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# Truth and Reconciliation as a Model for Change in Response to #MeToo

Symposium Article

**Abstract:** *The U.S. criminal justice system is designed to handle extreme cases of sexual misconduct, but the system has not adapted well to less extreme (but no less important) sexually inappropriate behaviors. As our understanding of sexual misconduct and impropriety evolves, the need for a new system of accountability seems apparent. The authors call for a new approach to providing justice for survivors/victims: the adoption of a truth and reconciliation model. This model involves providing a public forum for survivors/victims to testify to the events of their victimization and for offenders to admit previous wrongdoing, take responsibility, and ask forgiveness. While it is not appropriate for handling illegal behaviors, a truth and reconciliation model would be ideal for incidents that are not illegal but violate our evolving social norms.*

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In recent years, alongside the rise of the #MeToo movement, there has been a popularization of the term “sexual misconduct.” Sexual misconduct is not a legal term but instead a social term meant to convey a wide range of sexual improprieties. At one end of the range are behaviors that are frequent but have little social awareness, such as sex-based jokes. At the other end of the range are behaviors that are less frequent but have very high social awareness, such as forcible rape. In most cases, the sexual improprieties that are lower in frequency but high on social awareness are considered illegal, criminal activities. In contrast, most high-frequency, low-awareness improprieties—while often inappropriate—are considered part of the social norm. The emergence of the #MeToo movement can be attributed, in part, to a shift in our understanding of socially acceptable behaviors. This shift has meant that the lines between what is and is not sanctioned have become increasingly gray.

Notorious for its resistance to change, the American criminal justice system has been largely inadequate in coping with all but the clearest-cut and most severe incidents of sexual impropriety—leaving “lesser” offenses unaddressed—and its crude zero-sum responses are often ineffective at serving the needs of either individual survivors/victims or society. *Given evolving understandings of the extent of sexual misconduct, how can we address misconduct that does not fall into the realm of being “illegal” but does offend our social norms and sense of decency?*

What if there were an alternative specifically designed to address sexual misconduct? Imagine: It is March

24, 2025. Professor Smith, a professor of public administration at Big State University, receives a notification as she hurries to her lecture course on local policy making. Although she had expected the notification to arrive on this day, it nonetheless catches her off guard. It is not the first time she has received a notification, nor her first involvement with the Office of the State Attorney General’s Division on Truth and Reconciliation (DTR). In the past, she offered support and testimony to friends, family, and coworkers through an encrypted online application. She also participated in a number of online training exercises, tutorials, and “open dialogues” that were part of the division’s work to increase public education and awareness about sexual misconduct in the state. Still, this notification caught her off guard.

This time she was being asked to recount events from nearly 20 years ago, when she was a graduate student. Back then, she was forced to rebuff several advances from Professor Xavier—a tenured professor—in her department. While she had first thought the advances mild, over time, Smith came to understand the inappropriateness of Professor Xavier’s behavior and the effects it had on her and other individuals in the department. Yet she had never shared her personal experiences with sexual harassment.

In fact, her testimony was being solicited by the division at the request of Professor Xavier. He was using the DTR’s proactive program to seek out and redress misdeeds that he had committed during his career as a professor, and he hoped Smith would participate in the process. Smith, for her part, had

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taken an online tutorial about the purpose and goals of “truth and reconciliation,” provided testimony about her experiences with Professor Xavier, reviewed the testimonies of others affected by Xavier’s behavior (including Xavier), and now she was ready to select her preferred remedies and corrective actions.

As she was satisfied with Professor Xavier’s efforts to acknowledge and correct his behavior, Smith chose to accept his apology and archive her experiences. Later, in considering the process she had taken part in, she recalled the “#MeToo” movement and the lack of a formal process to sort through claims of inappropriateness and being made uncomfortable from criminally prosecutable sexual misconduct. When asked by a colleague about her experiences with the DTR and Professor Xavier, she said, “We needed a way to let the accused and accusers come forward and be heard outside of the criminal justice system and outside of the court of public opinion. The DTR provides that system. As my mom always said, when we know better, we do better . . . Xavier knows better, now he can do better.”

A systematic and transparent approach to addressing sexual impropriety and other hostile incidents is possible if we accept the following as true:

First, the #MeToo movement has been an undeniable force for good by giving voice to individuals who might not otherwise have their voices heard speaking about the nature of sexual impropriety, including assault.

Second, no field or occupation has been immune to this social movement, including, if not especially, public institutions such as state governments or public universities. By calling out and holding accountable individuals (mostly men) who have used their power and position to take advantage of others, institutions convey a message about the seriousness of sexual improprieties. However, observers of current administrative responses to sexual misconduct have noted laxness or avoidance in correcting sexual wrongdoing. This is especially problematic in the case of public administrators, whose charge as guardians of the public good imbues their inaction with an air of societal acceptance and complicity. Because the historical “norm of silence” about sexual misconduct is rapidly being abandoned, we can expect more people to come forward and seek redress for misconduct in the recent and more distant past.

