

Asking Different Questions: A Restorative Approach to Cases of Gender-based Violence on Campus

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TTI

RK Resolution





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Learning Outcomes

Possess

A broad understanding of restorative justice and restorative practices

Appreciate

The context and complexities of reporting gender-based violence on college campuses

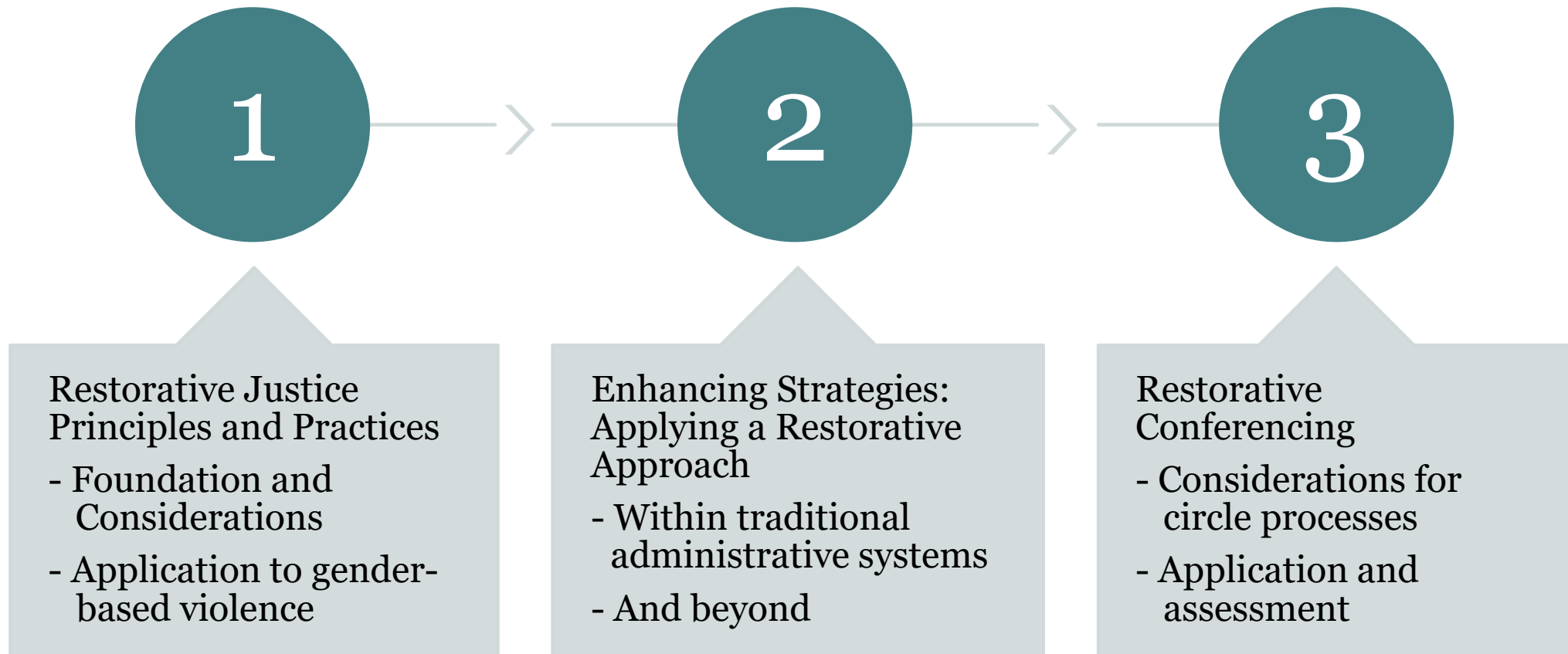
Identify

Opportunities for application of a restorative approach

Consider

Strategies for infusing restorative practices into Title IX and Student Conduct processes

TTI Sequence



Asking Questions: Our Processes

- What does it feel like to go through our process?
- What are the needs of complainants and respondents?
- Does the community have a role?
- Why do victims not report?
- Why do responsible parties often not accept responsibility?

Hypothetically speaking...



What is Restorative Justice?

A Framework

- Restorative Justice is an approach, used around the world, that utilizes processes with indigenous roots to resolve crimes and conflict.
- It involves those with a stake in a specific offense to collaboratively identify harm that has resulted from that offense and address the needs to repair that harm.

