

A photograph of three women standing in a row. The woman in the center is in sharp focus, looking directly at the camera with a serious expression. She has dark hair pulled back and is wearing a black sleeveless top with a white floral pattern. The two women on either side are blurred, also looking towards the camera. The background is a soft-focus outdoor setting with greenery.

GENDERED VIOLENCE AND RESTORATIVE JUSTICE GIVING SURVIVORS VOICE AND CHOICE

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GENDERED VIOLENCE AND RESTORATIVE JUSTICE: GIVING SURVIVORS VOICE AND CHOICE

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ABSTRACT

Compelling evidence exists to support the use of restorative justice in the field of gendered violence. However, there's a clear gap between what research has demonstrated about the effectiveness of restorative justice and the public's knowledge of it, as demonstrated in legislative and policy circles. This paper provides an updated and comprehensive summary of the research findings to help build awareness, guide legislative efforts, and support funding proposals. In addition, it argues that for restorative justice to reach its full potential within the dynamics of gendered violence, its theory and practice must evolve to incorporate systemic issues. Women who are victims of gendered violence often face a criminal justice system that intrinsically perpetuates harm, particularly against women of color and those from other marginalized communities. By remaining aware of relational dynamics and systemic injustices, restorative justice can unlock its transformative potential, offering tailored, meaningful responses that go beyond punitive measures and account for the root causes of gendered violence.



1. INTRODUCTION

The topic of addressing gendered violence with restorative justice often sparks passionate debate, revealing a clear divide between those who advocate for conventional punitive justice systems and those who champion innovative approaches that prioritize healing and empowerment. Recently, because of my research on the subject (e.g., Rosenblatt et al., 2018; Rosenblatt et al., 2022), I was invited to participate in a legislative committee hearing in a particular state in the United States. This experience highlighted the significant gap that remains between public understanding of restorative justice and the nuanced progress made within the field, while also underscoring that restorative justice itself is still evolving. Indeed, both scholars and practitioners continue to grapple with the full dynamics of what restorative justice can and cannot achieve. Furthermore, this experience reinforced how the broader debate is shaped by systemic constraints and deeply ingrained beliefs about punishment and justice.

The central legislative proposal sought to grant victim-survivors¹—including victims of sexual and domestic violence, as well as those affected by stalking—the right to access restorative justice, a concept that spurred considerable controversy. Critics of the proposed legislative measure voiced their fears that restorative practices would overshadow the rights and welfare of victim-survivors. They argued that such practices could inadvertently favor the perpetrator. They invoked the specter of revictimization and underscored the necessity of stringent safeguards to protect the vulnerable. Furthermore, they were vehement that the proponents, experts, and victim-survivors who had testified in favor of the bill were basing their arguments on nonexistent research.

They consistently asserted that there is no empirical data to support the use of restorative justice in gendered violence.

Advocates for the healing potential of restorative justice presented research-based evidence to the contrary. My own testimony emphasized restorative justice’s ability to empower victims, particularly when supported by safety measures like voluntary participation and proper preparation that respects the rights of both victims and offenders. Crucially, I emphasized the importance of giving victim-survivors agency in their pursuit of justice—providing them with both a voice and a choice in how to confront the violence that has affected their lives.

By the end of the legislative session, it became evident that much of the discussion disregarded existing research, as many of the questions and concerns raised by the politicians and criminal justice professionals present had been addressed in the literature but were largely ignored. This prompted me to revisit the misconceptions that were driving much of the opposition. I sought to understand why these perspectives persisted despite the evidence, recognizing that they were rooted in deeper systemic and cultural beliefs about justice and punishment. For example, in the U.S., data shows that mandatory criminal justice interventions for intimate partner violence have not protected women. In fact, between 1973 and 2003, “intimate partner homicide increased in states with mandatory arrest laws” (Iyengar, 2007, p.17; see also Walker & Tarutani, 2017, for further discussion on this topic). Reflections such as these led me to appreciate that both restorative justice

1. Extensive research on identity construction in women who experience gendered violence shows that many reject the “victim” label due to its negative associations with powerlessness and weakness. While advocates have promoted “survivor” as a more empowering term, it too has faced criticism for still defining women by their abuse. As there is no universally better term, I will use “victim,” “survivor,” and “victim-survivor” interchangeably for ease of language. More on this debate can be found in Aizpirtarte et al. (2024).

and our approach to communicating its potential benefits are still evolving and must continue to do so. This paper represents both an opportunity to provide a resource that synthesizes the available evidence and also to suggest that future research in restorative justice must include the impact of systemic issues in order to realize its full potential as a response to gendered violence.

Drawing on my research on domestic violence in Brazil as well as other international studies, this paper will shed light on how restorative justice, when approached with caution and respect for participants' agency and safety, can offer a pathway to healing that conventional punitive methods often fail to provide. In many cases, restorative justice may be not only feasible but also desirable. It has

been successfully implemented in various parts of the world, and it offers outcomes that may more effectively meet victims' needs, such as feeling heard, respected, and empowered throughout the conflict resolution process. Moreover, some victims report a lasting impact, reporting no revictimization even years after their participation. Ultimately, this paper argues that restorative justice holds transformative potential for addressing gendered violence, but realizing this potential requires a systemic approach that moves beyond addressing individual cases. By considering the broader relational dynamics and intersecting systems of oppression that perpetuate harm—such as racism, classism, and sexism—restorative justice can provide more inclusive and meaningful pathways to healing and accountability.



Reflections such as these led me to appreciate that both restorative justice and our approach to communicating its potential benefits are still evolving and must continue to do so.

2. VOICES SUPPRESSED: WHO IS HEARD IN CONVENTIONAL JUSTICE?

Attempts to address gendered violence in Brazil have occurred since at least 1985, when women's police stations were established in São Paulo to provide specialized spaces and staff to deal with violence against women. The specialized stations never lived up to their intent (Santos, 2005). In 2006, however, following a high-profile case that illuminated systemic failures, Brazil passed the *Maria da Penha* Law (Law 11.340/2006), which reinvigorated attempts to address violence against women. Maria da Penha was left paraplegic after her husband attempted to murder her while she slept. Despite the severity of the crime, her case was stalled in Brazilian courts for nearly two decades, during which her husband remained free. The case was eventually brought before the Inter-American Commission on Human Rights, which found that Brazil had violated Maria da Penha's rights to a fair trial and judicial protection, citing this as part of a broader pattern of discrimination and leniency toward domestic violence (IACHR, 2001).

In response to this condemnation, the Brazilian government enacted the Maria da Penha Law, which mandates that all domestic violence offenses against women, except for homicide,² be handled by specialized domestic violence courts. The legislation not only established these courts, emphasizing the importance of multi-agency and multidisciplinary approaches to addressing such crimes, but it also introduced mechanisms like restraining orders to more effectively prevent them. However, while the law was progressive in introducing protective and preventative measures, it also conveyed a strong punitive message. For example, it expanded opportunities for pre-trial detention, thus increasing the likelihood that perpetrators would face the

criminal justice process while incarcerated. This shift toward harsher responses reflected global feminist campaigns that advocate for policies such as no-drop prosecution and mandatory arrest. Consequently, by expanding the use of pre-sentence detentions and mandating prosecution even when victims do not wish to press charges, the Maria da Penha Law placed a greater emphasis on punishment. Unfortunately, this punitive focus has often overshadowed the law's educational and protective provisions.

A decade after the law's introduction, Brazil's National Council of Justice (CNJ, its acronym in Portuguese), the public body responsible for overseeing the country's courts, issued a call for research projects, including one strand specifically focused on the intersection of domestic violence and restorative justice. I joined colleagues from the Asa Branca Research Group of Criminology of which I was a member to collaborate on a research proposal titled "Between Retributive and Restorative Practices: The Maria da Pena Law and its Application by the Brazilian Judiciary," which was successfully funded by the CNJ. My colleagues had been researching domestic and gendered violence in Brazil for over ten years, and I had been studying restorative justice for nearly a decade.

Our study aimed to examine how domestic violence courts handled cases of violence against women a decade after the law's implementation. Additionally, we sought to explore whether restorative justice could serve as a viable alternative to the predominantly punitive approaches in use. The CNJ was not only interested in understanding the current state of judicial responses but also in exploring the potential for integrating restorative justice into these

2. According to Brazil's Federal Constitution, intentional homicide is required to be tried by a jury, which is why it falls outside the jurisdiction of domestic violence courts.

