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Restorative Justice in the Context of Intimate Partner Violence: Suggestions for its Qualified Usage as Supplementary to the Criminal Justice System

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RESTORATIVE JUSTICE IN THE CONTEXT OF INTIMATE PARTNER VIOLENCE: SUGGESTIONS FOR ITS QUALIFIED USAGE AS SUPPLEMENTARY TO THE CRIMINAL JUSTICE SYSTEM

Avila Stahlman *

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* B.A., Boston College, 2012; J.D. Candidate, University of Florida, 2017; Executive Research Editor, *University of Florida Journal of Law & Public Policy*. I would like to thank Professor Stephen J. Pope for introducing me to restorative justice in my theological studies at Boston College and Professor Teresa Drake and the University of Florida Levin College of Law’s Intimate Partner Violence Assistance Clinic (IPVAC) for the opportunity to continue exploring the issues discussed in this Note. Thank you to my parents, Joanne and Mark, and my brother, Christian, for their unwavering support. Thank you to my fiancé, Danny, for being a great listener and a constant source of encouragement. Finally, I am humbled by and indebted to the survivors who have shared their experiences and stories with me. This Note would not be possible without them.

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I. INTRODUCTION

The current criminal justice system does not always provide a viable framework for an intimate partner violence¹ survivor's² growth and healing. A National Violence Against Women Survey conducted by the Department of Justice suggests that approximately 20% of all rapes, 25% of all physical assaults, and 50% of all stalking incidents in the United States are reported to the police.³ Findings from this study suggest many survivors "do not consider the justice system a viable or appropriate intervention at the time of their victimization."⁴ Multiple studies conclude the majority of victims do not find the criminal justice system acts as an appropriate vehicle for resolving conflicts with intimates.⁵

Restorative justice provides a framework for dispute resolution in intimate partner violence cases, particularly when supplementary to the retributivist approach of our current criminal justice system.⁶ However, this note proposes that only certain restorative justice practices be used in the context of intimate partner violence. Restorative justice practices such as healing circles and perhaps family group conferences are appropriate, as are dialogues between survivors and offenders who have

1. This Note uses the phrase "intimate partner violence" to identify what has previously been referred to in the field, in literature, and colloquially as "domestic violence," as the former is more inclusive and expansive in describing violent relationships. This term more accurately acknowledges violence can occur in a variety of intimate relationships, regardless of whether the partners are married or residing in the same home. Ron Wallace, *Domestic Violence and Intimate Partner Violence: What's the Difference?*, IN PUBLIC SAFETY (Oct. 15, 2015), <http://inpublicsafety.com/2015/10/domestic-violence-and-intimate-partner-violence-whats-the-difference/>.

2. This Note uses the phrase "survivor(s)" to identify individuals who have previously been referred to in the field, in literature, and colloquially as "victim(s)." "Survivor," as opposed to "victim," emphasizes life after the assault and an ability to reclaim power after the individual has lost it. However, if scholarship discussed in this note utilizes a different identifier, the author will switch to the alternative identifier used by the scholar. Rachael Kaufman, *Victim, Survivor, or Just a Person?*, YWCA OF RICHMOND (Apr. 18, 2016), <http://ywarichmond.org/salanguage/>.

3. PATRICIA TJADEN & NANCY THOENNES, NAT'L INST. FOR JUSTICE, EXTENT, NATURE, AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY (2000), <https://www.ncjrs.gov/pdffiles1/nij/181867.pdf>. See also James Ptacek & Loretta Frederick, *Restorative Justice and Intimate Partner Violence*, NATIONAL ONLINE RESOURCE CENTER ON VIOLENCE AGAINST WOMEN (Oct. 16, 2015, 3:17 PM), http://vawnet.org/sites/default/files/materials/files/2016-09/AR_RestorativeJusticeIPV.pdf.

4. TJADEN & THOENNES, *supra* note 3.

5. See Ptacek & Frederick, *supra* note 3. See also GERALD HOTALING & EVE S. BUZAWA, NAT'L INST. FOR JUSTICE, REVICTIMIZATION AND VICTIM SATISFACTION IN DOMESTIC VIOLENCE CASES PROCESSED IN THE QUINCY COURT 1995-1997 (2003).

6. JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW 83 (6th ed. 2012).

never met each other.

In addition, panels of survivors speaking to offenders and offenders engaging in conversations with survivors, none of whom have met each other before, provide a safe, constructive, and effective avenue for utilizing restorative justice. However, victim-offender mediation should not be utilized or recommended to survivors of intimate partner violence given the power and control dimensions that characterize a relationship in which intimate partner violence has occurred. When utilized in cases where a professional with experience in intimate partner violence has deemed the practice appropriate and the survivor has voluntarily agreed to participate, restorative justice can provide survivors with a medium to tell their story, assisting survivors in their path to healing and closure.⁷

Part II will explain the defining principles of restorative justice. Part III will examine the downfalls of a solely retributivist approach. Part IV will discuss common restorative justice practices and Part V will provide a brief overview of intimate partner and domestic violence theory with specific focus on Lenore Walker's Cycle of Violence Theory and Duluth's Power and Control Wheel.

Part VI will discuss the ways in which restorative justice has been successfully implemented in the context of intimate partner violence. Part VII explains restorative justice's downfalls and shortcomings. Part VIII presents some empirical evidence that informs the usage of restorative justice in the intimate partner violence context.

Part IX examines practices that are inappropriate for implementation in intimate partner violence and Part X discusses which restorative justice practices may be appropriate and effective in the context of intimate partner violence. Part XI concludes by reemphasizing restorative justice practices as supplementary to the current American retributivist criminal justice system, the latter of which plays an important role if restorative justice is going to succeed as an effective, additional medium for dispute resolution.