Third, despite various laws and policies, our current systems do not adequately prevent, protect, or redress much of the bad behavior that spawned the #MeToo movement. This includes much of our criminal justice system, which onerously places the burden of proof on accusers, uses narrow definitions that place many issues outside the law, and applies arbitrary statutes of limitations on many of the activities that are considered crimes. For example, the New York State criminal code punishes only sexual misconduct rising to forcible touching (e.g., squeezing, grabbing, pinching) or above. Where criminal law is not applicable, victims must rely on a patchwork of civil torts, administrative regulations, and private sector disciplinary measures. Civil suits require financial means to retain a lawyer or cases sufficiently clear-cut that one will work on contingency. Federal protections exist broadly, such as for employees under Title VII of the 1964 Civil Rights Act, or

for specific environments, such as student protections under Title IX of the 1972 Education Amendments. Yet these measures have failed to break through cultural barriers to hold sexual offenders responsible: reputational incentives cause institutions to ignore or silence victims, “rape culture” norms make individual fact finders less sensitive to the nuances of sexual victimization, fear of major life disruption and stigmatization discourages victims from reporting, and adversarial processes discourage offenders from taking responsibility and redressing wrongs.

As the #MeToo movement exposes bad actors and behaviors within our academic field and our professional discipline, as well as more broadly, our approach and response should be more systematic, transparent, and orderly.

We propose *truth and reconciliation*.

Most recognized as implemented by South Africa’s postapartheid Truth and Reconciliation Commission, a truth and reconciliation model involves providing a public forum for survivors/victims to testify to the events of their victimization and for offenders to admit previous wrongdoing, take responsibility, and ask forgiveness (Androff 2010). Such processes are designed to forgo punitive responses to victimization in favor of a model that increases understanding between parties and enlightens the larger society on the true costs of the offensive behavior (Kelsall 2005; Rotberg and Thompson 2000). Survivors/victims have a chance to unload the burden of keeping traumatic and humiliating events secret, a first step on their road to healing (Androff 2012; de la Rey and Owens 1998). Survivors/victims often also have the benefit of hearing an explanation of why the perpetrator committed the offense against them and to hear the offender take responsibility for the pain caused, a step toward healing (Strang et al. 2013). Perhaps most importantly, the burden of proof is not placed on survivors/victims to defend their claims or the extent to which they were harmed. Particularly when their perpetrators participate in the process, survivors/victims find their claims legitimized instead of dismissed.

Offenders, meanwhile, have an opportunity to learn from their mistakes and to take stock of the full extent of the harm their actions caused, receiving moral education, so to speak (Schweigert 1999). The process also allows them to take responsibility for their actions, which requires them to consider what caused them to behave as they did and to communicate that motivation to the survivor/victim. Because the truth and reconciliation process is not punitive for those who willingly admit and repent for their offenses, perpetrators can come forward without the self-preservation motive as a hindrance. In nonsexual contexts, studies suggest that dialogue between survivor/victim and offender/perpetrator lessens subsequent criminal behavior by offenders (Strang et al. 2013).

Finally, communities are taught in the process of truth and reconciliation convenings. Unlike most restorative justice models, truth and reconciliation models are premised on the idea of a broadly public forum in which survivors/victims’ and offenders’ testimonies are given in the open. In listening to the suffering of the survivors/victims, the public learns—with the offender—the

scope of damage done to the survivor/victim (e.g., Czyzewski 2011; Milloy 2013). Hearing the offender second the testimony of the survivor/victim and apologize for it delegitimizes accusations of the survivor/victim's falsity. Once the problem and its impact are heard, and in a public setting so that it becomes a public issue, society is placed in a position to have to respond. Research suggests that these processes are effective as cultural stances on traumatic events of national magnitude shift (Stein et al. 2008).

We do not present here an exact truth and reconciliation blueprint for sexual misconduct, but we can offer a brief sketch. In our conception, a truth and reconciliation process for survivors/victims of sexual impropriety would involve a forum for the accused, accuser, and bystanders. It must be government- or institution-wide. The core of truth and reconciliation is that the proceedings are broad-based enough to command attention of a large public but discrete enough for cultural and policy responses to account for important particularities. Our Professors Smith and Xavier participated in a state-based process, which raises the concern to a substantial level of policy attention while allowing for responses attuned to a more local social milieu. While sexual impropriety is a significant national issue, there is enough heterogeneity in trends across states to justify state-specific responses. Our envisioned process will also diverge from previous truth and reconciliation commissions by being a permanent process, with ongoing mechanisms for reporting, including both anonymous and nonanonymous public testimony. Unlike truth and reconciliation commissions examining the impact of a distinct time period or event, ours would address a continuing cultural practice of abuse with a long and indeterminate history. Nevertheless, the process would also need to be carried out in a way that continued to garner public attention, else the aim of public education be lost.