3. For a brief overview of the methodology, see Rosenblatt et al. (2022). For full methodological details, please refer to our final report, available in Portuguese only (CNJ, 2018). I have chosen not to include methodological insights in this paper to reserve the word count for a more in-depth discussion of the content of my arguments.

responses to better address domestic violence.³ Selected findings from our research, supplemented by global perspectives, illustrate how current criminal justice systems, both in Brazil and internationally, typically address domestic violence and, more broadly, gendered violence. This analysis reveals significant gaps between the needs of victims and the responses offered by conventional justice systems, highlighting opportunities that I believe restorative justice is particularly well suited to meet.⁴

2.1 WHAT DO VICTIMS SEEK?

Research conducted in Brazil and other countries consistently shows that women who are victims of domestic abuse primarily engage with the criminal justice system to stop the violence and obtain protection, rather than to seek punishment for their abusers (e.g., Larrauri, 2008; Lievore, 2005; Minaker, 2001; Santos, 2010). Contrary to some feminist perspectives that push for criminalizing perpetrators of gendered violence, those who file complaints do not always seek to have their abusers face criminal charges (Santos, 2005). Even women who wish to end their relationships often avoid pursuing criminal prosecution; instead, they prioritize preserving family unity, particularly when children are part of the equation. Our findings align with this, revealing that victims in Brazil are primarily motivated to engage with the justice system to obtain protective measures, such as restraining orders. When these measures are effective, victims frequently see little need to continue with the criminal process. In fact, pursuing legal action can become an additional burden, requiring victims to attend court hearings and manage logistical challenges like arranging childcare during these proceedings.

Most domestic violence cases are instances of intimate partner violence, in which the individuals involved were or had been in an intimate

relationship; and our study, along with other research,⁵ shows that most (ex)couples in such cases have minor children in common. Both circumstances add layers of complexity, as these acts of violence occur within the context of ongoing family bonds, wherein ties of love, intimacy, and affection often coexist with conflict. This emotional complexity is something that criminal law is often not equipped to address, as by design, it typically deals with more straightforward scenarios involving strangers, such as theft, rather than the deeply personal and multifaceted situations present in domestic violence cases. For many victims, concerns extend beyond the violence itself to deeper, pre-existing conflicts or the practical challenges that emerge in its aftermath. Rather than seeking punishment, many victims prioritize reconciliation, mediation, divorce, or resolutions related to asset division and parental rights. The simplistic binary of “punishment” versus “no punishment” fails to capture the complexity of victims’ needs, which often demand practical solutions like child custody arrangements.

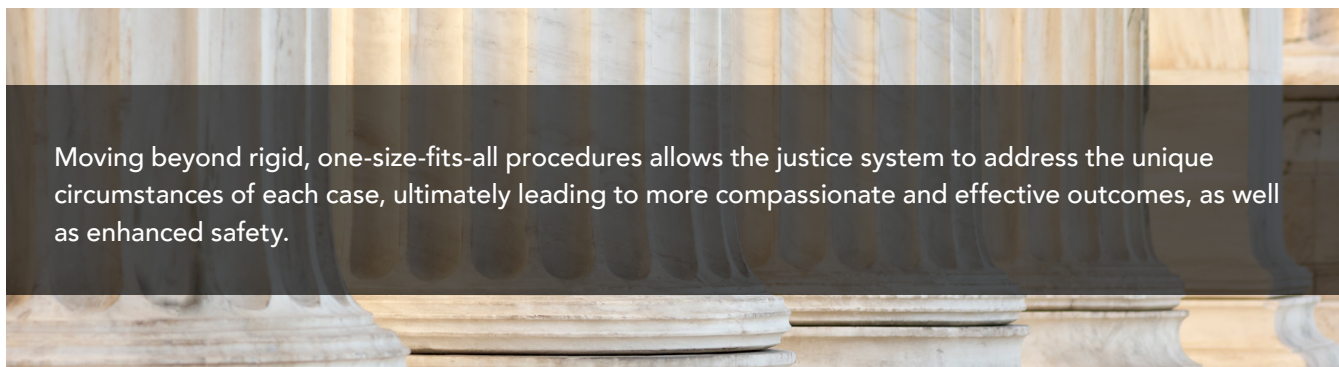
Global research consistently reveals that current legal procedures frequently fail to address these underlying issues (Larrauri, 2008; Minaker, 2001). In the United States, for example, research on intimate partner violence has shown that filing a formal police complaint and accessing victim support services within a coordinated network can be significantly more effective in reducing repeat offenses than the temporary arrest of the offender (Xie & Lynch, 2017). This study found that the likelihood of further aggression by the same offender against the same victim decreased by 34% to 40% when victims both reported the abuse to the police and utilized support services. Such services may include legal and financial counseling, mental and physical health care, emergency shelter, transportation assistance, and advocacy, all of which play a crucial role in enhancing victim safety and stability. In contrast,

4. While much of what I discuss is rooted in a deeper understanding of domestic violence, particularly against women, many of the insights gained in this area are applicable to the broader context of gendered violence. Although violence can occur in various relational contexts, including same-sex partnerships and situations in which women are violent toward men, the global reality remains that the majority of gendered violence is perpetrated by men against (cis or trans) women. Moreover, intimate partner violence is one of the most prevalent forms of violence against women worldwide. Thus, when discussing domestic violence against women, we are often, by extension, addressing key aspects of the broader issue of gendered violence.

5. See, for example, Larrauri (2008), Medeiros (2015), Mello (2015), Minaker (2001), Soares (1999), and Soares et al. (1996).

they found no significant correlation between the provisional arrest of the offender and a reduction in future violence. As Xie and Lynch (2017) suggest, these findings indicate that placing the offender in contact with the carceral system has minimal deterrent effect because the focus on arrest alone fails to address the underlying dynamics of the violence. Instead, it is the act of reporting and the provision of victim-centered services that empower victims and help disrupt the cycle of abuse, leading to a more lasting reduction in victimization and “secondary victimization,” when victims suffer further harm in the process of addressing the original harm. Victims often leverage the threat of conviction not necessarily as a tool for punishment but as a strategy to stop the violence, using the justice system to seek protection and safety rather than retribution. This challenges the common assumption that domestic violence cases must

criminal justice system often compounds the trauma experienced by victims of domestic violence. Secondary victimization takes many forms and affects victims through various channels. Even in situations in which women reported being treated with respect during court proceedings, they frequently encountered a persistent lack of clarity regarding the legal processes. For example, many victims struggled to differentiate between the roles of the various institutions involved in their cases, such as identifying who was the public prosecutor and who was the defense lawyer in the room. During interviews, numerous women expressed feeling “lost” and confused about what was happening and the next steps. This disorientation was echoed by members of the multi-disciplinary teams serving in these courts, with whom we engaged during focus groups as part of our study. These professionals often described themselves as “translators”



always rely on criminal proceedings and outcomes, such as arrest and severe punishment, to be effective.

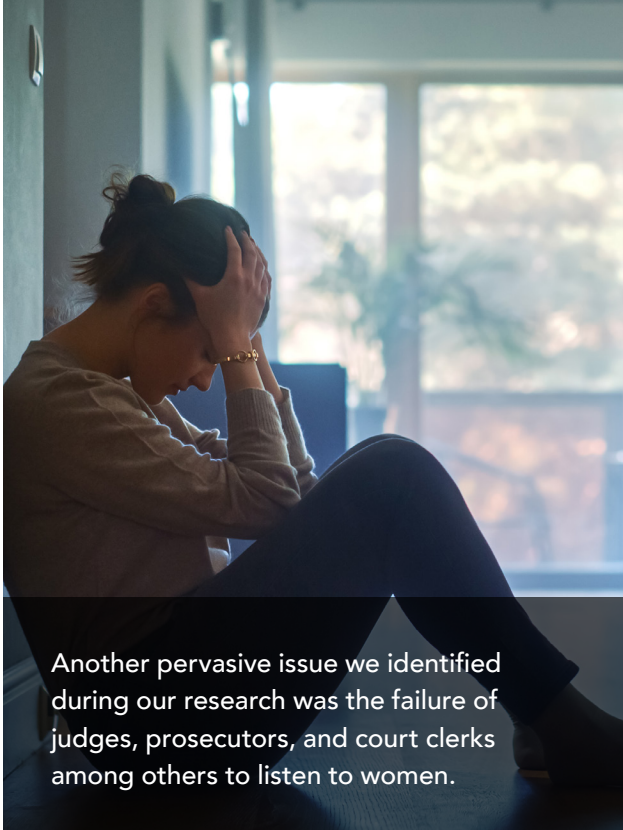
While some victims may seek retribution, their varied needs highlight the importance of providing a platform to voice their concerns throughout the conflict resolution process. Moving beyond rigid, one-size-fits-all procedures allows the justice system to address the unique circumstances of each case, ultimately leading to more compassionate and effective outcomes, as well as enhanced safety.

