

The effect of restorative justice on women's experiences of personal power and safety

by

Holly Clow

Bachelor of Arts, University of Prince Edward Island, 2011

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of the Requirements for the Degree of

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## **Supervisory Committee**

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### **Supervisory Committee**

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## **Abstract**

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Feminist critiques have been instrumental in cautioning the use of restorative justice in cases of domestic violence. However a smaller body of feminist literature examining the issues from the perspective of victim-survivors, supports the use of restorative justice in domestic violence cases. This thesis aims to contribute to the second body of research and incorporate particular victim-survivor voices into a debate that has profound implications for how justice could be administered for future victim-survivors of domestic violence. Thematic, narrative and discourse methods of analysis were used to reveal and explore e-interviews with two B.C women who experienced domestic violence and underwent a restorative justice process in response. Within a feminist framework, the results support the view that, when safety and power can be fully addressed, restorative justice renders benefits not obtainable in the traditional justice system: victim-survivors experience empowerment, and achieve healing and closure.

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## **Chapter 1: Introduction**

This chapter begins with a summary of the current context surrounding domestic violence and the limitations of the criminal justice system to address this pressing social issue. Restorative justice and its intersection with domestic violence is then reviewed. Next, the purpose and significance of this research is provided followed by a discussion of the theoretical perspective and positioning of the researcher. Lastly, operational definitions of key terms used in this thesis are articulated and a “roadmap” of the remaining chapters in this thesis is presented.

### **Domestic Violence: Current Context**

The World Health Organization calls violence against women a “global public health problem of epidemic proportions, requiring urgent action” (2013, p. 3). In Canada, 1 in 4 women will experience violence at the hands of an intimate partner (McInturff, 2013, p. 5). Although the total number of intimate partner homicides remained stable between 2010 and 2011, significant gender differences were apparent. The rate of intimate partner homicides committed against women increased by 19%, yet the rate for men decreased by almost 50% (Perreault, 2012, p. 11).

When violence against Aboriginal women in Canada is examined, an even grimmer picture emerges. Aboriginal women are almost twice as likely as non-Aboriginal women to experience physical and/or sexual violence at the hands of their intimate partner. They are also more likely to report multiple assaults and experience more severe forms of violence such as being hit with an object, strangled, or harmed

with a firearm or knife and are more likely to die as a result of this violence (Brennan, 2011, p. 10-11; Dickson-Gilmore, 2014, p. 420).

While there are higher incidences in Aboriginal families, domestic violence permeates all subsets of society and crosses all sociocultural and economic boundaries with devastating effects (Fernandez, 2011, p. 1). Ptacek (2010) argues that physical and sexual violence undermine women's physical, mental and reproductive health and contribute to depression, posttraumatic stress, suicidality, poverty, drug use, and mortality. Furthermore, the author finds that intimate partner violence also negatively impacts women's economic freedom and participation in the public and political spheres (Ptacek, 2010, p. 5).

### **Domestic Violence and the Criminal Justice System**

Domestic abuse was not defined as a crime requiring criminal intervention until the 1970s (Erez, 2002, para. 1). Previously, violence between intimate partners was primarily considered a "normal part of marriage or intimate relationships" (Erez, 2002, para. 17) and a private, rather than legal issue (Edwards & Sharpe, 2004, p. 1). In Canada, various mandatory charging and no-drop prosecution policies were implemented in the 1980s. Under this new legislation, police officers do not need to witness the violence committed. Instead, they need only have reasonable and probable grounds to believe it occurred. The ultimate goal of these policies was to ensure domestic violence was recognized as a violation of the law and a serious social problem and to bring domestic violence into the public arena (Canadian Resource Centre for Victims of Crime). By making charging mandatory on the part of police and the Crown, policy makers also assumed that victims would not be held accountable by



offenders for consequences imposed by the justice system—thereby reducing the risk of violent retaliation (Canadian Resource Centre for Victims of Crime). A 1993 provision in the *Criminal Code* was also legislated to support victims of violence and prohibits harassing behaviour such as stalking (Canadian Resource Centre for Victims of Crime). Peace bonds were designed as yet another protective measure (Canadian Resource Centre for Victims of Crime). These court orders include provisions that forbid offenders from contacting victims, from carrying firearms or ammunition, or may require that the offender attend counseling (Canadian Resource Centre for Victims of Crime). The development of additional shelters and community resources for domestic violence victims also accompanied these legislative changes (Canadian Resource Centre for Victims of Crime). Erez (2002) contends that feminist activism has been instrumental in these reforms and in the induction of new policies (para. 17).

Despite the legal recognition of domestic violence as a serious crime, however, data indicates that mainstream criminal justice procedures implemented in domestic violence cases are failing to achieve the judicial success reformers had hoped for (Daly & Stubbs, 2006, p. 10; Edwards & Sharpe, 2004, p. 3, Sinha, 2013, p. 10, 94). Mary Koss (2000) states that “[v]ictim advocates...have poured energy into advocating for incremental reforms in retributive justice processing that, if the past 20 years are any indication, will fail to substantially influence either the process or outcomes of criminal and civil justice” (2000, p. 1339). The current body of evidence appears to support this claim. Despite the fact that domestic and dating violence are the most likely forms of violence against women to result in criminal charges, (84% and 83% respectively) (Sinha, 2013, p. 10), most domestic violence victims never seek police assistance

(Ptacek, 2010, p. 11). In a 2013 article, Statistics Canada reported that women are now *less* likely to report incidents of domestic violence to police (Sinha, 2013, p. 10). Less than one-third (30%) of victims of domestic violence report abuse to police compared to 36% in 2004 (Sinha, 2013, p.g 10). Survey data reveals several reasons why Canadian women do not report domestic abuse. Of the 69% of victims who did not report their experiences of domestic violence, 79% stated that the violence was “dealt with another way” (79%) (Sinha, 2013, p. 98). Some felt that the violence was a personal matter (74%), some believed the violence was ‘not important enough’ (60%) to report and almost 20% did not report for fear of spouse retaliation (Sinha, 2013, p. 98). Several other reasons for not reporting are directly related to victim perceptions about police and the justice system. Approximately 50% of victims “didn’t want to get involved with police” and just over 40% did not want their spouse to be arrested. About 25% believed the police “couldn’t do anything” and around 15% believed “police wouldn’t help” (Sinha, 2013, p. 98). “No confidence in the criminal justice system” was cited by 15% of victims as their reason for not reporting (Sinha, 2013, p. 98). Ptacek & Frederick (2011) highlight a national US violence against women study which revealed that many victims do not consider the criminal justice system to be a viable or appropriate response (p. 1).