II. RESTORATIVE JUSTICE DEFINED

The term "restorative justice" encompasses a variety of programs and responses to wrongdoing.⁸ The term at its core represents a philosophy—a set of guiding principles that provides an alternative, or perhaps in the context of intimate partner violence, an additional and complementary framework for viewing and responding to violence and harm in our current criminal justice system.⁹ While the Western legal or criminal

7. See Latimer et al., *infra* note 77.

8. HOWARD ZEHR, *THE LITTLE BOOK OF RESTORATIVE JUSTICE* 5 (2014).

9. *Id.*

justice system's retributivist approach to justice has various strengths,¹⁰ it may often leave victims of intimate partner violence and those indirectly affected feeling as though the criminal justice system does not adequately meet their needs.¹¹ Particularly in the context of intimate partner violence, when the case is brought by the state against the offender,¹² the case name before the court will not include the victim as a party (e.g., *State v. Smith*)—a symbol of the victim's silence within the process. This, in turn, can deepen wounds rather than assisting in healing and restoration.¹³

The Centre for Justice and Reconciliation,¹⁴ a nonprofit organization and international advocate for restorative justice and reconciliation, defines restorative justice as a response to a harmful act, often criminal, that acknowledges the harm caused not only to the victim, but also to relationships with others and the community at large.¹⁵ Restorative justice emphasizes repairing the harm through cooperative processes that allow all willing and able individuals and stakeholders to communicate, leading to a transformation of the parties involved, their communities, and their relationships with one another.¹⁶ In addition, restorative justice is grounded in three guiding principles.¹⁷ First, crime causes harm and justice focuses on repairing the harm.¹⁸ Second, people most affected by the crime should be able to participate in its resolution.¹⁹ Third, it is the responsibility of the government and community to maintain order and build peace.²⁰ Additionally, the four "cornerposts" to restorative justice include: inclusion of all parties, encountering the other side, making amends for the harm, and reintegration of the parties into their communities.²¹

10. ELMAR G.M. WEITEKAMP & HANS-JÜRGEN KERNER, RESTORATIVE JUSTICE: THEORETICAL FOUNDATIONS 29 (2002).

11. ZEHR, *supra* note 8, at 3.

12. This Note uses the phrase "offender" to refer to the individual who causes harm, rather than "batterer" or "perpetrator." While there does not appear to be much if any scholarly justification for which term is most accurate and appropriate, much of the literature uses the term "offender" and for the sake of consistency, it will be used in this Note to describe the one who harms.

13. See ZEHR, *supra* note 8.

14. Centre for Justice & Reconciliation, *About Us*, <http://restorativejustice.org/about-us/> (last visited Nov. 13, 2015) [hereinafter CJR].

15. Centre for Justice & Reconciliation, *What is Restorative Justice?*, <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-1-what-is-restorative-justice/> (last visited Nov. 13, 2015) [hereinafter CJR].

16. *Id.*

17. *Id.*

18. ZEHR, *supra* note 8, at 8; CJR, *supra* note 14.

19. CJR, *supra* note 14.

20. *Id.*

21. *Id.*

III. DOWNFALLS OF A RETRIBUTIVIST APPROACH

While our current criminal justice system has made important strides in addressing intimate partner violence,²² a retributivist approach may leave victims feeling unheard and powerless in the process.²³ Retributivism seeks to punish an individual who has violated the law because of the act's moral culpability.²⁴ Retributivism focuses on the criminal receiving punishment and getting "just deserts," regardless of whether the punishment should deter crime in the future.²⁵ Both retributivist and restorative approaches acknowledge a moral intuition, recognizing that a balance in the relationship has been diminished by wrongdoing and the relationship between the act and response must be proportional.²⁶

In his synthesis of restorative justice theories and implications for the Western legal system, Weitekamp argues that where these two approaches differ is in the currency offered that will right the balance or acknowledge the reciprocity.²⁷ Many times, a retributivist approach can vindicate and reciprocate, proving counterproductive because it fails to address the dynamics of shame and trauma within the relationship.²⁸ On the other hand, a restorative approach suggests what truly vindicates the offender is acknowledgement of the harm to the victim and the needs of the victim, which encourages offenders to take responsibility for their actions, address the causes for their behavior, and "make right the wrongs."²⁹ By responding to vindication in a positive way, Weitekamp argues restorative justice has the ability to affirm both parties and transform their relationship.³⁰

Additionally, one of restorative justice's founding theorists, Howard Zehr, notes that the survivor is disempowered twice: first by the crime itself and second by the criminal justice system that marginalizes her needs.³¹ Zehr posits that prosecution in the retributivist criminal justice system is rooted in the notion that an individual who commits a crime has violated social contract and thus offends the state, where the impact of

22. See, e.g., SUSAN SCHECHTER, *WOMEN AND MALE VIOLENCE: THE VISIONS AND STRUGGLES OF THE BATTERED WOMEN'S MOVEMENT* 159 (1982).

23. WEITEKAMP & KERNER, *supra* note 10, at 29.

24. See DRESSLER, *supra* note 6.

25. See *id.*

26. WEITEKAMP & KERNER, *supra* note 10, at 29.

27. *Id.*

28. *Id.* at 22-23.

29. *Id.* at 29.

30. *Id.*

31. See HOWARD ZEHR, *CHANGING LENSES: A NEW FOCUS FOR CRIME AND JUSTICE* 52-55 (1990).

the offender's prosecution to the victim is not of particular relevance.³² Prosecution implements a short-term focus, failing in its consideration of how to most effectively prevent recurring violence against the same victim, typically applying the traditional approach of incarceration.³³ For battered women, the offender's incarceration may mitigate risk of harm temporarily, but the offender's incarceration can also create a greater long-term risk of harm.³⁴

In our retributivist system, whether the survivor has been "heard" is often measured by whether her offender was convicted. However, this is not an accurate indicator of whether the survivor's needs and wants were considered. An offender's conviction may seem like the best possible outcome for the survivor, community, and even perhaps the offender, but not if this was against the survivor's wishes. Alternatively, the survivor may want the state to pursue her offender's conviction, but her wishes also may not be considered if the state declines prosecution of the offender.

Nevertheless, the criminal justice system has increased its recognition and concern for a survivor's desires and needs in the process. Victim Advocates are now present in many districts throughout the United States, acting as advocates and communicators between the survivor and prosecutor in order to assure the survivor's legal and non-legal goals and wishes are voiced and considered in the prosecution following the traumatic event. Additionally, many prosecutors consult the survivor prior to declining or pursuing her offender's prosecution (especially since the survivor's testimony will be instrumental to a successful prosecution).

IV. RESTORATIVE JUSTICE PRACTICES

Restorative practices utilized in the context of intimate partner violence include: Victim-Offender Mediation, Healing Circles, and Family Group Conferences (FGC).³⁵ Restorative justice encapsulates a

32. Deborah Epstein et al., *Transforming Aggressive Prosecution Policies: Prioritizing Victims' Long-Term Safety in the Prosecution of Domestic Violence Cases*, 11 AM. U. J. GENDER SOC. POL'Y & L. 465, 466-67 (2003).