2.2 WHAT DO VICTIMS RECEIVE?

Our study revealed that secondary victimization, is a pervasive issue. Instead of offering relief, the

tasked with interpreting complex legal jargon for the victims—a role they assumed in place of their primary duties as psychologists, social workers, teachers, or other support providers. Indeed, the formal and technical language commonly used by legal actors, including judges, prosecutors, and lawyers, further alienated victims, leaving them disconnected from the proceedings and the critical decisions being made on their behalf.

Another major contributor to secondary victimization was the lack of specialized training among judges presiding over domestic violence courts. Most judges in our study had no formal education in gender issues or domestic violence: only 4 out of the 24 judges interviewed had received any form of training



Another pervasive issue we identified during our research was the failure of judges, prosecutors, and court clerks among others to listen to women.

in these essential areas. Moreover, the majority of judges reported that no specific qualifications were required for them to serve in these specialized courts. Members of multi-disciplinary teams including social workers, psychologists, and other professionals, echoed these concerns, emphasizing that judges often lacked the experience and understanding needed to handle domestic violence cases with the sensitivity they require. As a result, their focus was often limited to procedural details, neglecting the broader gender perspectives that the Maria da Penha Law was designed to address.

This lack of expertise frequently led to overt displays of sexism. Judges sometimes made dismissive or patronizing comments, such as suggesting that “some women do not deserve protection” or proposing the need for a “João da Penha Law” to address domestic violence against men (CNJ, 2018, p. 149). One judge stated that “women think that when they kiss a frog, it will become a prince,” implying that this explained why women stayed in abusive relationships (CNJ, 2018, p. 150).

Indeed, survivors are often revictimized by the justice system, which reinforces negative stereotypes of gendered violence. In her powerful and heartbreaking book *Imperfect Victims*, Leigh Goodmark (2023) highlights many characteristics that cause victims, particularly women, to fall outside the accepted stereotype of the “ideal” victim, a concept first introduced by Nils Christie (1986). These characteristics include being low-income, women of color, particularly Black women, having a criminal record, engaging in infidelity, using illegal substances, drinking heavily, cursing, fighting back against their partner, or simply not appearing afraid. Additionally, women who exhibit anger instead of fear, or who do not conform to traditional feminine norms—being helpless, passive, and compliant with police or other legal authorities—are often viewed as less deserving of protection. These traits, which should be irrelevant in determining how a victim of gendered violence is treated, frequently influence how they are perceived and judged. In our study, we often observed that victims were categorized by judges as either a “Maria da Penha”—an idealized victim seeking punishment for a serious offender, and therefore, deserving of protection—or a woman unworthy of protection, particularly if she had expressed a desire to reconcile with her offender. This harmful stereotyping not only undermines the provision of justice but also deepens the cycle of victimization for those who are seen as “less-than-perfect” victims (Goodmark, 2023).

Another pervasive issue we identified during our research was the failure of judges, prosecutors, and court clerks among others to listen to women. For example, members of multi-disciplinary teams in our Brazilian project frequently reported that victims were often interrupted while giving testimony. This lack of patience and understanding was further exacerbated by judges’ insensitivity to the fact that these women were recounting deeply traumatic experiences, which may not be easily articulated or presented in a linear fashion during hearings. And when victims are not fully heard, they often feel that their cases are being treated as just another routine matter, with little to no consideration given

to the specific conflicts that led to the violence they endured. This lack of recognition subjects women to a painful process of procedural and interactional injustice, effectively rendering them invisible within the very system meant to provide redress for what has happened to them. Paradoxically, while the system claims to act on their behalf and to know what is best for them, it simultaneously silences their voices, further entrenching their marginalization.⁶

The troubling findings from our study in Brazil are not unique. Similar patterns can be found across the globe. In the United States, Herman (2005, p. 574) poignantly observed that “if one set out intentionally to design a system for provoking symptoms of traumatic stress, it might look very much like a court of law.” Similarly, Braithwaite (2020, p. 4), while discussing sexual violence in countries such as Australia and the United States, noted that the “criminal process might punish and discredit them [the victim] more than the perpetrator.” These insights highlight the broader systemic issues inherent in the way criminal justice systems handle cases involving women victims of violence.

When we asked victims in Brazil whether they would turn to the criminal justice system again in the event of further aggression, or if they would recommend the standard court process to others, very few responded affirmatively. Most indicated they would only recommend it as a last resort or would not recommend it at all. This profound lack of confidence in the Brazilian judicial system stood out in our findings, especially when a specific law and specialized courts and police stations were established in recognition of the unique circumstances of gendered violence. It underscores the urgent need to address revictimization by the very institutions that are supposed to offer protection.

Our study did not delve into specialized circumstances such as the experiences of criminalized survivors—those who are incarcerated and, in some countries, like the United States, even sentenced to death for defending themselves against the threats and violence of their partners. When we consider these additional layers of injustice, it becomes difficult to disagree with Goodmark’s (2023, p. 186) observation that the state is “a serial perpetrator of gender-based violence.”

6. This brings to mind the phrase “conventional to the point of invisibility” coined by my colleague Kerry Clamp (2023, p. 8). Although Clamp was discussing the police, the sentiment resonates profoundly in the context of how the conventional criminal justice system often handles cases of domestic violence, where victims are rendered invisible by the very processes designed to support them.

3. GLOBAL USE OF RESTORATIVE JUSTICE IN GENDERED VIOLENCE

The feasibility and desirability of using restorative justice models to address gendered violence have been the subject of international discussion since the late 1990s. Scholars have extensively debated both the potential benefits (e.g., Braithwaite & Daly, 1998; Curtis-Fawley & Daly, 2005; Hudson, 2002; Morris & Gelsthorpe, 2000; Pennell & Burford, 2002) and the associated risks (e.g., Acorn, 2004; Busch, 2002; Goel, 2000; Stubbs, 2002). Among the empirical studies on restorative justice programs in gender-based violence contexts, Austria stands out as a pioneer, offering some of the most comprehensive evidence in this area.

Since the 1990s, Austria has employed restorative practices in domestic violence cases, particularly through a model known as “out-of-court offense resolution,” which primarily utilizes victim-offender mediation. Early research in the country revealed promising outcomes. A 1999 qualitative study found that mediation in cases of intimate partner violence had the potential to reinforce processes of empowerment and liberation for women (Pelikan, 2000). A follow-up study conducted ten years later provided even more compelling evidence: 83% of domestic violence victims who participated in direct mediation reported no further violence, with 80% of those attributing this outcome to the mediation process (Pelikan, 2010). Additionally, 40% of women who continued their relationship or maintained contact with the offender noted that their (ex)partner’s behavior had changed as a result of the mediation. These findings suggest that restorative justice not only empowers victims but may also contribute to reducing recidivism or, at the very least, preventing further violence by the same offender against the same victim.

In South Africa, a study by Dissel and Ngubeni (2003) evaluated a victim-offender mediation project

specifically aimed at female victims of domestic violence, yielding similarly positive results. In this study, all 21 women reported feeling safe during the mediation process, which allowed them to share their stories openly and without fear. The victims noted that the restorative dialogue and the mediators’ interventions helped rebuild their sense of safety and empowered them to communicate with their (ex)partners on more equal terms, contrary to concerns that the women could be further victimized by facing their aggressors. Follow-up evaluations, conducted between 6 and 18 months after the mediation, confirmed that all victims maintained positive views of the process, and none reported further physical or verbal aggression from their (ex) partners. Again, these findings underscore the potential of restorative justice—when implemented with proper safety measures and skilled facilitation—to empower victims and positively influence offenders’ behavior, even in the complex context of domestic violence.

A 2015 empirical study in the United Kingdom mapped restorative justice programs specifically aimed at domestic violence cases (Gavrielides, 2017). The study identified 11 programs, most of which were victim-offender mediation initiatives implemented post-sentencing, with the authority to suspend the execution of the sentence. While the study highlighted the scarcity of these programs in the United Kingdom, it also concluded that they hold significant potential to empower victims, particularly by providing them with a voice and an opportunity to participate actively in the conflict resolution process.