Three Questions - Two Views

Conventional Criminal Justice System

- Who did it?
- What laws were broken?
- How will we punish the offender?

Restorative Way of Thinking

- What is the harm?
- What needs to be done to repair the harm?
- Who is responsible for this repair?

Adapted from Howard Zehr, 2002

Student Conduct Administration

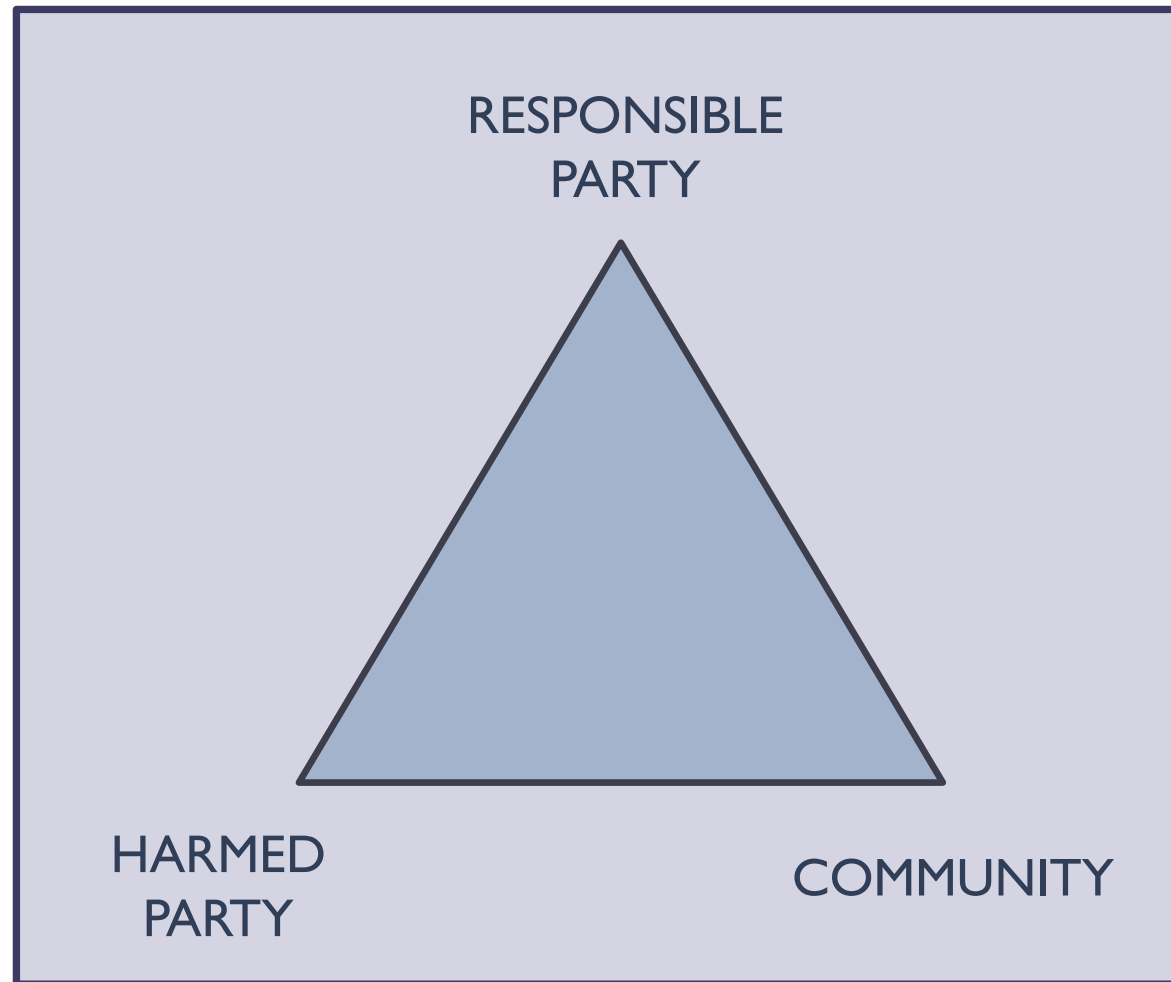
Conventional Student Conduct Process

- Who did it?
- What section of our Code of Conduct was violated?
- What sanctions will we impose?