33. *Id.* at 467.

34. One study found approximately 25% of men arrested pursuant to a complaint by the victim committed repeat violence against the same victim before the case was resolved in court. American Bar Association, *Domestic Violence Statistics*, http://www.americanbar.org/groups/domestic_violence/resources/statistics.html (last visited Nov. 4, 2015); see also DAVID A. FORD, PREVENTING AND PROVOKING WIFE BATTERY THROUGH CRIMINAL SANCTIONING: A LOOK AT THE RISKS, IN ABUSED AND BATTERED 191, 203 (Dean D. Knudsen & JoAnn L. Miller eds., 1991).

35. Laurie S. Kohn, *What's so Funny About Peace, Love, and Understanding? Restorative Justice as a New Paradigm for Domestic Violence Intervention*, 40 SETON HALL L. REV. 519, 535-41 (2010) (discussing various restorative justice practices and approaches within the domestic

variety of alternative approaches to conflict resolution in the context of intimate partner violence, drawing from cultural practices around the world.³⁶ As a result, there is no conclusive model for practicing restorative justice, and these practices are only a few examples of models that have been most popular and used in the intimate partner violence context.³⁷ While there are a variety of restorative justice practices that greatly differ in their approach, there is one commonality they all share: restorative justice practices aim to address criminal acts not in isolation, but within a broader social and cultural context.³⁸

A. Victim-Offender Mediation

Victim-Offender Mediation (VOM) involves three steps: screening, dialogue, and, if appropriate, mediation sessions involving the mediator and each individual party.³⁹ In the initial screening, a facilitator engages in private dialogues with each party separately to determine whether VOM is appropriate in the particular case.⁴⁰ Face-to-face communication in the context of VOM often leads to the offender acknowledging the wrong committed and taking ownership of and responsibility for his or her actions, often times also resulting in a verbal apology to the victim.⁴¹ Victims have found VOM to provide healing and restoration following the harm experienced.⁴²

B. Healing Circles

Healing circles originated in the Native American cultures of the United States and Canada.⁴³ Some essential features of the healing circle include participants physically sitting in the shape of a circle and speaking as they pass a talking piece around the circle.⁴⁴ A healing circle might only involve survivors of a similar intimate partner violence offense, providing an alternative to VOM for the survivor to share his or

violence context); Ted Watchel, *Defining Restorative*, INTERNATIONAL INSTITUTE FOR RESTORATIVE PRACTICES (Oct. 31, 2015, 11:37 AM), <http://www.iirp.edu/pdf/Defining-Restorative.pdf>.

36. Alletta Brenner, *Resisting Simple Dichotomies: Critiquing Narratives of Victims, Perpetrators, and Harm in Feminist Theories of Rape*, 36 HARV. J.L. & GENDER 503, 561 (2013).

37. *Id.*

38. *Id.*

39. Kohn, *supra* note 35, at 536.

40. *Id.*

41. *Id.*

42. *Id.*

43. CENTRE FOR JUSTICE & RECONCILIATION, *Circles*, <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-3-program/s/circles/> (last visited Nov. 13, 2015).

44. *Id.*

her story while also listening to the stories of other survivors.⁴⁵ Alternatively, the healing circle can involve a broader range of members, including justice system personnel and anyone in the community concerned regarding the crime.⁴⁶ The victim, survivor's family, offender, offender's family, and community representatives may be given a voice in the process.⁴⁷ The latter approach may be less widely implemented in the intimate partner violence context, considering the offense to the victim is very personal in nature and the victim may wish to utilize a more confidential practice of engaging in a healing circle with other survivors and licensed professionals.⁴⁸

C. Family Group Conference (FGC)

Family Group Conference (FGC), also called Family Group Decision Making (FGDM), has been utilized in intimate partner violence cases particularly involving youth offenders.⁴⁹ In FGC, facilitators engage both the offender and victim by identifying the problem, counseling the parties, and developing and ratifying an agreement.⁵⁰ Contrasted with VOM, FGC can provide the victim and offender with mental and emotional support by including their family members or friends in the process.⁵¹ Additionally, when appropriate, FGC may include members of the community, perhaps in an instance where there are multiple victims and offenders who are not family members or related to one another.⁵² Proponents of the FGC approach have argued the conference setting is a "ceremony" of re-integrative shaming to the offender and discussion of the harm and distress experienced by the victim and potentially the offender's family will communicate shame to the offender.⁵³

V. INTIMATE PARTNER VIOLENCE THEORY

Two dominant theories that have emerged to inform law students, lawyers, judges, and advocates regarding the nature of intimate partner violence relationships are the Cycle of Violence and the Power and

45. *Id.*

46. Kohn, *supra* note 35, at 539-40.

47. *Id.*

48. *Id.* at 536.

49. *Id.* at 537.

50. *Id.*

51. *Id.*

52. *Id.* at 538.

53. JOHN BRAITHWAITE & KATHLEEN DALY, MASCULINITIES, VIOLENCE AND COMMUNITARIAN CONTROL, IN CRIME CONTROL AND WOMEN: FEMINIST IMPLICATIONS OF CRIMINAL JUSTICE POLICY 151, 155 (Susan Miller ed., 1998).

Control Wheel.⁵⁴ Despite their limitations, these models provide a framework for understanding the unique nature of relationships plagued by intimate partner violence.⁵⁵ Additionally, these models help to inform why restorative justice—albeit a helpful and appropriate practice for other types of conflict resolution—may not always be appropriate for conflict resolution in the context of intimate partner violence.

A. Cycle Theory of Violence

Lenore Walker’s Cycle of Violence model posits that women develop characteristics of Battered Woman Syndrome due to “learned helplessness” and a “cycle of violence.”⁵⁶ Walker theorized that through the batterer’s control and repeated abuse of his victim, the victim is unable to control or predict the batterer’s actions.⁵⁷ The victim comes to believe she is unable to influence what will happen to her,⁵⁸ enters a “psychological paralysis,” and becomes unable to act.⁵⁹ Walker noted, “[o]nce the women are operating from a belief of helplessness, the perception becomes reality and they become passive, submissive, ‘helpless.’”⁶⁰

Walker posits that the cycle of violence has various stages: tension-building, acute abuse, and a honeymoon or loving-repentant period.⁶¹ The offender’s contrition and remorse throughout the various stages, especially in the final stage, encourage the survivor to hope her partner will change, prompting her to remain in the relationship.⁶² As this cycle repeats, the Cycle Theory of Violence holds that the survivor feels

54. Jane K. Stoever, *Transforming Domestic Violence Representation*, 101 KY. L.J. 483, 504 (2012-2013).

55. *Id.* at 505.