The United Kingdom’s study was part of a broader European Union–funded research project⁷ that mapped the use of restorative justice practices in domestic violence cases across several European countries (Drost et al., 2015; Lünemann et al., 2015).

7. This study took place before the United Kingdom’s departure from the European Union (Brexit).

The research emphasized the significant role of nongovernmental entities in providing restorative services in these countries. For instance, in Austria, Denmark, Germany, Italy, Latvia, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom, restorative justice programs tailored to domestic violence cases often rely on victim-offender mediation services delivered by non-governmental organizations. According to Gavrielides (2017), many of these programs have served as models within their respective countries, reinforcing the argument that the community-based foundation of restorative justice must not be overlooked or undermined by overly restrictive legislative requirements. Importantly, the success of community-based models may provide valuable insights into how addressing gendered violence through processes rooted in the community—rather than solely through externally imposed, conventional legal and judicial systems—can offer more effective and responsive solutions to the needs of victims and offenders alike.

3.1 PROCESS, FORMAT, TIMING, AND OUTCOMES

Further findings from the European Union highlighted that victim-offender mediation is the most commonly used restorative practice in cases of domestic violence across European countries. This preference suggests that the restorative circle format may not always be the most appropriate solution for such intimate and sensitive cases—a lesson learned from European experiences. The study also revealed significant variation in the procedural timing of restorative encounters across the continent, with practices being implemented at different stages of the judicial process: before, during, and after a trial, depending on the victim's needs, the parties' readiness, and the time sensitivities of each case. This flexibility aligns with the United Nations' emphasis on the use of restorative justice at any stage of the criminal justice process, even for serious crimes (UNODC, 2020). However, offering



Early mediation allows the parties to engage in restorative dialogue before the conventional justice system's processes begin, helping to prevent further harm by possible revictimization in a court proceeding.

mediation early in the process, typically initiated by a public prosecutor's office, is often considered the most effective approach. Early mediation allows the parties to engage in restorative dialogue before the conventional justice system's processes begin, helping to prevent further harm by possible revictimization in a court proceeding. Moreover, it also avoids the complications of imposing two parallel processes—conventional and restorative—on the offender, which some critics have argued could resemble double jeopardy, meaning the individual is being punished twice for the same offense.⁸

The criminal and procedural consequences of restorative justice practices, closely tied to their timing within the judicial process, also vary significantly across European countries. According to the European study, in Austria and Greece, a successful victim-offender mediation often results in no charges being filed, or if the legal proceedings have already begun, they may be terminated. In the Netherlands

8. Although I do not necessarily agree that restorative processes on top of conventional ones constitute double jeopardy, particularly because I do not view restorative justice as a form of punishment, it is important to acknowledge this critique. The concern lies in the potential misuse of restorative processes to impose additional burdens on offenders, which runs counter to the principles of restorative justice. Restorative justice is not about making things harder for offenders but about meaningfully addressing harm in a way that prioritizes the victim's needs while fostering accountability and dialogue.

and Finland, mediation outcomes can lead to case dismissal or be considered by the judge during sentencing. Conversely, in Denmark, victim-offender mediation is viewed as a supplementary measure rather than an alternative to punishment, though it may influence sentencing decisions. This Danish approach is less favorable, as it reintroduces the concern of double jeopardy while also falling short in addressing the victim's needs, thereby undermining the overall efficacy of the restorative process.

3.2 THE IMPORTANCE OF PREPARATION

While preparation prior to direct encounters is a standard practice in restorative justice, it is especially important in cases of gendered violence. Research (e.g., Estiarte, 2012; Gaarder, 2015; Hudson, 2002; Keenan & Zinsstag, 2022) supports that it is critical in counteracting power imbalances between the victim and the offender, ensuring both parties are adequately supported and ready to engage meaningfully in the process.

In the European countries surveyed, preparatory meetings, or "pre-meetings," are conducted without bringing the offender and victim face-to-face. These sessions are essential for assessing power dynamics and determining whether mediation is both appropriate and safe. For example, is the offender willing to acknowledge the harmful nature of their actions? Is the victim able to articulate their needs and boundaries? Additionally, this phase is used to carefully consider who should be included in the dialogue, as a full circle with community members may not always be the most suitable approach in more intimate cases. This preparatory phase is not merely a procedural step; it serves as a vital protective measure to ensure that the restorative process genuinely addresses the victim's needs and safety, while also setting the stage for a constructive and meaningful dialogue. Furthermore, according to some victim-survivors, the preparatory phase alone can contribute to

closure, healing, or other forms of satisfaction, even if the restorative encounter does not occur.⁹

3.3 DIRECT OR INDIRECT MEDIATION

Once the preparatory phase is completed, mediation can take place either directly or indirectly. In the direct approach, a personal meeting between the offender and the victim is facilitated by the mediator. Indirect mediation, on the other hand, does not involve a face-to-face meeting, which can be a safer and less confrontational alternative, especially in cases involving intimate partner violence. Examples of such indirect practices include "shuttle mediation," where the mediator conveys messages—written or audio-visual—between the victim and the offender.

In Austria, a specific methodology known as the "mixed double" approach has been developed for domestic violence cases. This method begins with separate preparatory meetings where the victim and offender are each interviewed in different rooms, often simultaneously. After these initial discussions, both parties, along with the two mediators, come together for the mediation session. The core element of this approach is the "mirror of stories." In this process, the mediators recount to each other what they heard from the victim and offender during the individual meetings, effectively "mirroring" the stories of the relationship, including experiences of violence, threats, and controlling behavior. The victim and offender, seated opposite each other, listen to these mirrored stories without interruption. Only after this exchange do they have the opportunity to comment, correct, or modify the mediator's recounting of their narratives. This technique is designed to facilitate recognition and empowerment—two fundamental principles of mediation. By hearing their experiences reflected back in a structured and controlled manner, both parties are encouraged to engage in dialogue about their perceptions and expectations. The "mixed double" approach is particularly valuable

9. See From Survivors to Survivors: Sharing Our Experiences with Restorative Justice, European Forum for Restorative Justice (EFRJ), available at: <https://www.eurforumj.org/sites/default/files/2024-06/DIGITAL%20-%20EFRJ%20From%20Survivors%20To%20Survivors%20-%20v1i.pdf>

as it balances the need for victim safety with the goal of fostering communication, ensuring that the restorative process remains sensitive to the dynamics of power and control that are often present in cases of domestic violence.

3.4 ADAPTABILITY OF RESTORATIVE JUSTICE

In all the European countries surveyed (Drost et al., 2015; Lünemann et al., 2015), legislation exists that allows and regulates the use of victim-offender mediation in domestic violence cases. However, the criteria and rules for referring cases to restorative justice programs vary significantly from country to country. For example, in Greek law, only minor offenses such as defamation can be referred to mediation, excluding crimes like bodily harm and threats. In Austria, any crime punishable by up to five years in prison may use a victim-offender mediation program, provided no one has died as a result of the crime. In most of these countries, pilot projects preceded the implementation of national legislation as a form of experimentation. For example, in both Finland and Austria, records of pilot projects introducing restorative justice were found as far back as the 1980s, but it wasn't until the 2000s that laws regulating restorative justice were introduced.

3.5 REPORTED ADVANTAGES OF USING RESTORATIVE JUSTICE

In both Greece and the Netherlands, experts interviewed for the European Union-funded study acknowledged several advantages of mediation in domestic violence cases. They highlighted how mediation allows conflicts to be addressed confidentially and privately, without the need to go through the formal court process, which can be lengthy, public,¹⁰ and traumatic for victims. Importantly, mediation helps offenders understand the impact of their behavior and the profound effects it has on the victims, fostering a sense of accountability. In the United Kingdom, despite initial resistance from feminist movements and the

government toward restorative justice, participants in the study recognized that restorative practices are better equipped than conventional justice systems to address the complex social vulnerabilities that characterize many victims of domestic violence. These positive aspects, such as increased victim empowerment, offender accountability, and the ability to address issues in a more supportive and less adversarial setting, were consistently emphasized across the countries studied.