Placing the onus on police and the Crown to charge offenders may have been designed to protect victims from being blamed for their abusers’ prosecution, however, these new polices effectively make victims feel disempowered (Canadian Resource Centre for Victims of Crime). Likewise, McGlynn, Westmarland and Godden (2012) raise grave concerns about the high risk of re-victimization and power imbalance

victims of domestic violence face in the criminal justice system due to the lack of control they possess over the procedures utilized and outcomes reached (p. 213-14). The Canadian Resource Centre for Victims of Crime states that, although new policies were designed to ensure domestic violence is considered a serious crime, criminal justice professionals failed to recognize that domestic violence is in fact not akin to other serious assault crimes committed against strangers. Victims of domestic violence often live with, and rear children with their abusers and depend on them for financial support (Canadian Resource Centre for Victims of Crime). They may also maintain strong emotional connections with their abusers and wish to preserve the relationship (Canadian Resource Centre for Victims of Crime). Of course, experts on domestic violence have identified a myriad of other complex barriers to victims pursuing help through the justice system such as fear, guilt, sex-role conditioning and religious beliefs and values, to name a few (Canadian Resource Centre for Victims of Crime).

Morris (2002, p. 603-05) and Tracy (1998, p. 276) contend that not only does the criminal justice system fail victims, but it also consistently fails to consider the needs of other stakeholders, including whole communities. Morris (2002) maintains that the criminal justice system is intent on imposing proportional and consistent punishments in a manner that speaks to abstract ideas of justice (p. 610). Conventional criminal justice proceedings are also frequently considered to be impersonal, alienating, and inflexible (p. 205-06). Court proceedings are too long and adversarial, and they focus disproportionately on punishing the offender, rather than supporting the victim. While some studies have found that arrests, convictions and *severe* sanctions can effectively deter domestic violence recidivism (Klein and Tobin, 2008; Ventura and

Davis, 2005), other researchers contend that the mainstream justice system does not consider the unique context of each crime and fails to prevent future offenses, especially in cases of domestic violence (Canadian Resource Centre for Victims of Crime).

More troublesome, states Smith (2005), is the contention by feminists that there is systemic cultural tolerance of domestic violence embedded within the justice system and the state. Criminal laws are expressions and extensions of societal norms, including those that perpetuate violence and racism (Smith, 2005). Smith (2005) argues that “because the state actually has no interest in gender or racial justice, these laws are then often used against the people they supposedly protect” (p. 265). Therefore, ending the violence against women requires social transformation of various systems including the criminal justice system (Smith, 2005, p.274).

The criticisms above have initiated a quest for alternative ways to implement justice and induce healing in cases of domestic violence (Ward & Langlands, 2009, p. 205). As Ward & Langlands (2009) note, the informal use of bottom up, grassroots processes within restorative justice facilitated its worldwide adoption and are particularly attractive to those who are jaded by many mainstream criminal justice procedures they consider to be fundamentally flawed and ineffective (p. 205). The use of restorative justice in cases of domestic violence, however, is controversial.

### **Restorative Justice**

According to Tomporowski, Buck, Barga and Binder (2011) at least four “streams” contributed to the development of restorative justice. They are, 1) the

influence of Indigenous practices on justice approaches in Canada and around the world, 2) victims' advocacy work, 3) movements associated with the idea of offender rehabilitation and 4) faith-based justice movements (p. 816-17). Implementation of restorative interventions began in the 1970s as part of a larger "grassroots community-based movement (Tomporowski, Buck, Borgen and Binder, 2011, p. 816) and today, the United Nations has adopted the basic principles of restorative justice as they relate to crime in general and encourages their implementation (Porter, 2005, p. 1; Ptacek, 2010, p. 9).

Restorative justice operates from a fundamentally different framework for addressing crime than the traditional, retributive system (Zehr & Mika, 1998). Zehr and Mika (1998) describe three principles that comprise the restorative justice paradigm. First, criminal behaviour is a violation of both people and their relationships. The relationships between victims, offenders and communities specifically are harmed. Consequently, each of these stakeholders' needs should be the focus of a restorative process. Second, along with being responsible for their actions, offenders are obligated to personally repair the resulting damage. The community is responsible for assisting the victim and the offender to achieve resolution and reconcile the effects of the crime. Lastly, the central purpose of restorative justice is to repair the damage caused to relationships amongst the victim, offender, and the community (Zehr & Mika, 1998, p. 1). These principles are supported by several other theorists and agencies in the field (Braithwaite & Mugford, 1994, p. 139-40, 142; Ministry of Public Safety and Solicitor General, 2010, p. 3). In sum, the goal of repairing relational fissures rather than simply administering punishment on behalf of the state, positions

restorative justice as a quasi-judicial process that can supplement the traditional justice system.

Theorists have argued that restorative justice has the potential to be more effective at reducing recidivism in part because of its adherence to procedural justice theory (Robbennolt & Sternlight, 2012, p. 50; Tyler, Sherman, Strang, Barnes & Woods, 2007, p. 556). Procedural justice theories hold that the manner in which legal issues are resolved influences how fair and legitimate people believe the law and legal authorities to be (Tyler, Sherman, Strang, Barnes & Woods, 2007, p. 556). As Robbennolt and Sternlight (2012) note, studies show that when a justice procedure is deemed fair, people are more likely to accept and feel satisfied with the outcome—even if it is not in their favour (p. 50; Hollander-Blumoff, 2011, p. 129; Judicial Council of California, 2007; Lowe, 2005, p. 20-21). Key features of procedural justice include, 1) the ability for people to have a voice and actively participate in their own case and its resolution, 2) neutrality of the process, 3) trustworthiness of the process or authority and 4) respectful treatment (Robbennolt & Sternlight, 2012, p. 51; Tyler, Sherman, Strang, Barnes & Woods, 2007, p. 556).

In his keynote presentation at The First Annual Dr. Liz Elliott Memorial Lecture & Dialogue held at the Simon Fraser University Wosk Centre for Dialogue, Zehr (2011b) stated that restorative justice, when conducted correctly and by qualified professionals, can reduce recidivism rates far beyond the capabilities of the mainstream justice system. Zehr (2011b) also contended that restorative processes have the potential to save the current criminal court system massive amounts of money, time and energy if it is implemented on a large scale because incarceration rates, court costs and

recidivism would be substantially decreased (Zehr, 2011b). These claims are supported by decades of mounting research (Braithwaite 1989; Murphy & Harris, 2007; Sherman, Strang, Barnes & Woods, 2006).