Of course, anyone proposing or implementing a truth and reconciliation process for survivors/victims of sexual impropriety should recognize that it must be only a part of a longer process of healing, accountability, and education. First, publicly telling their truth will not be a course for all survivors/victims, and testifying should be an option for survivors/victims but never an expectation. Moreover, after their testimony, a survivor/victim-centered process would provide a host of services including therapeutic programming and, to the degree possible, ways to address the difficulties brought on by the individuals' victimization. Offenders, after publicly taking responsibility, must willingly hold themselves accountable, participating in programs designed to guide them through a process of reflecting on their actions, the causes of their behavior, and how they might prevent similar wrongs in the future. While the ethos of retribution is abandoned in the truth and reconciliation model, personal growth and transformation through service is not, and offenders can reframe their thinking and recast their public image by contributing to the public good. As for the public, truth and reconciliation proceedings must be part of a robust educational effort in which the messages of those who testify bolster a public message consistently reinforced.

Admittedly, truth and reconciliation commissions have traditionally been instituted after periods of great civil upheaval, such as civil war, in the context of a general period of transitional justice (Rotberg and Thompson 2000). However, there is precedent for

truth and reconciliation bodies at subnational levels (Androff 2012) and those that address long-standing cultural ills, such as the Canadian commission on the system of forced indoctrination for indigenous children or the commission on slavery and indentured servitude in Mauritius. Also, there are a fair number of critiques of the ways past commissions have addressed the specific trauma of women (Graybill 2001; Ross 2003; West 2013), shortcomings that would need to be explicitly addressed by any truth and reconciliation process designed to address an issue in which they are the primary population of concern. However, the basic idea that sharing a national truth and commitment to reconcile past harms can move individuals, communities, and societies closer to resolution of lingering tensions is generally accepted (McKay 2000). Thoughtful, contemplative policy making to design processes that address the full scope of the issue at hand should come closer to the mark for an ideal reconciliatory process, and, where one might fail, be amenable to change for the better.

It would not supplant the criminal justice system; in fact, truth and reconciliation processes can exist side-by-side with options for survivors/victims to pursue criminal prosecution (Le Touze, Silove, and Zwi 2005). For several reasons, some survivors/victims may not find the satisfaction they seek without retribution, and some offenders will not exhibit the repentance that warrants grace. In still more cases, public safety or policy concerns require prosecution and state sanction, even when the individual survivor/victim does not seek it. These should move forward through administrative processes more suited to address these needs. A truth and reconciliation process would solely serve the aims of acknowledging survivors/victims' voices, providing space for offender responsibility taking, and educating the public. Other aims—such as punishment or offender recompense—must be met by other means. Still, given an ability to define impropriety beyond legal definitions, a truth and reconciliation process as we propose it might be the only redress available for a significant portion of survivors/victims. It captures the voices of anyone affected by sexual impropriety and misconduct, which includes all of us.

Beyond turning our attention to this important issue, the #MeToo movement has created an opportunity for us to create a system for redress that we probably needed long ago. We need a system that allows us to speak openly, honestly, and frankly about the complexities of power and sex. We need a system that can remediate decades-old incidents between individuals. We need a system that supports and encourages everyone to come forward and bear witness to the misdeeds of the past, included to those who perpetrated those misdeeds. The incidents that occurred between Smith and Xavier are not uncommon. Unfortunately, we have never really had a system to properly adjudicate such cases. Now is our chance to create a new system—a system that allows for truth and reconciliation with our past.

## Notes

1. Throughout, we use the term "survivor/victim," in keeping with Koss and Achilles's (2008, 1) convention, "to retain the empowerment conveyed by the word "survivor" and the outrage implied by the word "victim.""
2. Truth and reconciliation commissions have been used by communities around the world, including by nations in Africa (South Africa, Algeria, Chad, Democratic Republic of the Congo, Gambia, Nigeria, Rwanda, Sierra Leone,

Togo, Tunisia, Uganda), Asia (Kenya, Liberia, Mauritius, Morocco, Nepal, South Korea, Sri Lanka, Timor-Leste), Europe (Germany), North America (Canada, Ghana, Guatemala, Haiti, Honduras, Panama), Oceania (Solomon Islands), and South America (Argentina, Brazil, Chile, Ecuador, Paraguay, Peru, Uruguay). However, amorphous definitions across researchers have made it impossible to come up with a universally accepted comprehensive list (Brahm 2009).

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