The evolving research, practices, and experimentations with restorative justice in cases of gendered violence underscore the significant potential and wide range of possibilities within this approach. Beyond the European experience, a recent initiative in Nova Scotia, Canada—the Restorative Approach to Multiple Proceedings (RAMP)—exemplifies innovative efforts to address gender-based violence through restorative justice. Led by the Restorative Research, Innovation and Education Lab at Dalhousie University and the Elizabeth Fry Society of Mainland Nova Scotia, this 31-month project, funded by Women and Gender Equality Canada, seeks to develop a human-centered, integrative response to gender-based violence that acknowledges the complexity of harm and the interconnected needs of all involved. In conventional systems, victims often navigate separate and fragmented services, such as family courts, criminal courts, and social work agencies, each addressing different aspects of their needs. RAMP, however, seeks to integrate these services within a single restorative framework, providing survivors with comprehensive support through one coordinated approach. More importantly, RAMP adopts a broader perspective by considering the family unit and the network of individuals connected to the harm, rather than focusing narrowly on the individual survivor. The project emphasizes addressing harm and promoting well-being by fostering conditions for healing and transformation

10. There are cases that are heard in private when judicial secrecy or sealed proceedings are granted (or there is "court-ordered confidentiality"). But even then, the process still involves multiple professionals in the room (e.g., judges, lawyers, clerks, and sometimes other officials), which can detract from the sense of privacy for the victim. This differs significantly from the more intimate and controlled setting of mediation, where the parties involved often have more control over who is present.

among survivors, children, and those who have caused or contributed to harm. By facilitating collaboration and shared collective responsibility, RAMP ensures that systems operate in integrated and holistic ways to support all affected parties effectively. Inspired by the recommendations from the 2019 Restorative Inquiry report on the Nova Scotia Home for Colored Children, and endorsed by the 2023 Mass Casualty Commission's report, which called for a coordinated societal response to

epidemic levels of gender-based violence, RAMP represents a shift toward addressing gender-based violence at both individual and systemic levels. It challenges the traditional view of "victim" or "survivor" as a singular, simple category, instead recognizing the nuanced and interconnected needs of those affected. This human-centered approach seeks to reduce service fragmentation, promote well-being, and create lasting conditions for safety and healing within families and communities.¹¹

11. For more details about the RAMP project, readers can visit Dalhousie University's website: https://www.dal.ca/faculty/law/news-events/news/2024/01/22/building_a_roadmap_for_a_human_centered_response_to_gender_based_violence.html. The information provided here is drawn from this source, email exchanges with Professor Jennifer Llewellyn, and insights gained during a presentation by members of the Restorative Lab at a recent conference in Canberra, Australia. Further details about the conference are available at: <https://conferenceco.eventsair.com/restorative-justice-unit/>. For additional context on the principles of a human-centered approach, readers can explore the Restorative Inquiry Report at www.restorativeinquiry.ca.

4. RISKS AND CHALLENGES ASSOCIATED WITH RESTORATIVE JUSTICE IN CASES OF GENDERED VIOLENCE

At the conclusion of our study on the application of the Maria da Penha Law in Brazil, we compared its approach with the potential of restorative justice, as evidenced by the international examples discussed above. This analysis led us to agree that the CNJ was correct in identifying restorative justice as a valuable alternative for addressing domestic and gendered violence cases, given its potential to offer a more tailored response and improved outcomes for those involved. However, our findings also revealed the importance of adopting a cautious approach in its implementation. The development of public policies to promote restorative justice must be informed by a comprehensive understanding of both its potential benefits, inherent risks, and the developmental risks that arise from inadequate or flawed implementation. This balanced perspective is essential as we move forward with training justice system agents, raising community awareness, and implementing pilot projects. Proceeding with this careful consideration of both opportunities and challenges is crucial for the success of these initiatives.

4.1 CONFRONTING POWER IMBALANCES AND REVICTIMIZATION

One of the most significant concerns about using restorative justice in cases of domestic and gendered violence is the inherent power imbalances that could lead to revictimization. Critics argue that the dynamics of these cases are so deeply skewed that restorative justice, rather than offering resolution, could inadvertently trap women in abusive situations. They contend that the informality inherent in restorative processes may be manipulated by the aggressor, who might trivialize the violence or shift the blame onto the victim, thereby defeating the purpose of the process and leaving the victim even more vulnerable (Busch,

2002; Goel, 2000; Stubbs, 2002). Some suggest that the informal nature of restorative justice, compared to the traditional justice model, could lead to a diminished perception of the violence exerted by the aggressor. Moreover, it may mistakenly create an atmosphere that blames the victim, as the involvement of both the victim and the aggressor in a discussion can easily blur the message that the aggressor is responsible for the violence, instead suggesting that both parties share responsibility for the “problem” (Frederick & Lizdas, 2010).

These concerns about power imbalances are further compounded by what the literature refers to as the problem of “double pressure” (Drost et al., 2015). This phenomenon occurs when the victim feels pressured not only by the presence of the offender but also by the mediation (or restorative justice) setting itself. This dual pressure can compel the victim to participate in the mediation process even against her wishes, or to accept an outcome—such as an apology—that she might think is expected, even if she knows it to be insincere.¹²

While research suggests that victims of all crimes who participate in restorative encounters often experience reduced fear and anger toward the offender and may even develop a sense of empathy toward them (Scheuerman & Keith, 2015), these outcomes are typically observed in cases where the parties involved did not know each other before the crime and had no prior emotional ties. However, in cases of domestic violence and other forms of gendered violence, which are all often “relational” crimes (Hudson, 2002), the dynamics are markedly different. The recurring challenge of addressing deep emotional connections and significant power imbalances in these cases raises ongoing concerns

12. Although this risk was recognized early in the European study, most victims interviewed during the fieldwork reported that they did not feel pressured to engage in the restorative process (Lünnemann et al., 2015). Specifically in the Netherlands, some participants noted that the invitation to participate in mediation often came from an authority figure, such as the public prosecutor’s office or the police, which influenced their decision to take part. Regardless, all participants emphasized that they understood the process was voluntary and that they could withdraw at any time.

about whether the positive outcomes seen in other restorative contexts can be replicated.

Many of these concerns, however, stem from a misunderstanding of what restorative justice entails or from the spread of common myths about its processes. For instance, those who worry about the perceived informality of restorative justice may not realize that this does not equate to a lack of structure. Restorative events, such as conferences, are carefully structured and led by trained facilitators with specialized training in the context of gendered violence. This training equips facilitators to address the unique dynamics and challenges of such cases, including recognizing body language or behaviors that may reflect prior power imbalances between the parties, ensuring the victim feels empowered to express themselves, and creating a safe environment where all participants can fully engage in the process. Both the victim and the offender are allowed to have supporters present, who not only offer emotional reassurance but are also given the opportunity to share how the experience has

affected them. The conversation follows a clear structure, allowing only one person to speak at a time, ensuring that each voice is heard. For many victims, this may be the first time they can fully express what happened to them and how it made them feel without being interrupted or silenced. For the aggressor, it may be the first time they hear the victim's account directly, and in front of others who care about the outcome. The concerns raised here are exactly why extensive and tailored preparation is a mandatory aspect of restorative justice. If, during this preparation phase, it becomes evident that one or both parties are not ready to engage in the process, the restorative encounter does not proceed.

4.2 CONSEQUENCES FOR THE OFFENDER AND CONCERNS OF LENIENCY

A common criticism, often voiced in settings like the legislative committee hearing where I testified, is that restorative justice should *not* be applied to serious crimes, which some argue require punitive state intervention to prevent the "trivialization" of violence. For many, the perceived informality



Restorative events, such as conferences, are carefully structured and led by trained facilitators with specialized training in the context of domestic violence.

of the restorative process, coupled with the possibility of outcomes that don't necessarily involve imprisonment, is seen as underestimating the severity of the violence inflicted by the aggressor on the victim. This perception of leniency reflects a broader challenge: the difficulty of moving away from the deeply ingrained crime-and-punishment paradigm of justice. These assumptions about justice are instilled in us from an early age, becoming so pervasive that they feel natural and inevitable, reinforcing the belief that without punishment, justice has not truly been served (Johnstone, 2017). Restorative justice challenges these deeply rooted beliefs, but doing so is often perceived as counterintuitive—or even irresponsible—and therefore, too risky. Overcoming resistance to restorative justice requires encouraging broader discussions about our cultural conceptions of justice and countering the perception of restorative justice as lenient. It is essential to demonstrate that other consequences for harmful actions, beyond punishment, can lead to better long-term outcomes for both victims and aggressors. This shift necessitates a fundamental re-evaluation of how we conceive of justice itself.

In the context of gendered violence, these concerns about leniency lead us to confront difficult questions about the role of conventional justice systems in achieving gender justice. We must ask whether institutions like the police, criminal courts, and prisons can truly serve the cause of justice for women. As Srinivasan (2021, p. 24) eloquently and provocatively states:

[...] if the aim is not merely to punish male sexual domination but to end it, feminism must address questions that many feminists would rather avoid: whether a carceral approach that systemically harms poor people and people of color can serve sexual justice...