In Canada, restorative justice is employed with “tremendous richness and diversity” at various points in the justice process (Tomporowski, Buck, Barga and Binder, 2011, p. 818, 825). For instance, it can be used on a pre-charge or post-charge basis, before or after offenders are convicted or before or after they complete their sentences (p.818). Restorative justice can also be applied in a preventive capacity to resolve conflicts and identify underlying issues before crime occurs (p. 818-19). On the opposite end of the spectrum, restorative programs are sometimes used in response to serious violent crimes in Canada (p. 818). Utilization of restorative processes in Canada is legislatively supported by alternative measure provisions in the *Criminal Code* and in the *Youth Criminal Justice Act* (Tomporowski, Buck, Barga and Binder, 2011, p.819).

In British Columbia, home to the participants in the present study, Tomporowski, Buck, Barga and Binder (2011) identified 80 community-based restorative justice programs as of 2011 (p. 824). They found that these programs frequently operate on a pre-charge basis. Community Accountability Programs in particular addressed almost 1,600 minor offences between 2007 and 2008 (p. 824). B.C also uses restorative approaches to major, violent offences such as murder and sexual assault (p. 824).

### **Barriers and Challenges to Implementation**

The restorative paradigm has however been critiqued. Zehr (2011b) questioned whether or not North America was ready for the widespread implementation of restorative justice and critics (Ashworth, 2002, p. 591; Ward & Langlands, 2009, p. 206) have cautioned against the implementation of restorative justice until adequate evidence to prove its effectiveness is obtained.

Tomporowski, Buck, Barga and Binder (2011) do not ignore the main challenges faced by restorative justice programs in Canada. They highlight the need for ongoing funding and consistent data collection, further expansion of restorative justice into the criminal justice system, examining the intersection of Aboriginal and restorative justice and collaborating with victim advocacy agencies (p. 825-26). Addressing these challenges could conceivably help facilitate changes in B.C policies that currently prevent the use of restorative approaches or lenses involving both victims and offenders. For instance, in her 2012 article, Ney contests a policy in the B.C *Crime Victim Assistance Act* (or more specifically, the accompanying guidelines document) that prevents offenders from participating in counselling processes intended to serve victims who have endured psychological trauma as a result of crime (p. 297). This policy denies funding to the service provider if the offender attends the counselling session, thereby restricting victims' access to this kind of psychological service (Ney, 2012, p. 298). Removing this limitation would allow counselling to incorporate restorative values and practices (Ney, 2012, p. 298).

The use of restorative justice in cases of domestic violence is perhaps an even more contentious political and academic matter. Although restorative justice has been described by Morris (2012) as a means to offer victims of domestic violence more



power and control over the justice process (p. 609), feminists such as Wemmers and Canuto (2002) contend that power imbalances are not alleviated during restorative processes (p. 23). There are also concerns with regards to victims' safety and re-victimization during and after restorative practices (Cameron, 2006, p.13; Daly & Stubbs, 2006, p. 16, 17-18; Wormer, 2009, p. 112). Although these issues are paramount, other feminists maintain that restorative processes do not necessarily preclude victim safety and empowerment (McGlynn, Westmarland & Godden, 2012, p. 213-14). Both perspectives in this debate will be expanded on in the following chapter.

### **Purpose of this Research**

This study is based on previous arguments found in the literature that female victims of domestic violence do not have sufficient power or control over the traditional interventions used to achieve justice (Cameron, 2006, p. 57-58; Daly & Stubbs, 2006, p. 9-10; Edwards & Sharpe, 2004, p. 1-2, 9; Wemmers & Canuto, 2002, p. 23, 32). In order to address these concerns, alternative restorative approaches should empower victim-survivors by giving them sufficient control over the processes and outcomes of justice proceedings. Therefore, the central research question in the present study is:

*What are the effects of restorative justice proceedings on domestic violence victims' experiences of empowerment?*

Sub questions to assist the researcher in determining the degree of perceived empowerment experienced by participants include:

- *How much control do victims feel they have over restorative justice proceedings?*
- *How satisfied are victims with the overall process and outcomes of restorative*

*justice proceedings?*

- *How safe or unsafe do victims feel during and after the restorative justice proceedings?*
- *How do victims make meaning of power, control, and safety before, during, and after a restorative process?*

Collectively, exploring these issues helps contribute to the discussion in the literature around whether or not restorative justice is an appropriate intervention in cases of domestic violence.

A fundamental assumption implicit in this study is that restorative justice interventions will affect (either positively or negatively or both) how victims experience empowerment and feelings of safety. In alignment with a phenomenological approach, it is assumed that differences will exist in the experiences and demographics and characteristics of the participants, however, similar core “essences” or mutually understood meanings will emerge (Patton, 2002, p. 5-6).

At its most basic, the purpose of this study is to give victim-survivors a voice in the predominately philosophical, theoretical and political debate in the literature around the use of restorative justice approaches in the context of domestic violence. Findings in the present study will be used to explore whether restorative justice has the potential to positively affect victim-survivors’ feelings of empowerment by increasing their justice options, providing them with a forum to be heard, and offering opportunities to achieve profound and lasting recovery from violence.

## **Significance of this Research**

Although still used in a minority of domestic violence cases, restorative practices as justice alternatives in this context are being increasingly employed in over one hundred countries (Braithwaite & Mugford, 1994, p. 205). As of 2012, a Correctional Service Canada inventory identified 128 provincial and regional restorative justice programs and services—55 of which were in B.C (Correctional Service Canada, 2012). Other sources identify additional restorative justice programs and services. As stated above, Tomporowski, Buck, Bargen & Binder (2011) identified 80 community-based restorative justice programs in B.C (p. 824). This rise in usage of restorative practices increases the need for researchers to understand the dynamics and whether restorative practices are effective in meeting victims' needs before they become even more widespread. Empirical research examining the effect of restorative justice on the empowerment of women who have endured domestic violence is particularly sparse (Ptacek, 2010, p. ix). The present study allows for analytic, rather than statistical, generalizability. Analytic generalizations can be conceptualized as the underlying or embedded social and cultural forms extracted from the raw data and applied to similar contexts and populations (Hesse-Biber & Leavy, 2011, p. 53-54).

This study addresses specific concerns presented in the literature with regards to women's empowerment and feelings of safety during restorative proceedings. It demonstrates a feminist approach to research by attending to gender inequality and elevating the voices of victim-survivors of domestic violence in the debate over whether restorative justice is a suitable response in domestic violence cases (Jardine, 2010, p. 72). Deconstructing women's personal narratives and their restorative justice

experiences, makes a novel contribution to the existing body of qualitative research on the topic.

The researcher undertook this thesis with the intention of accomplishing two objectives, namely, to explore whether restorative justice can be a legitimate addition to the traditional justice system in cases of domestic violence, and if so, to identify the key considerations that must be tended to in order to ensure that safety and power issues are addressed. Because restorative justice interventions claim allegiance to victims' needs, it is crucial to understand how victims experience power, control, and safety during the restorative intervention completed. These themes are therefore central in this thesis.