Restorative Way of Thinking

- What is the harm?
- What needs to be done to repair the harm?
- Who is responsible for this repair?

Restorative Triangle



5 R's
of
Restorative
Practice

Relationship

Respect

Responsibility

Repair

Reintegration

Beverly Title, 2007



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Restorative Approach

Relational

Addresses harms, needs and obligations

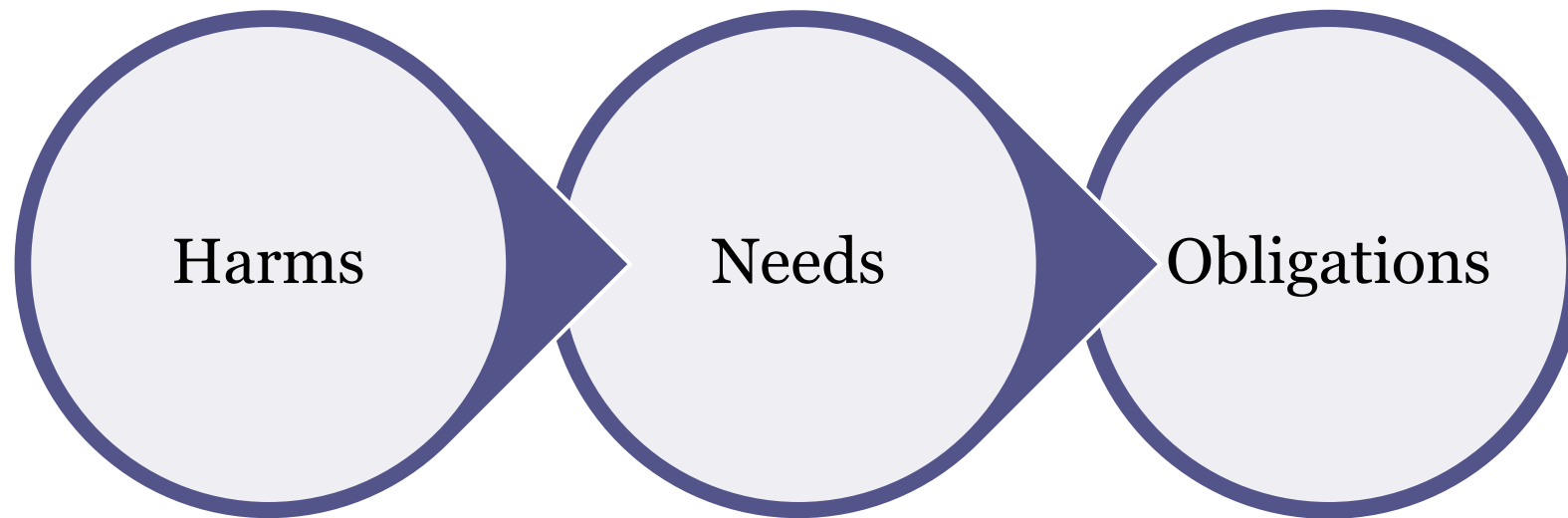
Collaborative

Equal concern for harmed and responsible parties

Relational

- A Restorative Approach:
 - Emphasizes relationships over rules
 - Does not negate the importance of written community expectations
 - Prioritizes the people behind those rules
 - Reinforces the role of community

Addresses Harms, Needs, and Obligations



Collaborative

- A Restorative Approach
 - Uses collaborative processes
 - Engages stakeholders
 - Harmed parties
 - Responsible parties
 - Community members
 - Gives voice

Does not always mean physically bringing people together

Equal Concern

- Restorative approach
 - Has equal concern for harmed and responsible parties
 - Impacted party's needs drive the bus
 - As people, parties matter equally
 - Hinges upon respect for all
 - Honors the dignity of all people – even those committing offenses

RJ Debunked: Potential Concerns

- Our institution does not have the funds to make this happen.
- Our policies are written by state law and don't offer this kind of flexibility.
- Acceptance of this framework will lead to harmed parties being pressured into caring about the needs of the person who harmed them – or to sit down together.

RJ Debunked: Potential Concerns

- This is a way to give responsible parties an easy out; a touchy-feely response to serious offenses.
- Isn't it problematic to tailor our process based on the needs of a complainant? How is that fair to a respondent?
- Why should a harmed individual be asked to care about the needs of the person who harmed them?