56. LENORE WALKER, *THE BATTERED WOMAN SYNDROME* 7 (1984). *See also* Stoever, *supra* note 54, at 506. *See also* Elise Helgesen, *Allotment of Justice, How U.S. Policy in Indian Country Perpetuates the Victimization of American Indians*, 22 U. FLA. J.L. & PUB. POL’Y 441, 461 (2012).

57. Stoever, *supra* note 54, at 506.

58. When gender pronoun usage is necessary, this note will use “she” and “her” to refer to the survivor and “he” and “him” to refer to the offender. While obviously not accurate of all intimate partner violence cases, statistically speaking, women are more often victims of intimate partner violence in comparison to men. 1 in 3 women and 1 in 4 men have been victims of physical violence by an intimate partner within their lifetime and 1 in 5 women and 1 in 7 men have been victims of severe physical violence by an intimate partner in their lifetime. Additionally, 1 in 7 women and 1 in 18 men have been stalked by an intimate partner during their lifetime to the point in which they felt very fearful or believed that they or someone close to them would be harmed or killed. NAT’L COAL. AGAINST DOMESTIC VIOLENCE, *Statistics*, <http://ncadv.org/learn-more/statistics> (last visited Mar. 20, 2017).

59. *Supra* text accompanying note 58.

60. LENORE WALKER, *THE BATTERED WOMAN SYNDROME* 47 (1980).

61. *Id.* at 95.

62. Stoever, *supra* note 54, at 507.

powerless and cannot escape the abuse.⁶³

Walker's theory has remained somewhat controversial.⁶⁴ Contrary to Walker's early studies, research now shows that women who experience abuse are typically active survivors, fervently engaged in seeking help as well as terminating and ultimately surviving violence.⁶⁵ Additionally, this theory of violence has been critiqued because the cyclical theory is reflected in only a fraction of all relationships where intimate partner violence has occurred; relationships typically do not move through the stages in an orderly, cyclical nature.⁶⁶ Furthermore, Walker's own data suggests that the pattern exhibited in her Cycle Theory of Violence exists in only 23% to 58% of relationships that are plagued with intimate partner violence.⁶⁷

B. Power and Control Wheel

Another widely used framework for understanding and examining intimate partner violence is the Power and Control Wheel.⁶⁸ The Power and Control Wheel reveals that there are a variety of characteristics of a relationship predicated on power and control.⁶⁹ A relationship exhibiting intimate partner violence need not have all or even more than one "spoke" on the wheel to be considered a violent relationship.⁷⁰ The words "power and control" are located at the center of the wheel, and there are eight "spokes" or characteristics that branch out from these words, including: (1) using economic abuse; (2) using coercion and threats; (3) using intimidation; (4) using emotional abuse; (5) using isolation; (6) minimizing, denying, and blaming; (7) using children; and (8) using male privilege.⁷¹ Within each category, the Power and Control Wheel lists more specific characteristics and behaviors. Unlike earlier domestic violence theories, the Power and Control Wheel also notes psychological, verbal, and emotional abuse, which are sometimes overlooked when compared to physical abuse. The Power and Control Wheel equally divides the eight categories; no portion of the wheel is given more or less weight.

Furthermore, the Power and Control Wheel places responsibility on

63. *Id.*

64. *Id.*

65. *Id.* at 508.

66. *Id.* at 510.

67. Alafair S. Burke, *Rational Actors, Self-Defense, and Duress: Making Sense, Not Syndromes, Out of the Battered Woman*, 81 N.C. L. REV. 211, 239 (2002).

68. Domestic Abuse Intervention Program, *Power and Control Wheel*, <http://www.the.duluthmodel.org/pdf/PowerandControl.pdf>.

69. *Id.*

70. *Id.*

71. *Id.*

the offender. The Power and Control Wheel does not attempt to rationalize the offender's behavior and does not give credence to secondary causes such as alcohol, drugs, or the offender's upbringing. The Power and Control Wheel makes the offender accountable for his actions.

The Power and Control Wheel has been critiqued as too narrow, as it was originally created to describe the relationship between those who identify as heterosexual and is based on ideology rather than empirical evidence.⁷² The Power and Control Wheel has since been adapted to provide a framework for abuse experienced by immigrants, lesbians and gay men, children, Muslims, and Native Americans.⁷³ Additionally, the Power and Control Wheel does not provide answers to questions those unfamiliar with domestic violence theory may ask: "Why didn't she leave?," "Why didn't they try marriage counseling?," or "Why did she stay with him so long?"⁷⁴ These questions suggest a gap in understanding concerning the nature of intimate partner violence. Often times, the offender's power and control over the survivor have left her with a distorted sense of self, a feeling she cannot leave the relationship, and/or a threat that if she does leave, he will kill or harm her.

The Power and Control Wheel has been critiqued as leaving questions unanswered with regards to what the survivor does in response to the violence.⁷⁵ Another critique of the Power and Control Wheel has been that if there are abusive "behaviors that fall outside of its categories [these behaviors] may not be considered abuse."⁷⁶

VI. IMPLEMENTATION OF RESTORATIVE JUSTICE IN INTIMATE PARTNER VIOLENCE

Research has demonstrated that when coupled with the criminal justice system, restorative justice practices have generally reduced rates of recidivism and increased victim satisfaction.⁷⁷ In a study conducted by Canada's Department of Justice measuring the relationship between participation in a restorative justice program and four outcomes (recidivism, victim satisfaction, offender satisfaction, and restitution

72. Johnna Rizza, *Beyond Duluth: A Broad Spectrum of Treatment for a Broad Spectrum of Domestic Violence*, 70 MONT. L. REV. 125, 129-30 (2009).

73. Stoeber, *supra* note 54, at 514-15.

74. *Id.* at 515.