Empowerment and justice are key issues related to violence against women, and power has even been described as the foundational concept of social science in general (Russell, 1938, p. 15 as cited in the Stanford Encyclopedia of Philosophy). Russell (1938) explains that "the laws of social dynamics are...only capable of being stated in terms of power in its various forms" (p. 15). By extension, understanding human expressions of power is the only way to make sense of the social world (Russell, 1938, p. 15 as cited in the Stanford Encyclopedia of Philosophy). In alignment with these observations, researchers have requested that their peers produce scholarly material exploring justice and violence against women from within feminist, empowerment and victim-centred frameworks (Daly & Stubbs, 2006, p. 22-23; McGlynn, Westmarland & Godden, 2012, p 238-239). This research responds to these requests and addresses these feminist concerns of power, control and victim safety regarding restorative justice interventions in cases of domestic violence.

## **Theoretical Perspective**

The research methodology outlined below is constructed from a set of paradigmatic assumptions that define how the researcher understands the world and how it should be studied. Identifying the paradigm from which the researcher is operating makes transparent her assumptions and how they may influence her research (Crotty, 1998, p. 2, 17). Making explicit the ontological and paradigmatic assumptions also promotes reflective practice and helps ensure logical consistency of the research overall (Patton, 2002, p. 252).

Ontologically speaking, the researcher approaches this study from a social constructionist perspective. Social constructionism is the belief that absolute truth and reality do not exist, but rather that these dimensions are constructed by society. Winslade and Monk (2000) summarize work by Vivian Bur, a prominent social construction theorist. They discuss four principles of the paradigm. First, social constructionism is a rejection of essentialism and people are considered to be products of social processes rather than of internal and innate forces. Consequently, “human nature is far more fluid and unstable than has been supposed” (p. 37). Next, social constructionist ideology assumes antirealism—the premise that knowledge depends on cultural and social perspectives and that objective facts or truth are illusory. This knowledge is directly correlated to the words we use to express it. Therefore, “(l)anguage is a precondition of thought”(p. 39). Lastly, social constructionism holds that language itself is a form of social action. The language and discourse used produces worldviews and determines social interactions (Winslade and Monk, 2000).

Although this study is multi-paradigmatic, it approaches the research questions most explicitly from a feminist paradigm. Feminist critique and concern are apparent in the problem, purpose, design and significance of this qualitative research. Ultimately, this study was employed to discover the power relations and realities of inequality experienced by women. The subjective experience of the women who participated is the primary focus of this study (Patton, 2002, p. 154-55). The goal of the research is to give women (in this case, victims of domestic violence) a voice. Additionally, the researcher is operating on the assumption that experience and equality are gendered experiences and that power imbalances and inequality are suffered by women in a patriarchal society. Implicit in this theoretical perspective is the motivation to challenge these discrepancies. These goals and concerns characterize feminism (Jardine, 2010, p. 72).

The next section summarizes and collates excerpts from the researcher's research journal in an effort to provide authenticated transparency about her self-constructions and transformation throughout the course of this research process.

### **Situating the Researcher**

*My initial passion for social equality exploded out of my undergraduate studies in psychology, gender and sexuality. My primary research interests and pursuits during this degree were in sex-positivist investigations of sex work and sex-workers' rights. During this time, I began to position myself as a member of a non-dominant sub-group and knew I would face, and was facing discrimination, inequality, and injustice simply by being a woman (LeBaron & Pillay, 2006). By extension, attaining equality for others became a central goal in both my private and academic life.*

*Today, I more readily notice instances of explicit and implicit discrimination and my awareness of power and how it is negotiated around me has increased exponentially. Pointing out instances of inequality and being careful to not inadvertently encourage it myself (i.e., through deeply ingrained cultural discourse) are behavioural changes associated with these values. As a Caucasian woman I am also part of a dominant sub-culture and cannot identify with the challenges other women who are members of an ethnic minority face. I must always monitor my assumptions for ethnocentrism and be mindful of how I present and interpret the perspectives and experiences of others.*

*My strong moral obligation to endorse equality and address power imbalances is mirrored in feminist ethics. A focus on power differentials and on Foucauldian ideas of discursive power exemplifies the feminist critique and my desire to help others achieve the sense of well-being that comes from feeling equal speaks specifically to care ethics. I've also been more recently influenced and inspired by the various conflict theories and practices I acquired during my studies in the field of alternative dispute resolution.*

*The culmination of these personal values and ethics frequently precipitated inner turmoil in efforts to complete this thesis. While I saw promise in the widespread adoption of restorative justice in the general sense, I was dismissive of its use with women who had suffered domestic abuse. Engaging in an initial literature exploration, however, caused me to question this almost instinctual response. It became clear that the larger body of literature opposing the use of restorative justice in cases of domestic violence was largely constructed and informed by feminist theorists and practitioners.*

*On the other hand, the significantly smaller body of research advocating for the use of restorative justice in cases of domestic violence was also compiled by feminist theorists but often informed by survivors of domestic violence who themselves had completed a restorative justice intervention as a result. I became determined to locate more survivors of domestic violence who completed restorative interventions to conduct my own exploratory investigation and remedy the fact that their voices were largely absent in the literature base. After months of failed recruitment efforts, I managed to locate two women who fit the participant profile. When their experiences reflected the smaller body of research advocating for the use of restorative justice in cases of domestic violence, I began to re-write parts of my feminist self. To be sure, ignoring the voices of women who had “been there” struck me as profoundly un-feminist. By the end of this thesis process, I began to truly value the voices of women with lived experience as authorities amongst my own feminist ideals and theory. I will carry this transformation with me through my future career and research endeavours.*

### **Defining the Terms**

Before considering the remaining chapters in this thesis, it is necessary to review and define some terms associated with the spheres of domestic violence and restorative justice. Indeed, even seemingly simple terms such as “safety” are not referred to synonymously within the literature. Furthermore, from a social constructionist perspective (Winslade & Monk, 2000), the current lexicon of domestic violence and justice terminology shapes peoples’ beliefs and attitudes and affects how people respond to these issues. The definitions below outline how the researcher uses



these key terms: domestic/intimate partner violence, restorative justice, power and safety.

