

# Scholars: In #MeToo movement, lessons of restorative and transitional justice important

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A new paper from a team of U. of I. legal scholars explores restorative and transitional justice in the #MeToo movement. From left, Jennifer Robbennolt, the associate dean for research at the College of Law and co-director of the Program on Law, Behavior, and Social Science; Colleen Murphy, the director of the Women and Gender in Global Perspectives Program at Illinois; and Lesley Wexler, a professor of law. Credit: Photo by L. Brian Stauffer

A new paper from a team of University of Illinois legal scholars argues that reformers of the burgeoning #MeToo movement ought to heed the core principles of restorative and transitional justice and take into account the needs of both victims and offenders, as well as the larger community.

The article, co-written by U. of I law professors Colleen Murphy, Jennifer K. Robbennolt and Lesley Wexler, explores the "meaning, utility and complexities of restorative and transitional justice for dealing with [sexual misconduct](#) in the workplace" in the post-Harvey Weinstein era.

"As the public is trying to come to terms with how to think about violators - from sexual harassers to perpetrators of sexual crimes - we wanted to explore what counts as having made things right," Wexler said. "One answer is what's owed to the individual victims of sexual harassment and abuse. The second is to think about the bigger purpose of the #MeToo movement, which is not so much about any one individual but highlighting that there's a structural, societal problem."

The paper documents the restorative justice aspects of the #MeToo movement - acknowledgement, responsibility-taking, harm repair, nonrepetition and reintegration - and explores the steps taken, most prominently by the Time's Up movement, to amplify the voices of survivors, seek accountability and encourage access to the legal system, and change workplace practices and dynamics.

"We take a look at the ways in which people accused of sexual misconduct have responded to those accusations and how those responses have succeeded or failed in terms of restorative justice," said Robbennolt, the associate dean for research at the College of Law and co-director of the Program on Law, Behavior, and Social Science.

"The #MeToo movement creates an opening for a conversation about what it takes to make amends for serious wrongdoing, as well as recognizing that wrongdoing exists along a spectrum," said Murphy, also the director of the Women and Gender in Global Perspectives Program at Illinois. "It can be an isolated incident or reflect an ongoing, broader pattern of behavior. When it comes to thinking about those who've served time for the crimes they've committed: Does it mean that their life is forever stained by it, or are there possibilities for reintegration? It's important to think what the commission of wrongdoing means for the future of one's life, and also how being the victim of wrongdoing shapes one's future."

The scholars also examine the movement through the lens of transitional justice.

"We identify some shared features of transitional societies and the #MeToo setting, including structural inequalities, a history of denial and the normalization of wrongful behavior, and uncertainty about the way forward," Wexler said.

It remains unclear where things will end up as a result of the movement, said Murphy, also a professor of philosophy and of political science at Illinois.

"And that's common to transitional contexts where you're trying to deal with long-standing patterns of wrongdoing, where it's ambiguous to what extent things will change in a deeply meaningful way," she said. "Even at moments of possibility such as right now, where we're having this conversation nationally that's creating an opening for individuals to come forward and tell their story in a way that may be more sympathetically received - it's still going to be a battle on multiple fronts, not all of them organized by government. Private efforts utilizing the legal system, and operating in ways that don't rely on turning to the passage of new laws as

the first and only source of a response, will also be important."

It could come in the form of public gestures, such as the recent calls for "inclusion riders" in Hollywood contracts, which specify a level of diversity in a production's cast and crew.

"When 'Black Panther' actor Michael B. Jordan announced that his production company was going to include inclusion riders in all of their contracts - sure, that's a single individual doing it, but if others follow suit, it could become the industry standard," Wexler said.

"That, at least, represents a step in the right direction. When you have those very public gestures being done, there's a hope that they will be replicated and eventually become the norm," Murphy said.

If nothing else, it's a moment for "creative thinking about what kind of efforts will lead to changing the norms that structure interactions between employer and employees, at a very broad level," Wexler said.

"At this point, it's overwhelming to keep track of all the different cases and industries where this is coming up," she said. "We are in an epochal moment - but it's hard to gauge where we are and where it all will go. Our paper suggests that just as we celebrate the optimism of this moment, we should be cautious to make sure the path for structural change doesn't leave out the voices and needs of the most vulnerable women such as those who are of color, gender nonconforming, lesbian, disabled or poor. To do so risks harming them again."

The paper will be published in the *University of Illinois Law Review*.

**More information:** *University of Illinois Law Review*, [papers.ssrn.com/sol3/papers.cfm ... ?abstract\\_id=3135442](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3135442)

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