75. *Id.*

76. *Id.*

77. Jeff Latimer et al., *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*, 85 PRISON J. 127, 141-42 (2005); Bennett Burkemper & Nina Balsam, *Examining the Use of Restorative Justice Practices in Domestic Violence Cases*, 27 ST. LOUIS U. PUB. L. REV. 121, 122, 125-27 (2007) (discussing victim satisfaction and recidivism rates).

compliance), one of the most salient findings was a 72% reduction in recidivism.⁷⁸ On average, restorative justice programs yielded reduced rates of recidivism compared to non-restorative approaches to criminal behavior.⁷⁹ Additionally, the study found higher victim and offender satisfaction in restorative justice practices compared to non-restorative justice practices and a greater likelihood of offender compliance with restitution agreements.⁸⁰ Studies have also demonstrated that victims who participate in restorative justice programs have consistently higher rates of satisfaction with the process.⁸¹ For example, a study conducted in the United Kingdom found an 84% satisfaction rate among victims.⁸² However, it is important to note this data is neither specific to crimes involving intimate partner violence nor reflects findings within the context of our American criminal justice system.

Specifically in regards to intimate partner violence cases, the National Institute for Justice (NIJ) published three grant reports noting significant dissatisfaction with the traditional court system.⁸³ Satisfaction was determined by whether the victim perceived control over the process and the outcome.⁸⁴ One reason suggested for the greater rates of victim satisfaction in restorative justice practices is that the victim perceives the process as fairer when compared with the criminal justice system.⁸⁵ One study found 80% of victims participated in the VOM approach believed the process to be fair, whereas only 37% of victims believed the traditional process to be fair.⁸⁶

In addition, collaborative law, a practice that resembles restorative justice, has been successful in various conflict resolution arenas.⁸⁷ Collaborative law has been successful in solving domestic disputes, as it is non-adversarial, non-litigative, and cooperative.⁸⁸ Its resemblance to

78. Latimer et al., *supra* note 77, at 137.

79. *Id.*

80. *Id.* at 136.

81. MARK S. UMBREIT ET AL., RESTORATIVE JUSTICE DIALOGUE: EVIDENCE-BASED PRACTICE 4 (2006), http://rjp.umn.edu/img/assets/13522/RJ_Dialogue_Evidence-based_Practice_1-06.pdf.

82. MARK S. UMBREIT & ANN WARNER ROBERTS, MEDIATION OF CRIMINAL CONFLICT IN ENGLAND: AN ASSESSMENT OF SERVICES IN COVENTRY AND LEEDS 7 (1996), http://www.rjp.umn.edu/img/assets/18485/Umbreit_Coa_Rob_1998_VOM.pdf; *see also* Burkemper & Balsam, *supra* note 77, at 126.

83. Edward Zedlewsky & Mary B. Murphy, *Victim Satisfaction with the Criminal Justice System*, NAT'L INST. JUST. J., Jan. 2006, at 16, <http://www.ncjrs.gov/pdffiles1/jr000253.pdf>.

84. *Id.*

85. *See id.*

86. Mark S. Umbreit et al., *The Impact of Victim Offender Mediation: Two Decades of Research*, 65 FED. PROBATION 29, 31 (2001).

87. Susan Daicoff, *Collaborative Law: A New Tool for the Lawyer's Toolkit*, 20 U. FLA. J.L. & PUB. POL'Y 113, 143-44 (2009).

88. *Id.* at 144.

restorative justice is evident, as both practices attempt to place the most authority in decision-making in the hands of the client rather than a third-party decision maker.⁸⁹ Collaborative law has been utilized in drug treatment courts, mental health courts, and other similarly situated problem-solving courts.⁹⁰ However, problems may arise within collaborative law decision-making, as this practice presents many of the similar concerns noted with VOM, namely the power and control dynamics that dictate relationships exhibiting intimate partner violence. There is no evidence of collaborative law being used specifically in the intimate partner violence setting.

VII. DOWNFALLS OF RESTORATIVE JUSTICE IN INTIMATE PARTNER VIOLENCE CONTEXT

Over the past century, success in the intimate partner violence arena has been marked by increasing awareness and education, a “lifting of the veil” of secrecy encompassing interpersonal violence, leading to lobbying and legislative action furthering effective intervention and enforcement by state officials.⁹¹ Throughout this period, many feminists have successfully sought aggressive state intervention in intimate partner violence.⁹² Thus, some argue removal of intimate partner violence cases from the criminal justice system through restorative justice practices suggests a dismantling of advances made by anti-domestic violence and anti-intimate partner violence advocates.⁹³

Additionally, restorative justice practices rely on the survivor’s ability to bargain freely and express him or herself.⁹⁴ Within the intimate partner violence context, coercive and abusive relationships may restrict the survivor’s bargaining power.⁹⁵ This is the strongest and most overarching critique against restorative justice in the context of intimate partner violence, and thus why I propose that the restorative justice practice of VOM should not be used in the context of intimate partner violence; instead, practices that engage the survivor in dialogue with others apart from her personal experience of violence are most effective, especially when implemented as supplementary to the traditional legal system. Studies have suggested women may be at a disadvantage operating in a restorative justice format because it may “domesticate” the dispute rather

89. *Id.*

90. *Id.*

91. *See* Kohn, *supra* note 35, at 548.

92. *See id.*

93. *Id.* at 548-49.

94. *Id.* at 550.

95. *Id.*

than address its larger structure of power, control, and women's subordination.⁹⁶

As a corollary, restorative justice practices do not address the safety of survivors. Some advocates describe restorative justice practices in the context of intimate partner violence as similar to older mediation practices and couple's counseling, labeling the parties as "problem couples," which minimizes the harm done to women.⁹⁷ Others fear that practices such as VOM place responsibility on the victim to change her partner, thus making the survivor's victimization a secondary issue.⁹⁸ Antiviolence activists have offered the counterargument that restorative justice offers a better way to seek safety and accountability in comparison with the current legal system. Pennell and Burford argue that family group conferencing offers a way to expand a communal response in stopping violence against women and their children.⁹⁹

Additionally, an offender's consent to restorative justice practices may be equally coerced.¹⁰⁰ When an offender has a choice between a restorative justice approach and facing a courtroom, an offender may choose the restorative justice approach because he or she views it as a more productive option for rehabilitation, or alternatively, may choose restorative justice because it appears to be the better option in the face of prosecution.¹⁰¹

Finally, implementation of the restorative justice approach raises concern that some damage is irreparable.¹⁰² For example, in a neighborhood dispute concerning theft, an apology and return of the stolen item or compensation for the stolen item restores the parties as best as possible. In the intimate partner violence context, restorative justice may dismiss the notion that some damage is irreparable, and the victim can never be made "whole" after such a traumatic event.¹⁰³ This is further supported by intimate partner violence theory, including Walker's Cycle Theory of Violence and the Duluth Power and Control Wheel.¹⁰⁴

96. *Id.*

97. Ptacek & Frederick, *supra* note 3.

98. *Id.*

99. *Id.* See also Joan Pennell & Gale Burford, *Widening the Circle: The Family Group Decision Making Project*, J. CHILD & YOUTH CARE 9, 2 (1994).