### **Domestic/Intimate Partner Violence**

Domestic violence in this study will be defined as the violence against women committed by men. Other bodies of literature consider the domestic violence perpetrated towards men (Barber, 2008), the domestic violence experienced by same-sex couples (Dececco, Letellier & Island, 2013; Renzetti, 1992), and other forms of domestic violence committed against children and elders (Bernstein, Fink, Handelsman, Foote, Lovejoy, Wenzel & Ruggiero, 1994; Wolf & Pillemer, 1989). This study focuses on the violence against women (victim-survivors) committed by their male intimate partners (also referred to as offenders or perpetrators in this study) because this is the subject of much debate and controversy in the realm of restorative justice. Moreover, the recent release by Statistics Canada edited by Sinha (2013) stated that B.C women are more likely to experience significantly more severe forms of intimate partner violence than men (p. 8). In accordance with the literature, specific behaviours associated with domestic violence in this study include physical and sexual assault, coercion, threats, intimidation, and verbal, psychological and emotional abuse (Edwards & Sharpe, 2004 p. 1-2; Sinha, 2013, p. 4). The terms domestic and intimate partner violence are used interchangeably in this research.

### **Restorative Justice**

Restorative justice often takes one of three forms: victim/offender mediation, family group conferencing, or circle processes (Edwards & Sharpe, 2004 p. 2; Ptacek,

2010, p 8; Ward & Langlands, 2009, p. 205). *Victim-offender mediation* arose as a secular alternative to the original faith-based reconciliation programs (Ptacek, 2010, p. 8). This form of restorative justice involves face-to-face dialogue between a victim and offender in the presence of a trained mediator (Umbreit, Vos & Coates, 2006, p. 1) and often ends with a signed restitution agreement (Ptacek, 2010, p. 8). *Family group conferencing* is inspired by Maori tradition and involves larger meetings supported by a coordinator that include victims, offenders, family members and other supporters (Ptacek, 2010, p. 9). Like victim-offender mediation, the goal of family group conferencing is to empower victims and hold offenders accountable (Ptacek, 2010, p. 9). However, the theory behind family group conferencing is that victims and offenders cannot achieve this alone (Ptacek, 2010, p. 9). The process of collaborative truth telling about the abuse and its effects along with offender acknowledgement of accountability facilitates positive transformation (T. Ney, personal communication, February 24, 2015). *Circling* is used in Indigenous communities in Canada and the US. While many authors discuss circling in the context of restorative justice (Goel, 2000; Ptacek, 2010; Pranis, 1997), Cameron (2006) points out that in Canada, there are two distinct forms of restorative justice: western restorative justice and Aboriginal justice. Circling most often fits into the latter category which is distinguishable by its link to the larger goal of Aboriginal self-governance and self-determination (p. 51). There are multiple variations of circles. Some circles are used for healing, some for sentencing, and others are used as open community spaces (Ptacek, 2010, p. 9). For the purposes of this study, respondents who had participated in a process analogous to one of these interventions in the last ten years were considered to have completed a restorative

justice intervention. Specific principles characterizing these approaches will be discussed in the subsequent section.

### **Power**

Power is a complex social phenomenon with a plethora of ways in which to define it. Generally, the definition of power utilized in research depends on the discipline and topic being studied and on the theoretical position of the researcher. A brief explanation of how power is conceived of in this research is therefore warranted. Here, personal power is defined in the Foucauldian sense, as the degree of influence and control participants feel they have over the intervention they experienced (Foucault, 1991, p. 315-16). Power is not considered to be the degree to which victims feel they have power over the offender. Rather, power in terms of the victim's relationship with the offender should be conceived of as the degree of empowerment experienced.

Empowerment in this study is defined as a tool with which to combat systematic marginalization. Empowerment is achieved to the extent that an environment of "non-domination" is achieved and structural power imbalances are minimized (Braithwaite, 2002, p. 565-66). Promoting this kind of atmosphere during a restorative process may mean ensuring subordinated stakeholders have equal voice and influence with regards to processes and outcomes (Braithwaite, 2002, p. 565-66). Considering the degree to which participants feel safe and respected along with the degree of satisfaction and fairness experienced within the restorative process will also be significant. These categories will help develop a more complete picture of the degree to which participants feel empowered during restorative processes. The above definitions of

power and empowerment were compiled after a review of literature concerning psychological associations of power, victim empowerment and conflict theory (Braithwaite, 2002, p. 565-66; Foucault, 1991, p. 315-16; Schellenberg, 1996, 119-23, 132-34).

### **Safety**

During a restorative justice process, creating a physically and psychologically safe place to share is paramount (BC Association of Specialized Victim Assistance and Counselling Programs, 2002, p. 7). The degree of participants' safety will be determined by their own judgments around the level of physical and emotional protection they experienced before, during, and after the restorative process (Edwards & Sharpe, 2004, p. 12-13). The perceived level of safety of anyone else affected by the intervention (i.e. friends, family and community members) will also be pertinent in this study (Acorn, 2004, p. 26; Braithwaite, 2002, p. 237; Edwards & Sharpe, 2004, p. 13).

### **The Roadmap**

This opening chapter served as an introduction to the research topic. It provided a brief background on the failings of the criminal justice system to address domestic violence and explored the intersection of restorative justice and domestic violence. The rationale for undertaking this study and its significance were provided along with the central research questions and overarching thesis statement. Theoretical assumptions of the researcher were made explicit and a list of operational definitions was discussed.

What follows in Chapter 2 is a comprehensive summary of the literature pertaining to restorative justice, domestic violence and the intersection of these spheres.

It includes a snapshot of the history and theoretical basis for restorative justice as well as interpretations and perspectives on violence against women. Central critiques surrounding the use of restorative justice in cases of domestic violence are highlighted followed by a collation of evidence in support of this practice. Novel, innovative possibilities arising from these critiques and successes are then reviewed.

The methodology, procedures and analysis techniques used in this research will then be outlined in Chapter 3. A rationale for the research methods is provided along with some key ethical considerations encountered throughout the course of the study.

Chapter 4 provides a basic yet detailed overview of the research findings. This chapter is organized around the major themes that were identified during the analysis of the data. A discussion of these results as they relate to the literature review and to the central research question is undertaken in Chapter 5. Lastly, the researcher draws final conclusions and suggests directions for further research in Chapter 6.

## Chapter 2: Literature Review

As Ptacek (2010) observes, the research pertaining specifically to the use of restorative justice in cases of domestic violence is sparse (p.ix). Moreover, there is no single feminist perspective on the question of whether restorative justice is appropriate in cases of domestic violence (p. 281). Despite the positive intentions and possibilities embedded in restorative processes, critics argue that using them in instances of domestic violence threatens victims' safety and fails to address power imbalances (Acorn, 2004; Cameron, 2006; Croker, 1999; Daly & Stubbs, 2006; Wemmers & Canuto, 2002; Wormer, 2009). These critics have grave concerns with regards to the physical and emotional safety of domestic violence victims partaking in these interventions. Still, other feminist supporters believe that restorative approaches to justice empower domestic violence victims by giving them a voice and increased control over the process and judicial outcomes (Bethel & Singer 1982; Couture, Parker, Couture & Laboucane, 2001; Dissel, 2003; McGlynn, Westmarland & Godden, 2012; Pelikan, 2000). This chapter aims to critically review the debate surrounding the use of restorative justice in cases of domestic violence.