Indeed, carceral “solutions”—or, more broadly, conventional punitive criminal justice responses—“tend to make things worse for women who are already worst off” (Srinivasan, 2021, p. 159).

For example, when an abuser is imprisoned, a victim who already is struggling financially may lose essential support for her children, further exacerbating her economic challenges. Additionally, she may face retaliatory actions from the abuser's family or community, intensifying her vulnerability. As one victim reported in Mello's (2015) study, she may also have to grapple with explaining to her children why their father is in prison, confronting difficult questions such as “Who put daddy there?” that add yet another layer of emotional and psychological strain. In fact, when court proceedings, criminal convictions, and potential imprisonment are the only options available, many victim-survivors will choose not to report the violence they endured, further limiting their access to support and justice. These compounding realities highlight the need for a more nuanced approach to justice—one that tackles the root causes of gendered violence while avoiding additional harm to the very individuals it aims to protect.

The concern with leniency in restorative justice in domestic violence cases is not entirely unfounded. A significant challenge in applying restorative justice to domestic violence cases lies in its focus on what constitutes harm reparation. While reparation is a central tenet of restorative justice, it becomes particularly intricate in situations of domestic violence. Gaarder (2015), after conducting field research in the United States to evaluate pilot restorative justice projects aimed specifically at intimate partner violence, cautions that reparation in such cases cannot be reduced to mere apologies, nor should it serve as an unsafe or unwanted means of bringing the offender and victim closer together. For instance, an apology may hold little significance in resolving domestic conflicts, as expressions of remorse and requests for forgiveness often perpetuate the cycle of violence that the victim has endured over time (Estiarte, 2012). This issue is often referred to as the “cheap justice problem” (Drost et al., 2015). Furthermore, restorative justice processes should neither impose nor obstruct reconciliation, as either approach would undermine the essential goal of empowering victims and respecting their agency,

thus avoiding the paternalistic tendencies often seen in conventional criminal justice practices.

Contrary to common assumptions, empirical research indicates that restorative encounters, such as conferences, are often more effective in cases involving violent crimes than in those dealing with, for example, property crimes (Bolitho, 2015; Estiarte, 2012; Strang & Sherman, 2015). This challenges the conventional belief that restorative justice is insufficient to address serious offenses. While critics often accuse restorative justice of being too lenient, claiming that it fails to impose sufficient consequences on offenders, again, this perspective stems from a conventional understanding of justice, wherein consequences are synonymous with punishment, particularly imprisonment. When harsh penalties like incarceration are absent, there is a tendency to assume that the crime has gone unaddressed. Yet the absence of severe punitive measures does not equate to a lack of consequences. Restorative justice processes can deliver meaningful and very challenging outcomes for offenders, as simply going through the process—including facing the person they have harmed—can be difficult and transformative, even without resorting to imprisonment or meeting society’s expectations of retribution. More importantly, these outcomes frequently align more closely with the needs and expectations of victims. In fact, growing

support for restorative justice in serious and violent cases has been reflected in recent studies, so much so that the United Nations’ latest edition of the *Handbook on Restorative Justice Programmes* includes a new chapter dedicated entirely to restorative justice responses to serious crimes, among them, intimate partner violence and sexual violence (see UNODC, 2020).

Finally, while the *feasibility* of using restorative justice in cases of gendered violence is increasingly recognized globally, its *desirability* in specific settings remains a complex and open question. Mills, Maley, and Shy (2009) suggest that although restorative justice can be implemented in gendered violence cases, it may not necessarily surpass traditional models in effectiveness. In contrast, Pelikan (2010) argues that the true value of restorative justice in these scenarios may lie more in empowering victims than in changing offender behavior. These considerations lead us to three interconnected yet distinct issues: the feasibility of implementing restorative justice in gendered violence cases, its desirability within the specific contexts where such initiatives are proposed, and the deeper question of what “success” or “effectiveness” means in cases of gendered violence—what if “men don’t get better but women get stronger” (Pelikan, 2010)?

5. THE FULL POTENTIAL OF RESTORATIVE JUSTICE

Restorative justice can offer a unique opportunity to empower victims by creating a space where their voices and needs are genuinely heard. In this process, ownership of the resolution is shared among the victim, the offender, and their chosen community, rather than being dictated by the state, prosecutor, or judge. Furthermore, the dialogical and relatively informal nature of restorative processes fosters an environment conducive to addressing the deeper conflicts that underlie the aggression, allowing the parties to discuss what truly matters to them—beyond the constraints of the immediate incident or legal definitions of the offense. In conventional criminal justice systems, narratives are confined to what has been formally reported, and that is the story that gets scrutinized in court. The narrative of the incident must align with a specific legal offense or fit into a predefined legal category for the court’s focus. Broader relational issues, underlying conflicts, or patterns of behavior

are typically sidelined unless they are framed as separate legal offenses or aggravating/mitigating circumstances. Victims and offenders are limited to answering narrowly framed questions posed by judges, prosecutors, or lawyers, which often further restricts a fuller exploration of the incident. Essentially, the “story” of what happened is shaped by the criminal justice system.

By contrast, restorative processes allow for a more open and holistic dialogue, enabling participants to explore not only the immediate incident but also its broader context, relational dynamics, and underlying conflicts. The resulting outcomes can, thus, take various forms, moving beyond the conventional dichotomous choices typically offered—such as whether to arrest or not, to punish or not, or to sentence to incarceration or leave the offender free. This approach strongly resonates with the frustrations voiced by many victims in our study, who reported feeling limited by the narrow options available through domestic violence courts in Brazil.

Listening to victims sheds further light on the realities of gendered violence and suggests ways in which a more comprehensive response could be developed. As previously noted, empirical evidence shows that many victims of gendered violence are not primarily seeking the punishment of the offender but instead looking for an opportunity to influence a change in their behavior. This insight provides one of the most compelling arguments for integrating restorative practices into the response to gendered violence, as restorative justice does not prioritize carceral “solutions” to wrongdoing or harm (Santos, 2014). It also aligns with long-standing victimological research that challenges the stereotypical notion of the “vengeful victim” (Pemberton & Vanfraechem, 2015). Indeed, contrary to popular belief, research consistently demonstrates that most victims of *all* crimes prioritize other needs beyond retribution and are generally no more punitive than those who



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have not experienced victimization. In addition, there is no evidence to suggest that victimization leads to more conservative attitudes toward crime and punishment. On the contrary, victimization surveys often reveal strong support among victims for alternatives to imprisonment, provided they are aware of such options. While harsher sentences show little evidence of improving victims' mental health or well-being, a substantial body of research highlights the effectiveness of restorative justice practices, such as victim-offender mediation, in alleviating, for example, post-traumatic stress (Bolívar, 2013; Van Camp & Wemmers, 2013).

Bolívar, Vanfraechem, and Aertsen (2015) emphasize that victim satisfaction rates following participation in victim-offender mediation or conferencing remain consistently high across various locations and cultures, irrespective of the severity of the crime. These high satisfaction levels are closely tied to victims' experiences of informational, interactional, and procedural justice throughout the restorative process. In victimology, it is common to distinguish between these three procedural needs: respectful treatment and acknowledgment (interactional justice); access to clear information (informational justice); and opportunities for active participation (procedural justice) (Pemberton & Vanfraechem, 2015). Victims often report feeling genuinely heard and respected through these experiences, which not only have significant value in themselves but also play a critical role in minimizing the risk of revictimization.

High reported rates of victim satisfaction with restorative justice events are contingent upon a well-implemented and carefully managed process.