100. Kohn, *supra* note 35, at 551.

101. *Id.* at 552.

102. *Id.* at 563.

103. *Id.* at 564.

104. See LENORE WALKER, *THE BATTERED WOMAN SYNDROME* (1984); see also Domestic Abuse Intervention Program, *Power and Control Wheel*, available at <http://www.theduluthmodel.org/pdf/PowerandControl.pdf>.

VIII. DATA AND EMPIRICAL EVIDENCE

Much of the data and empirical evidence concerning the effects and success of restorative justice practices evaluates the practice in the context of nonviolent crimes.¹⁰⁵ There is some data concerning violent crimes and criminal activity, but its focus is within the context of the juvenile justice system.¹⁰⁶ Much of the reasoning for this lack of data is that given the controversial nature of utilizing restorative justice in intimate partner violence, it has not been widely implemented in the intimate partner violence arena.¹⁰⁷

Many substantial concerns have been voiced by feminist scholars who are cautious about the practice of restorative justice serving as a remedy to gendered violence.¹⁰⁸ Primary to their concerns regarding restorative justice is the issue of its efficacy and its ability to keep victims safe.¹⁰⁹ This, however, is an empirical question to which only limited data has been gathered.¹¹⁰

One of the few examinations of restorative justice practices in the context of intimate partner violence is Donna Coker's study of Navajo Peacemaker courts' handling of intimate partner violence cases.¹¹¹ Four critiques emerged from Coker's findings.¹¹² First, the practice coerces the survivor and forces her participation. Coercion in the process stems from the offender's ability to intimidate her and control the mediation.¹¹³ The offender's intimidation methods, regardless of whether they are subtle, may encourage the offender's controlling behavior throughout the mediation process, resulting in an unfair agreement and the survivor's continued feeling of control in the hands of her offender.¹¹⁴

Second, Coker also observes that restorative justice practices such as VOM or FGC may place too much emphasis on the offender's apology.¹¹⁵ Coker notes this "cheap-justice" problem is two-fold.¹¹⁶ It overemphasizes offender rehabilitation at the expense of expressions of

105. Meghan Condon, *Bruise of a Different Color: The Possibilities of Restorative Justice for Minority Victims of Domestic Violence*, 17 GEO. J. ON POVERTY L. & POL'Y 487, 497 (2010).

106. *Id.*

107. *Id.*

108. C. Quince Hopkins et al., *Applying Restorative Justice to Ongoing Intimate Violence: Problems and Possibilities*, 23 ST. LOUIS U. PUB. L. REV. 289, 300-01 (2004).

109. *Id.* at 301.

110. *Id.*

111. See Donna Coker, *Enhancing Autonomy for Battered Women: Lessons from Navajo Peacemaking*, 47 UCLA L. REV. 1 (1999). See also Hopkins et al., *supra* note 108, at 301.

112. See Coker, *supra* note 111, at 75-101. See also Hopkins et al., *supra* note 108, at 301.

113. Coker, *supra* note 111, at 75.

114. *Id.* at 75-76.

115. *Id.* at 85.

116. *Id.*

moral solidarity with the survivor and may ignore her needs, coercing her to forgive the offender.¹¹⁷ Also, a sincere apology or reconciliation between the offender and survivor may fail to address the survivor's primary needs.¹¹⁸

Third, Coker discusses the normative problem, noting that mediator neutrality can be idealistic, especially coupled with hidden or subconscious rules that disadvantage women and enact gendered understandings of appropriate mediating behavior.¹¹⁹ Additionally, mediation is focused largely on the present and may ignore claims of past injustice between parties.¹²⁰ Mediators and parties may subconsciously tell themselves the mediation is only successful if the parties stay together, when in fact it may be the survivor's desire and in her best interest to separate from her offender.¹²¹ For example, any one of the parties involved, including the mediator, may hold anti-divorce bias that influences the survivor in her decision-making process.¹²²

Fourth, Coker discusses what she refers to as the "Communitarian/Social Change Problem."¹²³ As Coker notes, the restorative justice approach to relationships involving intimate partner violence are not concerned with the relationship between the offender and the state, but rather the relationship of the offender, the survivor, and the community.¹²⁴ While general opinion may find significant opposition to and condemnation of intimate partner violence, such sentiment may not translate into support for the broader goals of women's autonomy.¹²⁵ Community members may condemn the violence while still holding sympathy for the offender.¹²⁶ For example, it is one thing to condemn a man who hits his wife "because" he is drunk or "because" she questioned him about his extramarital affairs, but when the man's violence is prompted by the wife's violation of norms that are widely held to be appropriate for wives, condemnation of the offender may not be as widespread.¹²⁷ For example, if she violates norms of sexual fidelity, adequate childcare, housework, or sexual access, community values may "excuse" the offender for his actions.¹²⁸ Thus, rather than hold the offender accountable, community values may be just as likely to hold

117. *Id.*

118. *Id.*

119. *Id.* at 88.

120. *Id.*

121. *Id.* at 91-92.

122. *Id.* at 92.

123. *Id.* at 96-101.

124. *Id.* at 96.

