Responsibility Initiatives:

The Role of Law in Promoting Acceptance of Responsibility

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ABSTRACT

In this Article, the author argues that criminal justice responses to intimate violence should enhance provisions and practices that encourage public acceptance of responsibility by offenders. Drawing on psychological research on recovery from trauma, Hopkins argues that such public admission of wrongdoing has a potential therapeutic effect for survivors of intimate violence. In addition to support from psychological research, the author draws on feminist and restorative justice theories as further support for such an approach. In addition, the author notes the expressive and symbolic benefit to society from justice programs that take public acceptance of responsibility seriously, and the potential of such programs to change social norms that allow family- and other gender-based violence to continue. The author then describes a pilot project aimed at studying the use of restorative justice in a limited set of sexual assault cases. Hopkins distinguishes the use of restorative justice in these acquaintance assault cases from efforts to use such an approach in cases of intimate partner violence, and seriously cautions against its use in the latter cases. The author then more fully deconstructs the role that apology plays in these two scenarios as a reason for caution in restorative justice efforts in gender-based violence cases. Finally, Hopkins outlines the many legal and constitutional challenges posed by the implementation of restorative justice initiatives as a final cautionary tale against wholesale implementation of restorative justice responses in cases of gender- and family-violence cases.