In the context of domestic violence, Santos (2014) highlights several key "safety filters" frequently discussed in the restorative justice literature, which are equally applicable to the broader context of gendered violence. These include ensuring that both the victim and the offender participate voluntarily; that the facilitator is well trained in both restorative practices and the dynamics of gendered violence; that adequate preparation is given to both parties before any encounter, such as through preliminary meetings; and that the offender takes responsibility for at least part of the actions of which they are accused.¹³

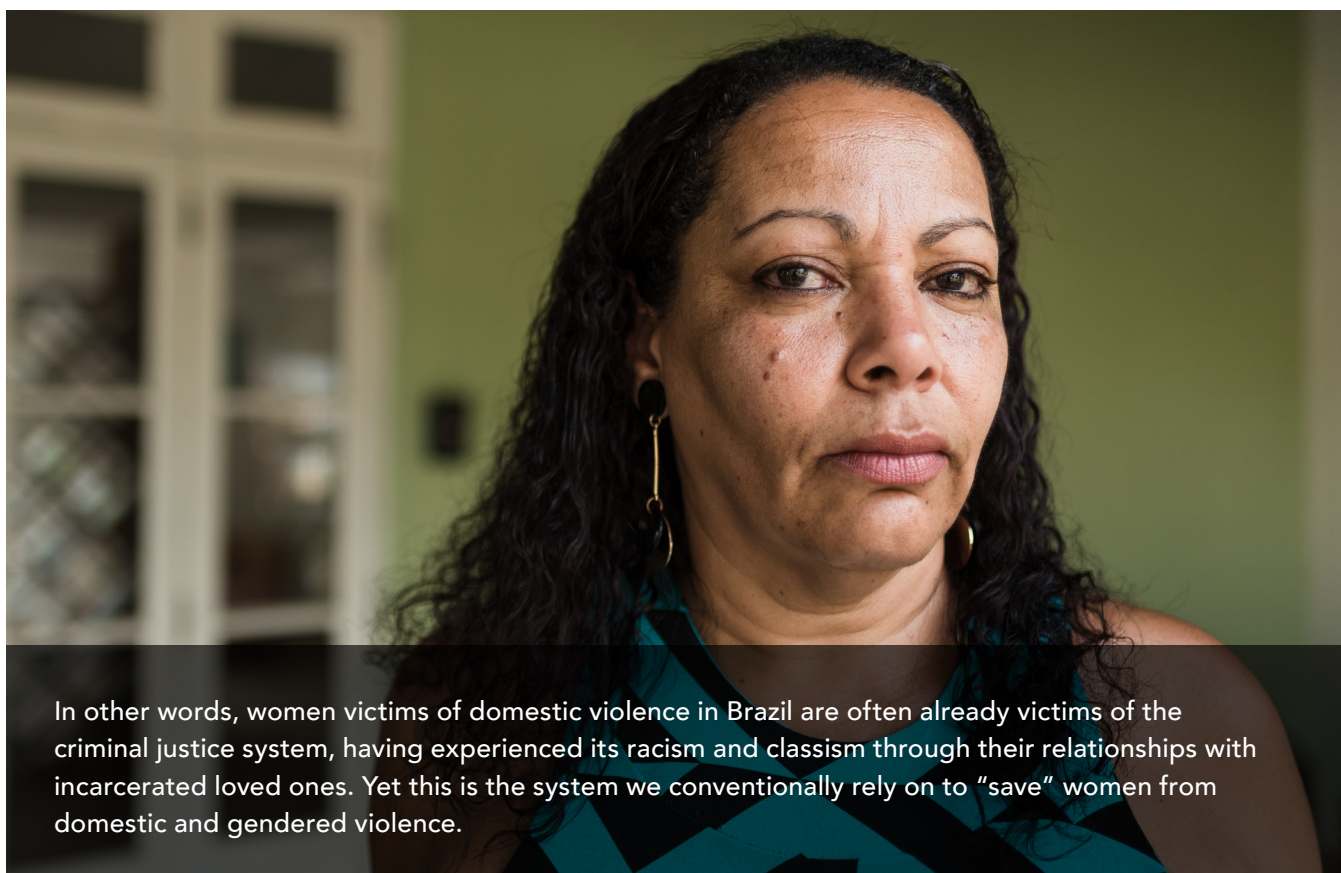
While much evidence exists for the use of restorative justice in cases of gendered violence, there is also a need to look more deeply at systemic issues that shape and influence our criminal legal systems.¹⁴ My own research in Brazil, for example, suggests that alternative approaches will remain limited in their impact unless systemic issues constraining reforms are considered. Specifically, our study in Brazil's domestic violence courts revealed that the majority of women whose cases entered the criminal justice system were poor, working-class individuals, often with little formal education, and were disproportionately women of color. These findings are consistent with prior studies in Brazil (e.g., Medeiros, 2015; Mello, 2015), which suggest that women with financial resources—who are more likely to be White—tend to seek assistance outside the criminal justice system, relying instead on psychologists, support groups, or private health care services. In contrast, for low-income victims, the women's police station often serves as the primary point of contact with state-provided care services in the country.¹⁵

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13. The requirement for the offender to accept responsibility is crucial, as it respects the victim's status and helps prevent secondary victimization. However, this acknowledgment does not necessarily need to take the form of a formal confession that adds to the offender's criminal record. In New Zealand, for example, Braithwaite (2020) notes that offenders may choose to "decline to deny" rather than explicitly admit guilt. This is a perfect example of the creative and nuanced approach restorative justice allows for, highlighting that truly restorative thinking requires stepping outside the box.
 14. Even the terminology used to discuss the foundational systems that shape our response to crime can have less consensus than assumed because of cultural and other differences. In anglophone literature, the term "criminal legal system" is often preferred over "criminal justice system" to highlight the disconnect between the system's legal mechanisms and its frequent failure to deliver justice. While I understand and agree with the critique that the system is legal rather than just (and often profoundly unjust), the translation into Portuguese does not convey the same clarity. For example, in Portuguese, "legal" also carries a colloquial meaning of "cool"—a stark contradiction to the realities of the system being described. Changing from "criminal justice" to "criminal legal" system, thus, doesn't strike me as etymologically impactful or ethically preferable in the way it might for a native English speaker.
 15. Reinforcing this point, our study found an interesting aspect: out of 24 judges serving in domestic violence courts who were interviewed, half had either personally experienced domestic violence or had close family members who had. In all these cases, the criminal justice system was not used; instead, matters were resolved privately, often through means such as divorce or, when litigation was necessary, in family courts.

When we also consider Brazil's imprisonment rates—one of the highest globally, ranking only behind the United States, China, and Russia (Rosenblatt & Mello, 2018)—it becomes clear that the majority of those imprisoned are young, Black, and poor men (Boonen, 2020). And in Brazil, as in many other Global South countries, imprisonment often equates to a life-threatening risk. Brazil's criminal justice system not only fails in its deterrent and rehabilitative goals, but also actively tortures and (unlawfully) kills (Rosenblatt & Fernández, 2015). A troubling conclusion emerges: the very criminal justice system that (poor and Black) female victims of domestic violence turn to for protection is the same system that has likely already harmed them by mistreating—or even killing—their fathers, brothers, partners, and sons. In other words, women victims of domestic violence in Brazil are often already victims of the criminal justice system, having experienced its racism and classism through their relationships with incarcerated loved ones. Yet this is the system we conventionally

rely on to “save” women from domestic and gendered violence.

These facts extend beyond Brazil and underscore a crucial theme that must be central to any discussion about restorative justice, particularly when considering its feasibility and desirability in addressing gendered violence: intersectionality. I'm not referring to intersectionality merely as an awareness of differences in race, class, sexuality, and other identities, but rather in the deeper sense that Srinivasan (2021, p. 17) articulates: “[t]he central insight of intersectionality is that any liberation movement—feminism, anti-racism, the labor movement [and, why not, restorative justice]—that focuses only on what all members of the relevant group (women, people of color, the working class) have in common is a movement that will best serve those members of the group who are least oppressed.” In other words, carceral approaches to gender justice often operate on the assumption that all women share the same



In other words, women victims of domestic violence in Brazil are often already victims of the criminal justice system, having experienced its racism and classism through their relationships with incarcerated loved ones. Yet this is the system we conventionally rely on to “save” women from domestic and gendered violence.

experience of oppression, when in reality, factors like class and race significantly complicate this picture (Srinivasan, 2021). For example, fear of the police and the broader criminal justice system may not be a concern for all women, but they are for some, and this reality cannot be ignored, sidelined, or treated as secondary in our approach to restorative justice.

As noted previously, the status of “victim” is not equally accessible to everyone, and assumptions about who qualifies as a victim and what they need often stem from harmful stereotypes. These assumptions frequently rely on what Lorenz et al. (2022) describe as “stereotypical notions of severity,” which may not reflect how victims experience harm. For instance, despite what criminal legislation may assert, a physical punch is not inherently more severe than defamation, nor is bodily harm necessarily worse than persistent threats or stalking. Such assumptions are often shaped by paternalistic ideas of what women require, failing to capture the nuanced realities of harm as victims themselves perceive it. Moreover, they reinforce the archetype of the “ideal” victim, as mentioned earlier, dividing victims into those deemed worthy of protection and those dismissed as undeserving. As Flauzina and Freitas (2017) argue, there is a “paradoxical privilege” in being recognized as a victim—a privilege reserved for a select few, while many others remain marginalized. Restorative justice interventions, by contrast, should be attuned to how victims personally perceive and experience harm, including the harm inflicted by the criminal justice system itself, rather than relying on the presumptions of those operating that system and perpetuating stereotypes that distort justice.