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.*

accountable the wife who fails or refuses to put dinner on the table in a timely manner.¹²⁹ Thus, the central question in this critique becomes why we trust communities to invalidate the social beliefs that underpin battering behavior more than we trust other community representatives like judges, police, and juries?¹³⁰

Given there is very limited data concerning its implementation, scholarship concerning how restorative justice might successfully work in the intimate partner violence context is similarly deficient.¹³¹ Some argue this may be attributed to the fact that it is a new method for addressing intimate partner violence and white feminists have critiqued it so severely.¹³² This makes it difficult to determine whether restorative justice discourse is also racialized as “white” like the court system.¹³³ On the other hand, some argue there may in fact be hope for restorative justice as a successful practice amongst minorities, as the practice originated in indigenous populations and not in white history.¹³⁴

Several studies have consistently found that victims of various criminal acts on a broader scale (including crimes apart from intimate partner violence) have benefited from the practice.¹³⁵ A meta-analysis of the documented studies suggests that those who participated in such a program were more likely to believe the criminal justice system and the handling of their case was fair, they had an opportunity to tell their story, their opinion was adequately considered, the judge or mediator was fair, the offender was held accountable, and the outcome was fair.¹³⁶ Those who participated in such a program were more satisfied with the outcome and were less likely to remain upset about the crime.¹³⁷ Additionally, participants were less afraid of re-victimization.¹³⁸ Participants were also more likely also to receive an apology or forgiveness from the offender.¹³⁹ One of the most common and significant outcomes of

129. *Id.*

130. *Id.* at 96-97.

131. Condon, *supra* note 105, at 499.

132. *Id.*

133. *Id.*

134. *Id.*

135. Jessica M. Marshall, *(I Can't Get No) Satisfaction: Using Restorative Justice to Satisfy Victims' Rights*, 15 CARDOZO J. CONFLICT RESOL. 569, 585-86 (2014). See also Mark S. Umbreit et al., *The Impact of Restorative Justice Conferencing: A Review of 63 Empirical Studies in 5 Countries*, 8-10 (2002), http://www.cehd.umn.edu/ssw/RJP/Resources/RJ_Dialogue_Resources/Restorative_Group_Conferencing/Impact_RJC_Review_63_Studies.pdf (providing a review of sixty-three studies on victim offender mediation and family group conferencing).

136. Marshall, *supra* note 135, at 586. See also Mark S. Umbreit & Marilyn Peterson Armour, *Restorative Justice and Dialogue: Impact, Opportunities, and Challenges in the Global Community*, 36 WASH. U. J.L. & POL'Y 65, 79-80 (2011).

137. Marshall, *supra* note 135, at 586.

138. *Id.*

139. *Id.*

utilizing restorative justice was the satisfaction of all the participants and the continued adherence to the agreements by the offenders.¹⁴⁰

One study found 81% of the offenders participating in a restorative program completed their program requirements as compared to 57% of the offenders who were not in such a program.¹⁴¹ Another study that evaluated the amount of restitution collected from groups participating in restorative programs versus the traditional process showed that those who participated in a restorative program paid between 95% and 1000% more than those who did not.¹⁴² Generally, studies evaluating restorative justice programs seem to find the practice consistently favorable and supported by the participants.¹⁴³

IX. INAPPROPRIATE RESTORATIVE JUSTICE PRACTICES

Certain types of restorative justice practices should not be used given the nature of the power and control exerted by the offender throughout the relationship with the survivor. Given this unbalanced and dangerous dynamic in the relationship, VOM is not an appropriate restorative justice practice in the context of intimate partner violence.¹⁴⁴

The offender's use of intimidation, regardless of how subtle, may perpetuate his controlling behavior throughout the mediation process and result in an unfair agreement.¹⁴⁵ This concern is supported by intimate partner violence theory and underscored by the recognition that battering and violence is not a one-time incident but rather "a controlling system of behaviors that constrains the victim's autonomy."¹⁴⁶ Behaviors become symbols for past incidents of abuse and serve to intimidate the survivor.¹⁴⁷ Furthermore, survivors in mediation may find themselves negotiating for their safety rather than their autonomy.¹⁴⁸ Relationships plagued by intimate partner violence are frequently marked by a history of similar negotiations, prompted by the victim blaming rules of the batterer.¹⁴⁹ For example, "I won't hit you if you'll have dinner ready on

140. Umbreit & Armour, *supra* note 136, at 79-80.

141. Erik Luna & Barton Poulson, *Restorative Justice in Federal Sentencing: An Unexpected Benefit of Booker?*, 37 MCGEORGE L. REV. 787, 800 (2006).

142. Marshall, *supra* note 135, at 586.

143. *Id.*

144. See, e.g., Karla Fischer et al., *The Culture of Battering and the Role of Mediation in Domestic Violence Cases*, 46 SMU L. REV., 2117 (1993).

145. *Id.* at 2159.

146. NANCY E. DOWD & MICHELLE S. JACOBS, *FEMINIST LEGAL THEORY: AN ANTI-ESSENTIALIST READER* (2003) Fischer et al., *supra* note 144, at 75.

147. Fischer et al., *supra* note 144, at 75.

148. *Id.*

149. *Id.*

time; I won't hit you if you're always sexually available; I won't hit you if you keep the children from making a mess."¹⁵⁰

Furthermore, there is not enough evidence to demonstrate the effectiveness of VOM. Despite mediation and restorative justice being implemented internationally and within the juvenile system as effective conflict resolution methods, there is little comprehensive scholarship on the actual use of restorative justice in the intimate partner violence context.¹⁵¹

X. RESTORATIVE JUSTICE PRACTICES: WHICH CAN BE HELPFUL?

Restorative justice remains controversial in the intimate partner violence context. While new in its implementation, many of the restorative justice practices utilized in the intimate partner violence context differ from restorative justice in other types of dispute resolution. First, restorative justice practices in the intimate partner violence context typically do not attempt to "restore" the survivor and offender through one-on-one interaction. Instead, restorative justice in the intimate partner violence context utilizes healing circles, where survivors share their experiences with one another. Another successful restorative justice practice in the intimate partner violence context involves survivors sharing their stories with other offenders.

Domestic Violence Safe Dialogue (DVSD) is a nonprofit organization based in Portland, Oregon.¹⁵² DVSD works to stop the cycle of intimate partner violence by facilitating safe, supervised conversations between survivors and offenders who have never met before, which help both parties foster transformative change inside themselves and others.¹⁵³ Survivors speak to a group of offenders, none of whom know or have had any type of contact with the survivors.¹⁵⁴ This survivor impact panel is typically presented to the offenders at least 26 weeks into court-ordered therapy.¹⁵⁵ Carrie Outhier Banks, a former domestic-violence-shelter worker who received her Ph.D. in conflict analysis, founded DVSD in 2000.¹⁵⁶ Banks first proposed this type of restorative justice practice at a national domestic-violence conference in 2000.¹⁵⁷ It was met with much

150. *Id.*

151. Condon, *supra* note 105, at 497.

152. DVSD BREAK THE CYCLE (Domestic Violence Safety Dialogue June 27, 2013), <http://www.dvsvdprogram.com/home.html> [hereinafter DVSD].