First, the history of restorative justice will be reviewed along with two theories or philosophical lenses that inform the views of domestic violence researchers and practitioners, namely, the feminist and narrative perspectives. Major critiques of the use of restorative justice in the context of domestic violence will then be summarized followed by evidence in support of this practice. Finally, an overview of new feminist

hybrid models that address the concerns of researchers and practitioners will be outlined.

### **History and Theoretical Basis of Restorative Justice**

There is no single version of the history of restorative justice represented in the literature. In fact, this topic appears to have caused controversy between researchers and academics. What some researchers call historical fact, others call “myth” (Daly, 2002, p. 56). A few of the opposing accounts of the origins of restorative justice and its (re)emergence in recent years will be summarized below. Examining these interpretations provides important background information in the present study because they are frequently cited in either support of, or opposition to, the use of restorative justice in cases of domestic violence.

According to advocate John Braithwaite (1999), restorative justice has been the dominant model of criminal justice throughout human history (p.2). Its use can be traced back to ancient Arab, Greek and Roman civilizations (p.1). These cultures used restorative justice for even the most serious crimes such as homicide (p.1). Consedine (1995) contends that biblical forms of justice were restorative and that Maori in pre-colonial New Zealand had a fully integrated restorative justice system (p. 12). Restorative approaches were also used by the Germanic peoples throughout Europe after Rome’s collapse, by the ancient Indian Hindu Vedic civilization from 6000-2000 B.C (Beck, 1997, p. 77) and by ancient Buddhist, Taoist and Confucian traditions (Braithwaite, 1999, p. 2).

The Dalai Lama and Aug San Suu Kyi of Burma, two contemporary Buddhist Nobel Peace Prize-winners, believe that the more evil the crime, the greater the

opportunity to inspire transformation by “resist[ing] tyranny with compassion” (Eckel, 1997, p.135). This perspective was embraced by Gandhi and Desmond Tutu who emphasized the importance of forgiveness (p.135). The Dalai Lama once said that “learning to forgive is much more useful than merely picking up a stone and throwing it at the object of one’s anger, the more so when the provocation is extreme (p.135). For it is under the greatest adversity that there exists the greatest potential for doing good, both for oneself and for others” (Eckel, 1997, p. 135).

Braithwaite (1999) contends that these ideas greatly impact western culture and have tremendous implications for how justice is understood and carried out (p.2). Instead of simply being something to be punished and prevented, crime becomes an opportunity to positively transform everyone involved (p.2). Through this lens, notions and practices of rehabilitation, deterrence, recidivism and incarceration are overshadowed by ideas of community, love and positive change (Braithwaite, 1999, p. 2).

Braithwaite (1999, p.2) and Van Ness (1986, p.66) explain that history steered away from restorative ideology with the Norman Conquest of Europe towards the end of the Dark Ages. During this time period, crime became a felony against the monarchy rather than the victim(s). This strategy was key to the domination of a people (Braithwaite, 1999, p.2; Van Ness, 1986, p. 66).

Restorative justice experienced a resurgence in the West in the late twentieth century after a pilot victim-offender mediation program was established in Kitchener Ontario in 1974 (Braithwaite, 1999, p.2). New Zealand’s family group conferencing spread to Australia, Singapore, the United Kingdom, Ireland, South Africa, the United



States and Canada in the 1990s with a “new theoretical vitality” (Braithwaite, 1999, p. 3). First Nations traditional healing and sentencing circles along with the Navajo Justice and Healing Ceremony also gained momentum in Canada (Braithwaite, 1999; James, 1993; Yazzie and Zion, 1996). Albert Eglash (1977) has been credited with first articulating restorative justice as a restitutive alternative to the traditional justice system (Bazemore & Washington, 1995; Van Ness, 1993). By the 1990s the work of activists such as Howard Zehr (1985, 1990), Mark Umbreit (1985, 1994), Kay Pranis (1996) and others turned restorative justice into a social movement contributing to criminal justice reform. Training in restorative justice began shortly after this movement took root (Braithwaite, 1999, p. 3).

Braithwaite (1999) argues that because it offered an alternative to the traditional justice system, this new direction appealed to liberals with whom a punitive form of justice did not resonate (p.4). The model appealed to conservatives as well due to its focus on victim empowerment (p.4). Restorative justice is also less expensive than its punitive counterpart (p. 4). The emphasis on repairing harm and empowering victims and families also led to feminist support for the restorative justice movement (Braithwaite, 1999, p.5). Daly (2002) explains that feminist thinking around restorative justice has also produced the Portia/Persephone dialectic where the former represents an ethic of justice and the later an ethic of care (p. 65). Justice responses to crime are considered to be masculine and impersonal and care approaches to crime are considered feminine and moral (Daly, 2002, p. 64-65; Gilligan, 1982, p. 174).

This historical representation of restorative justice has been questioned and rejected by other theorists (Daly, 2002; Sutcliffe, 2003). Daly (2002) provides a

comprehensive critique of Braithwaite's (2002) history of restorative justice. Her argument centres on exposing and challenging four central myths frequently assumed by restorative justice advocates. They are:

1. that restorative justice is the opposite of retributive justice;
2. that restorative justice uses indigenous practices and was the dominate form of pre-modern justice;
3. that restorative justice is a care or feminine response to crime in comparison to the justice or masculine approach and lastly,
4. that restorative justice is capable of transformative change in people (p. 56).

Daly's (2002) critique of each of these myths is summarized below.

Most restorative justice advocates and researchers, including Braithwaite (1999, p. 4) and Zehr (2011b), explain the concept of restorative justice by distinguishing it from the traditional, retributive framework. Further, restorative approaches are most often presented as being inherently "good", whereas retributive models are considered "bad" (Daly, 2002, p.59). Daly suggests that this dichotomy is false. She goes further to state that this characterization is used by restorative justice advocates as a kind of "sales pitch" and that in her experience, restorative justice participants assume several justice aims (p. 59). These include restorative and retributive goals along with rehabilitative goals such as determining how to promote law-abiding behaviour (p.59). This observation led Daly (2002, p. 60) to consider the relationship between these two justice models.