Gender-based Violence on Our Campuses



The Reality

- Prevalence
- Underreporting
 - “Reporting” is not right for everyone
 - Acknowledging our role in underreporting
- Attrition
 - Complainants
 - Respondents
- External pressure

Language Matters

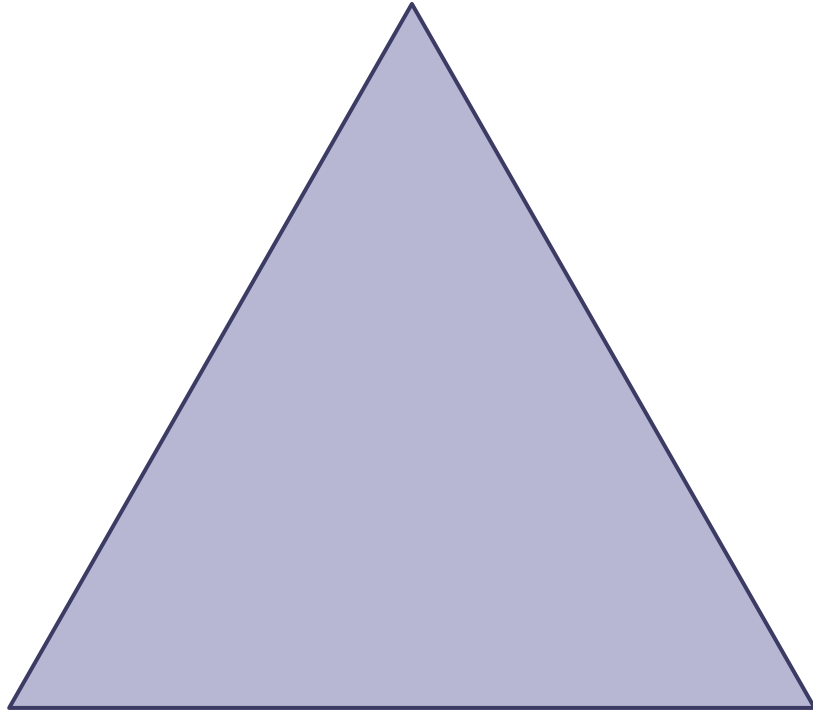
- Distinct definitions
 - Complainant, victim, survivor, affected party
 - Respondent, accused, offender, person responsible
- Impact of labels

A Fragile Framework

- Compliance considerations
- Developmental interventions
- Maintaining institutional obligations, needs and rights of parties



Applying a Restorative Approach



- Relational
- Addresses harms, needs, and obligations
- Collaborative
- Equal concern for victims and offenders

Concern for Complainants

- Giving voice
- Identifying needs
 - Sense of safety
 - Validation
 - For impact to be heard
 - Deeper understanding of what transpired
 - Accountability
 - Enhanced confidence the behavior will not recur
- Whose responsibility is it to meet those needs?

Additional Considerations: Complainants

- Non-student offenders
- Declining to proceed
- Sensitivity to revictimization
- Beyond a responsible finding

Concern for Respondents

- Opportunity to be heard
- Fair / Due process
- Support
- Accountability / Developmental intervention (when applicable)
- Reintegration

Responsible Party Considerations

- Acceptance (or absence) of responsibility
- Role of shame
 - Dis-integrative shame
 - Re-integrative shame
- Voicing the harm, including self-harm
- Addressing causes

Concern for Community

- How broadly do we define community?
- What is the harm?
- What are the needs?
- Whose obligation is the repair?
- Fundamental role in reintegration

Not One-Size Fits All

- Flexibility in process
- Putting people first does not mean infringing on their rights
- Mechanisms to be collaborative

Back to our hypothetical...

Opportunities for Reframing

- Intake processes
- Interviews/Investigations
- Sanctioning
- Facilitated dialogue

Not “just” embedding principles

Asking the Questions of Ourselves

- How can we reframe the issues?
- What can we achieve?
- Who is most appropriate on your campus to have these conversations?
- Who can help you promote this approach?

Opportunities for Further Learning and Engagement

- Center for Justice and Peacebuilding at Eastern Mennonite University
- Impact Justice
- International Institute for Restorative Practices
- National Association of Community & Restorative Justice
- Restorative Justice on the Rise
- USD Center for Restorative Justice
- Zehr Institute for Restorative Practices

Contact Information

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