153. *Id.*

154. *Id.*

155. Leah Sottile, *Abuser and Survivor, Face to Face*, ATLANTIC (Oct. 5, 2015), <http://www.theatlantic.com/health/archive/2015/10/domestic-violence-restorative-justice/408820/>.

156. *Id.*; DSVD, *supra* note 152.

157. Sottile, *supra* note 155.

hesitation, and Banks was asked to leave the conference. Critics of this practice argue that the survivors are not strong enough and this type of dialogue re-victimizes the survivor.¹⁵⁸ Banks and other proponents offer the counterargument that the survivors are stronger than we as “outsiders” may know.¹⁵⁹

Neuroscientist Daniel Reisel gave a TED Talk arguing restorative justice is far more effective in rehabilitating offenders than incarceration, echoing much of Banks’ and other restorative justice proponents’ sentiments of utilizing the practice in the intimate partner violence context.¹⁶⁰ Reisel states, “The perpetrator can see, perhaps for the first time, the victim as a real person with thoughts and feelings and a genuine emotional response.”¹⁶¹ Reisel also adds, that “may be a more effective rehabilitative practice than simple incarceration.”¹⁶²

Emily Gaarder, a sociologist based in Duluth, Minnesota, works with Domestic Violence Restorative Circles (DVRC), a derivative program of the larger organization of Men as Peacemakers, which works to prevent violence.¹⁶³ DVRC focuses its efforts on serious, repeat offenders and only takes ten cases per year. DVRC and Men as Peacemakers spent nearly four years discussing and creating a constructive and safe way for restorative justice to be used in the intimate partner violence context. As Gaarder emphasizes, “You couldn’t just take the basic restorative-justice model and plop it on domestic violence. [. . .] The dynamic of intimate partner abuse is very different from a one-time incident.”¹⁶⁴ At the very least, it appears critics and supporters of utilizing restorative justice in the intimate partner violence context can agree on one thing: that if implemented, the practice cannot model a “one size fits all” approach. Furthermore, restorative justice resolving neighborhood property crimes, where the practice first found its roots in the American legal system, most certainly cannot be transported and utilized in the context of intimate partner violence—working toward restoration in both of these contexts could not be more different and require specialized attention.

158. *Id.*

159. *Id.*

160. *Id.*

161. *Id.*; Daniel Reisel, *The Neuroscience of Restorative Justice*, TED TALK, https://www.ted.com/talks/daniel_reisel_the_neuroscience_of_restorative_justice (last visited Dec. 21, 2016).

162. Sottile, *supra* note 155; Reisel, *supra* note 161.

163. Sottile, *supra* note 155.

164. *Id.* See also DOMESTIC VIOLENCE RESOURCE CENTER, <http://www.dvrc-or.org> (last visited Feb. 8, 2017).

XI. CONCLUSION

Restorative justice began as a simple theory, but now is no longer just an ideal—it is a full-fledged paradigm that sometimes uneasily (and sometimes efficiently and successfully) coexists with and supplements national justice systems.¹⁶⁵ Most importantly, it seems restorative justice in its definition and practice is still being defined; despite the empirical evidence, there is still a lack of consensus as to what the practice should look like.¹⁶⁶ Some argue restorative justice in its application remains inconsistent, confusing, directionless, and lacks clear mechanisms for evaluation, including in its practice outside intimate partner violence.¹⁶⁷ Furthermore, scholars should recognize that, theoretically, it seems to be advantageous in all its aspects, but as is human nature, survivors sometimes also desire punishment of the offender and retribution.¹⁶⁸ Critics also note the institutional expectation to forgive is coercive and strips the survivor of her full range of personal and emotional agency.¹⁶⁹ Thus, restorative justice can be counterproductive and contradictory to its own goal by disempowering the survivor and not allowing her to voice what she actually wants, which may in fact be retribution in the form of incarceration or some other punishment.¹⁷⁰

In its current form, restorative justice presents sometimes overlapping, sometimes distinct, theoretical starting-points.¹⁷¹ Before we are able to answer some of the most pressing questions about restorative justice, scholars, survivors, researchers, members of the legal community, and laypeople must have a system to classify, even loosely, these different starting points, practices, hopes, aspirations, and cautions before broadly implementing restorative justice as supplementary to our existing criminal justice and American legal framework of resolving conflict.¹⁷²

Most importantly, it must be emphasized that the practice of restorative justice is still being defined in its implementation, particularly in intimate partner violence cases. When utilized in the context of intimate partner violence, a comprehensive critique and data collection concerning restorative justice practices may be unachievable, as the practice takes on a variety of forms and is fluid and malleable in nature.¹⁷³

165. Joseph Robinson & Jennifer Hudson, *Restorative Justice: A Typology and Critical Appraisal*, 23 WILLAMETTE J. INT'L L. & DISP. RESOL. 335, 336 (2016).

166. *Id.*

167. *Id.* at 337.

168. *Id.* at 345.

169. *Id.*

170. *Id.*

171. *Id.* at 365.

172. *Id.*

173. M. Eve Hanan, *Decriminalizing Violence: A Critique of Restorative Justice and Proposal for Diversionary Mediation*, 46 N.M. L. REV. 123, 138 (2016).

This note advocates restorative justice as an addition to, rather than a replacement of, the current criminal justice system, especially given its newness in the intimate partner violence context.

Restorative justice practices such as healing circles and perhaps family group conferences are appropriate, but victim-offender mediation should not be utilized or recommended to survivors of intimate partner violence, given the power and control dimensions that characterize a relationship in which intimate partner violence has occurred. Nevertheless, recent scholarship also suggests that denying survivors the opportunity to engage in certain restorative justice practices, such as VOM, may be irreconcilable with the goal of promoting a survivor's autonomy and agency.¹⁷⁴ When utilized in cases where a professional with experience in intimate partner violence has deemed the practice appropriate and the survivor has voluntarily agreed to participate, certain restorative justice practices can provide survivors with a medium to tell their story and assist survivors in their path to healing and closure.

174. *Id.* at 167.

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