What victims need in the aftermath of harm should not be predetermined. A victim may choose to reconcile with the offender or decide not to pursue prosecution, and those choices should be respected; yet the victim should still be recognized as a victim. Nor should these choices preclude holding the offender accountable. This also means that the severity of the offense should not automatically dictate the amount or type of response.

Adopting a systemic approach in our thinking, application, and understanding of restorative justice is essential to unlocking its full potential in addressing gendered violence. As Braithwaite (2020) illustrates through the experiences in Northern Ireland during the late 20th-century conflict between Unionists and Nationalists, focusing solely on punishing individual perpetrators is far too narrow if the goal is to eradicate domestic and gender-based violence. In Northern Ireland, many victims of domestic violence were unable or unwilling to report their abusers to the police due to the politicized nature of the conflict. Feminist leaders from both sides of the conflict pioneered a more community-driven response, wherein women from opposing factions helped provide refuge to victims of violence from their counterparts’ communities. This community-level solution ensured safety and protection while bypassing the more formal (and distrusted) legal systems. This approach allowed the community to hold perpetrators accountable in a way that resonated with local norms and values. It also educated men within these communities that violence toward women would not be tolerated, creating a ripple effect in changing the behaviors of future generations.

Globally, gendered violence often arises within broader relational and social systems, not just through individual acts of wrongdoing. By addressing systemic factors—such as family dynamics, which reflect the immediate environment where patterns of violence, dominance, or abuse can be established or perpetuated, and community responses, which represent the broader social norms that either challenge or enable these behaviors—restorative justice can more effectively target the root causes of gendered violence. As Srinivasan (2021, p. 30) argues, “a feminism worth having must find ways of doing so that avoid rote reenactment of the old form of crime and punishment, with its fleeting satisfactions and predictable costs. I am saying that a feminism worth having must, not for the first time, expect women to be better—not just fairer, but more imaginative—than men have been.”



Without addressing systemic issues, restorative justice risks becoming another failed or limited attempt to reform the justice system.

This broader, also feminist-inspired approach ensures that institutions and families, not just individual offenders, become the focal point of transformation (Braithwaite, 2020). It asks us to move beyond the conventional punitive systems that have historically failed women and instead to envision justice that is more transformative, imaginative, and systemic in nature. This goal may seem overwhelming, but we are already seeing innovation in that direction. The RAMP project in Nova Scotia, for example, exemplifies this broader, systemic approach by integrating services and addressing the interconnected needs of victims, families, and communities, offering a restorative framework that aligns with the principles discussed here. Additionally, the project actively fosters collaboration and collective accountability among systems, supporting their function in more cohesive, holistic, and human-centered ways.

For at least two decades now, restorative justice literature has highlighted the “imitator paradox” (Pavlich, 2005)—the reality that while restorative

justice programs often claim to implement innovative processes, they frequently rely on the same definitions of crime (and sometimes the same presumptions of harm) as conventional justice practices. Indeed, despite a prevailing narrative within the restorative justice field that promotes a broader perspective, our practical understanding of crime and harm has remained constrained by legal conceptions for far too long. As Pavlich (2021, p. 35) recently observed, “[i]f restorative justice promised to focus on relational transformation [and it has], its embrace of criminal law’s language of individual offender amends, and individual victim needs, while certainly important in specific cases, is never the whole story.” Furthermore, as Srinivasan (2021, p. 101) aptly notes, “a myopic focus on individual action is characteristic of a bourgeois morality whose ideological function is to distract from the broader systems of injustice in which we participate.” And recognizing a problem as structural, she argues, does not absolve us from reflecting on our individual roles within it or considering the actions we should take to address it.

Without addressing systemic issues, restorative justice risks becoming another failed or limited attempt to reform the justice system. There is evidence that restorative justice allows for escalation to the system level, and it should be pursued. Restorative experiments addressing institutional and environmental injustices (e.g., Pali et al., 2022; Martínez, 2024) indicate that practices at the micro level can influence and transform justice at the macro level—provided we maintain a clear focus on the broader structural and systemic issues at play. This must include recognizing and addressing the intersecting systems of oppression, such as racism, ableism, transphobia, and other forms of discrimination that perpetuate harm. It should also include a commitment to challenging traditional victim-offender labels and the systems that reinforce them, moving toward a truly transformative model of justice that addresses the roots of gendered violence and other forms of harm.

6. CONCLUSIONS

Restorative justice is both feasible and potentially beneficial in cases of gendered violence, provided certain requirements are met (voluntary participation, proper preparation, etc.). Such cases should be referred to restorative justice programs, provided that the focus remains on empowering victims by giving them voice and choice, and that adequate safeguards are in place. That is to say, restorative justice should not be dismissed from the outset; rather, it should be seen as a viable option when implemented with appropriate “safety filters.”

We must be mindful of the broader implications of demanding punitive measures. As Srinivasan (2021) points out: “Perhaps some men deserve to be punished. But feminists must ask what it is they set in motion, and against whom, when they demand more policing and more prisons” (p. 171). Once the carceral machine is in motion, she warns, “you cannot pick and choose whom it will mow down” (p. 170). In fact, the same punitive system we conventionally turn to for protection is also the system that disproportionately harms women—not only as victims of violence but also as those caught within the justice system itself. For example, we cannot overlook the often devastating realities faced by the more than half a million women worldwide who are incarcerated, many of whom endure sexual abuse, violence, humiliation, forced sterilization, and the loss of their children while in prison (Srinivasan, 2021).

The legislative debates in which I participated resulted in a vote to table the project for a year. If the discussion is revived, my hope is that it will resume with an openness to considering the growing evidence of restorative justice’s effectiveness in addressing gendered violence. Even if the proposed legislation granting victim-survivors the right to engage with restorative justice is passed, the fight for gender justice in cases of gendered violence will be far from over. The next challenge will lie in the practicalities of implementation: ensuring that

administrators buy into the process, that adequate funding is secured, and that the necessary staff and resources are in place to make restorative justice a viable and sustainable option for all victim-survivors.

Educating policymakers and stakeholders about the evidence supporting restorative justice as an effective alternative is crucial; but we must also continue to study and address systemic issues to fully realize its transformative potential. As Goodmark (2023, p. 185) aptly notes, “Law can be used to create structures that enable justice to flourish, just as law now facilitates punishment and undergirds punitive institutions.” Addressing gendered violence effectively requires recognizing that violence isn’t always confined to isolated acts between two individuals in a heated moment.

It is unrealistic to believe that any change or reform is immune to co-option or guaranteed to be revolutionary rather than reformist (Srinivasan, 2021). The only way forward is to observe outcomes and adapt accordingly. This kind of change requires a strategic and emotional readiness to abandon long-held ideas and practices, even those to which we may be deeply attached. Restorative justice, by its very nature, demands that we rethink old assumptions, particularly the notion that certain crimes are inherently beyond its reach. If we restrict restorative justice to specific offenses, we help perpetuate the punitive frameworks that conventional justice systems are built upon—frameworks that are selectively enforced against marginalized communities, particularly the poor and people of color. Restorative justice may not be suitable for every case of gendered violence, but it’s crucial that it always remains an option—one that can be carefully considered and applied when appropriate, rather than dismissed outright.

The pursuit of restorative justice, particularly in cases of gendered violence, mirrors Bauman (2004, p. 63)

in his reflections on love: “it is but another name for creative drive and as such it is fraught with risks, as are all the creative processes, never sure where they are going to end.” Like love, the pursuit of justice requires boldness, imagination, and openness to unpredictable outcomes. It asks us to step beyond the known, to embrace the uncertainty that comes with dismantling long-established behaviors and ways of thinking, in this case about punishment and control. Risk is inherent in change, but also in

not changing. However, risk offers the possibility of creating something transformative. In striving for gender justice, we must be willing to engage in this creative, and sometimes unpredictable, process. While there are no guarantees of where it will lead, the very act of opening up space for dialogue, healing, and rethinking entrenched norms holds the potential for a more humane and just future—one that truly centers the needs of those harmed.

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