She concludes that restorative and retributive justice should be conceived of as dependent on one another. Retributive needs should be addressed before restorative

needs and both need to occur before any form of regeneration is possible. Psychologically speaking, offenders may experience both restorative and retributive methods as punishment. Daly also notes that restorative advocates often skip a key phase of the justice process—holding the offender accountable by placing too much of an emphasis on repairing harm. To complicate matters further, she points out that there is significant variability in how people understand the discourse associated with both restorative and retributive justice. For example, the term punishment is rarely defined since it is considered to be a common sense idea. However, a surface comparison of how the term is implied throughout the literature indicates the presence of multiple meanings (p. 60-61).

Daly (2002) states that the second origin myth identified in literature pertaining to the history of restorative justice—namely, that it is a lost form of pre-modern and indigenous justice—also serves a particular purpose for advocates (61-62). This myth allows them to advocate for the recovery of older forms of justice that have been extinguished and replaced by retributive responses (p. 62). Similarly, Daly maintains that advocates can claim a need to restore pre-colonial indigenous forms of justice (p. 62). She further argues that perpetuating this origin myth further promotes the dichotomous and opposing relationship between restorative (good) and retributive (bad) justice (p. 63). While this may be a well-intentioned political move on the part of advocates, grouping the various histories and justice practices across the ages and geographical boundaries in a single category unintentionally endorses ethnocentrism (p. 63).

Daly also notes that although some researchers maintain that conferencing began with the Maori (i.e. Shearing, 2001, p. 218), she disagrees (p. 63). In actuality, claims Daly (2002), the practice of conferencing emerged in the 1980s after the Maori demanded more control over their welfare and justice systems that had been co-opted by white New Zealanders (p. 63). Thus practices that assigned greater decision-making power to Maori families were also able to accommodate a variety of other cultural values (p. 63). Therefore, conferencing in New Zealand was a white, bureaucratic invention that was created to accommodate a variety of culturally appropriate practices (Daly, 2002, p. 63; Maxwell & Morris, 1993, p. 4). Daly notes that this is not the same as saying that conferencing is a Maori or indigenous practice (2002, p.63). More accurately then, conferencing is a “fragmented justice form” that combines white, bureaucratic justice with informal justice that may incorporate some values adhered to by some indigenous cultures (p. 64). Ignoring this reality by calling conferencing an indigenous justice practice is a “white-centred, creaming off and homogenizing of cultural difference and specificity” (Daly, 2002, p. 64).

Daly’s (2002) myth two and myth three are linked in that they both perpetuate binary conceptions of restorative vs. retributive justice (p. 64). She argues that employing myth three—the idea that restorative justice (care ethic) is a feminist approach and retributive justice (justice ethic) is a masculine approach, takes the dichotomy a step further. While some feminist theorists adhere to this theory (Gilligan, 1982, p. 174; Masters & Smith 1998, p. 11), others understand it to be a manifestation of an outdated feminist belief that there exists a universal female voice (Daly, 2002, p. 65). From the latter perspective, associating restorative and retributive justice with

gender is empirically fallacious (Daly, 2002, p. 65). Moreover, simply adding the voices of women and an ethic of care into a justice system pioneered by men does not constitute a viable alternative (p. 65). In a similar vein, agreement across the literature about the need to incorporate women's voices into the criminal justice system does not automatically imply that these voices are similar and essentially different from those of men (Daly, 2002, p.65). From Daly's perspective, these understandings of universal sex/gender differences were abandoned by most feminists in the 1980s and 1990s (p. 65). Subscribing to binary thinking in the context of complex and abstract notions of justice also serves to limit possibilities and could lead to harmful assumptions that one type of justice effectively works in all criminal cases (p. 66). As Daly (2002) notes, researchers and practitioners are beginning to embrace "hybrid" theories when it comes to criminal justice advancements (p. 66).

Lastly, the idea that restorative justice leads to transformative change in people, a claim that emerges from the intersection of the supposed history of restorative justice and generalized anecdotes of positive transformation, has also been challenged and labelled as myth by Daly (2002, p. 69). She explains that researchers often substitute empirical data with single anecdotes that are meant to demonstrate the irrefutable power of restorative approaches (2002, p. 69). But how often do participants in restorative processes actually experience transformative change?

Daly's (2002) examination of the South Australia Juvenile Justice (SAJJ) Research Conferencing Project led to several conclusions. When measures of observer judgment on how the conferences ended were combined with more general observer feelings, only ten percent of the conferences were rated highly. Another forty percent

were rated as good and the remaining fifty percent were rated as fair, mixed or poor. By extension, Daly concludes that it appears as though the powerful anecdotes told in the advocacy literature may be misleading and occur more infrequently than is implied (2002, p. 70). She does not define who the “observers” (p. 70) in her investigation are. Assuming they were in a similar capacity to a facilitator, her findings do not represent the opinions, feelings or experiences of victims or offenders. Indeed, other studies have uncovered favourable experiences from the perspectives of victims and offenders in the same SAJJ research (Tyler, 1990).

In sum, the history of restorative justice has become a point of controversy within the literature. While some researchers present a romantic, unified and perhaps oversimplified version of its beginnings and theoretical extensions (Braithwaite, 1999), others describe these accounts as nothing more than “origin myths” (Daly, 2002, p. 63). In response to these divisive accounts, some theorists beg the question of whether or not it is justifiable to present the history of restorative justice inaccurately in order for the movement to gain political credibility. Sylvester (2003) argues that in some cases history could be manipulated to further these purposes (p.3). Although she rejects specific binaries employed by other researchers, even Daly (2002) herself states that “the mythical true story” of restorative justice may be key in forwarding the development of restorative practices and policies (p. 72):

I do not see bad faith at work here. Rather, advocates are trying to move an idea into the political and policy arena, and this may necessitate having to utilize a simple contrast of good and bad justice, along with the origin myth of how it all came to be (p. 63).

Importantly, myths two (that restorative justice uses Indigenous practices and was the dominant form of pre-modern justice) and four (that restorative justice has the potential to facilitate transformative change) are assumed by the participants in this study.

### **Theoretical and Philosophical Underpinnings of Anti-Violence Work**

Before surveying the various arguments for and against the use of restorative justice in cases of domestic violence, it is helpful to review the assumptions underpinning these polarized perspectives. As Edwards and Sharpe (2004) note, two of the most basic and often unarticulated theoretical assumptions found in the literature are the feminist interpretation of violence against women and the narrative perspective of violence against women (p. 3). The theories and philosophical underpinnings comprising these worldviews are embedded in the arguments put forth by both opponents and advocates of the use of restorative justice in cases of domestic violence. By extension, these perspectives shape and constrain the anti-violence interventions employed. While the feminist perspective appears to preclude restorative justice principles (i.e. empathy and understanding), the narrative approach below fits well with restorative principles (p. 4). The innovative feminist hybrids described at the end of this chapter, however, reconcile these two perspectives.

