

Transforming the Workplace with Help from Transitional Justice

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Lesley Wexler, Jennifer Robbennolt, & Colleen Murphy, *#MeToo, Time's Up, and Theories of Justice*, available on [SSRN](#).

It may have been Ashley Judd's allegations against Harvey Weinstein, the movie mogul, that finally unleashed the powerful movement to call workplace harassment to account, but the movement had clearly been building for some time. Spurred along by the sexism surrounding the 2016 presidential election and allegations of harassment and abuse against high profile figures in the news, entertainment, and tech industries, in politics, and even in the judiciary, the #MeToo movement feels like a public reckoning. The [Time's Up](#) initiative, seeking to institutionalize reform and support victims of harassment, provides a concrete path forward to capitalize on the movement.

A number of activists have called for a restorative or transitional justice approach in order to create real change. [Lesley Wexler](#), [Jennifer Robbennolt](#), and [Colleen Murphy](#) take up that call in *#MeToo, Time's Up, and Theories of Justice*. They summarize the movement and initiatives currently under way, explore the key components of restorative justice, and look more broadly to the insights of transitional justice to help chart a way forward. As someone who has been advocating for years for a new approach to transparency and accountability surrounding discrimination in the workplace, I found this article incredibly valuable.

Wexler, Robbennolt, and Murphy summarize the evolution of Alyssa Milano's #MeToo twitter hashtag and at least partial combination with [Tarana Burke](#)'s MeToo movement into a broader phenomenon that focused at least initially on showing how widespread sexual abuse and harassment are and then on naming and shaming high level individuals who abused their power in this way. Acknowledging some critiques of the movement as benefitting mostly heterosexual cisgender upper-class white women, the authors note that even with those shortcomings, #MeToo has ignited a cultural reckoning that has prompted increased self-reflection, conversation, and changing perceptions of sexism, sexual harassment, and sexual assault." Wexler, Robbennolt, and Murphy then explain how the Time's Up initiative and other workplace reforms are being instituted to end sexual assault, harassment, and inequality in the workplace, not just for those in the entertainment industry, but also for people who do not have access to resources to enforce their rights in other industries. The comprehensive description of lobbying efforts, changes to workplace structures, cultural transformation, and access to resources for legal enforcement is particularly useful to understand the multi-pronged approach needed for real change.

After this summary of what is happening, Wexler, Robbennolt, and Murphy turn to theories of justice to explain how these efforts at reform might be most successful. They first describe what a restorative justice approach would include and how a transformative justice approach would supplement it. Restorative justice, they explain, "refers to a loose collection of practices or mechanisms that share a number of core commitments," including participation of victims, offenders, and members of the community; a full description and acknowledgement of the harm the behavior caused; responsibility-taking by the actor; efforts to repair the harm; and reintegration of the offender into the community. Transitional or transformative justice emphasizes that restoration cannot be to an inequitable status

quo, but must create a new equitable set of relationships. To do that, we must examine the institutions, structures, norms, and practices that contribute to and enable the wrongdoing.

The authors thoroughly apply the practices of restorative justice to the context of harassment and sexual violence, describing the challenges this context presents, and exploring where particular remedial efforts have satisfied the requirements of restorative justice and where they have failed to do so. They then explain why transitional justice theories could help create more expansive change. Wexler, Robbennolt, and Murphy acknowledge that transitional justice is usually practiced by states and often in situations where societies are transitioning from extended periods of conflict or repression towards more democracy. For this reason, there are some features that are disanalogous to a culture that is broadly mostly democratic, but where systemic wrongdoing nonetheless exists by private actors. Even so, the authors explain how many of the features offer useful guidance and how the structures of transitional justice might be adapted in this context.

For example, the focus of transitional justice on apologies by perpetrators, reparations, and acknowledgement of victims' accounts are already features of the movement, and those can help lead to broader societal transformation. Additionally, a focus on institutional change seems to be underway and could include legislation to prohibit nondisclosure agreements for workplace discrimination. Finally, a proposed industry commission in Hollywood, chaired by [Anita Hill](#) and empowered to take reports of discrimination and enforce zero tolerance policies toward harassment and discrimination could transform that industry and have broader societal effects as well.

I hope this article is widely read and that it inspires and informs the creation of a new approach to ending discrimination at work.

Editor's note: For a previous review of *#MeToo*, *Time's Up*, and *Theories of Justice* see Brooke D. Coleman, [#MeToo Justice](#).

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