she is serving on an international team reviewing research on family group decision making. She previously directed the North Carolina Family Group Conferencing Project. Before her return to the United States, she was a principal investigator (with Gale Burford) for a Newfoundland and Labrador, Canada, demonstration of

family group conferencing in situations of child maltreatment and domestic violence. She helped to found the first shelter for abused women and their children in Newfoundland. She has co-facilitated support groups for abused women of European and Aboriginal descent.

Pamela Rubin, LL.B., is based in Halifax, Nova Scotia, where she coordinates research and policy initiatives focusing on women's safety and equality. Ms. Rubin leads collaborative, community-based research in Nova Scotia to support more effective responses to violence against women. Her work has emphasized the prevention of revictimization in the justice and social service systems. She also contributes to the field of gender-impact analysis and has designed and conducted innovative, narrative evaluations of family mediation programs for Justice Canada and the governments of Nunavut, Newfoundland, and Labrador. Ms. Rubin has taught women's studies and criminology at Saint Mary's University and Mount Saint Vincent University in Halifax. Ms. Rubin is the coordinator of the Women's Innovative Justice Initiative, a research and policy group comprised of Nova Scotia equality-seeking women's organizations, and partners in the Family Law Information Project for Abused Women, a project of Status of Women Canada.

Andrea Smith (Cherokee) is a long-time antiviolence and Native American activist and scholar. She is co-founder of Incite! Women of Color Against Violence, a national grassroots organization that utilizes direct action and critical dialogue. Andrea began her advocacy work as a rape crisis counselor with Chicago Women of All Red Nations. She coordinated the Native Women and Sexual Assault Research project for Amnesty International, and is the author of *Conquest: Sexual Violence And American Indian Genocide* (South End Press, 2005). She holds a B.A. from Harvard University in comparative study of religion, a Masters of Divinity from the Union Theological Institute, and a Ph.D. from the University of California, Santa Cruz, in the history of consciousness. She is currently an Assistant Professor of Media and Cultural Studies at the University of California, Riverside.

Julie Stubbs is Professor of Criminology in the Faculty of Law, University of Sydney. Her research focuses on violence against women, including domestic violence law reforms, battered women's syndrome, women as victims and offenders in homicide matters, post-separation violence, sexual assault, and RJ. She has worked with the New South Wales (NSW) Bureau of Crime Statistics and Research as senior research officer and was for a time acting deputy director. She has worked as a consultant to Legal Aid, the Office of the Status of Women, the NSW Police Service, the NSW Bureau of Crime Statistics and Research, the Australian Law Reform Commission, the Royal Commission into the NSW Police Service, and the Australian Institute of Judicial Administration.

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