#### **Feminist Interpretation of Violence against Women**

The feminist or socio-political perspective is a dominant worldview in contemporary anti-violence work (Edwards & Sharpe, 2004, p. 3). Through this lens, abuse of women by male intimate partners is perpetuated by overarching social constructs of male privilege and a culture that supports “relationships of dominance” (Pence & Paymar, 1993, p. 3). These constructs are based on the assumption that some

people have an innate right to power over others. Dominate members of society leverage societal institutions such as religion and law to reinforce this assumption and promote general acceptance of the premise that hierarchy is a natural state of being due to the perceived “deficiencies” of less powerful or marginalized members of society (Pence & Paymar, 1993, p.4).

Women have been treated as lesser humans whose value lies only in their connection to men (Edwards & Sharpe, 2004, p. 3). Because women’s fight for equality threatens men’s power, violence against women has been not only been tolerated, but encouraged in social and religious spheres as a means of preserving this patriarchal state (Edwards & Sharpe, 2004, p. 3). According to Hester, Kelly and Radford (1996), this explains why every wave of feminism is followed by a period of anti-feminist rhetoric which serves to marginalize, distort, and discredit feminist perspectives, state (p. 8).

During the 1970s, domestic violence was recognized as a patriarchal tool that is “inextricably linked to male domination” (Edwards and Sharpe, 2004, p. 3). Michelle Bograd (1988) echoes this idea and states, “the reality of domination at the social level is the most crucial factor contributing to and maintaining wife abuse at the person level” (p.14). Feminist interpretations place this violence as part of a collective of deliberative strategies and techniques aimed at achieving control and power over their partner (Pence & Paymar, 1993, p.3). Because the patriarchal structures permeate the private sphere to produce intimate partner violence, feminist interventions such as Pence and Paymar’s (1993) Duluth Model focus on challenging pervasive societal assumptions, beliefs and discourses.



While this mainstream feminist perspective underscores much of the literature examining the use of restorative justice in cases of domestic violence, the binary logic of this model has been challenged. Kim (2010) contends that this understanding of intimate partner violence is based on dichotomous and conventional understandings of gender (p. 198). Moreover, this framework universalizes victim-survivors as being white, heterosexual and Christian, thereby excluding those women who do not possess these characteristics (p. 200). In terms of services aimed at victim-survivors, Kim (2010) further argues that this exclusion manifests in policy, program, and service criteria that screen out women who do not fall within this social norm (p. 200). For instance, people who do not fit into traditional categories of gender and sexuality find themselves with limited options for service since many agencies explicitly serve women or men (p. 200). Service policies also often openly ban women who use drugs or those who cannot participate in support groups due to language barriers (p. 200).

### **Narrative Perspective of Violence against Women**

Edwards and Sharpe (2004) describe a second major perspective used by practitioners who engage in domestic violence work. The narrative therapy approach is similar to the mainstream feminist approach in that men are held accountable for their actions (p. 3). There are however, some important distinctions between the two perspectives.

Theories within the narrative approach are primarily strengths-based. Rather than focusing on men's problems and weaknesses, they draw upon their positive potential and capabilities (Edwards & Sharpe, 2004, p. 3). Theorists subscribing to the narrative approach contend that the feminist treatment programs based solely on control

and power fail to take into account the full scope of human beliefs and feelings. In contrast to the feminist perspective, men are seen as wanting a relationship characterized by love and respect, however, they are “restrained” by beliefs and attitudes that inhibit them from accepting full responsibility for violent behaviour (Jenkins, 1990, p. 32). Shame is interpreted as remorse, rather than a control tactic from this perspective (Augusta-Scott & Dankwort, 2002, p. 798).

Edwards and Sharpe (2004) also contend that utilization of the narrative approach is beneficial for victim-survivors as well. Telling one’s story of abuse can lead to exploration and validation followed by a “re-authoring” of the abuse that is ultimately empowering for the victim (p. 6). Despite the fact that this perspective is not solely concerned with issues of power and control, Herman (1997) notes that authentic freedom for the victim to disclose her abuse story cannot be achieved until patterns of violence and control have been stopped (p. 168).

In a similar vein, Pranis (2001) states that one can tell how much power a person has by how many people listen to his or her stories. As Braithwaite (2006) points out, when a US President tells a story, the masses listen. When it is a homeless person on the street, very few pause to hear. By extension, listening to the stories of those without power during a restorative session is a simple strategy to empower them (Braithwaite, 2006, p. 428).

Although the feminist and narrative approaches are helpful in locating practitioner ideology and providing rationale for various treatments and processes, researchers have also urged practitioners to accept the experiences of victims as truth,

rather than adhering rigidly to any one worldview or theory (Edwards & Sharpe, 2004, p. 5). Edwards and Sharpe (2004) quote Pence (1999) who reflects on her work with the Domestic Abuse Intervention Project (DAIP) (also known as the Duluth Model) to illuminate this caution:

By determining that the need or desire for power was the motivating force behind battering, we created a conceptual framework that, in fact, did not fit the lived experience of many of the men and women we were working with. Like those we were criticizing, we reduced our analysis to a psychological universal truism. The DAIP staff...remained undaunted by the difference in our theory and the actual practices and claimed them to be neutral observations (p. 29).

The central thesis statement in this research—that restorative justice can positively impact victim-survivors’ feelings of empowerment by increasing their justice options, giving them a voice and providing opportunities for transformative change, was arrived at by embracing the accounts of Claire and Paige’s lived experiences as truth.

## **Critiques**

From a feminist anti-violence perspective, the use of restorative justice in cases of domestic violence is contested. Critics (Cameron, 2006, p.13; Croker, 1999, p. 2; Daly & Stubbs, 2006, p. 9-10; Wemmers & Canuto, 2002, p. 23, 32; Wormer, 2009, p. 112) often focus on the *delivery* of the three primary restorative justice interventions (victim/offender mediation, family group conferencing, or circle processes) rather than the interventions per se. More specifically, literature opposing the use of restorative justice in cases of domestic violence can be grouped into five major categories: 1)

women's safety, 2) offender accountability, 3) healing, 4) forgiveness, 5) transformative change and 6) structural violence.

### **Women's Safety**

According to Ptacek (2010), older forms of mediation associated with the courts have rightfully made feminists sceptical and dismissive of current restorative justice practices in cases of domestic violence (p. 19). He cites one example from a report by the Transition House of Nova Scotia of a victim-offender mediation gone wrong:

Abused women reported intimidation and revictimization in mediation regardless of the form of abuse: physical, sexual, emotional, psychological, or financial. Women reported that that their mediator or conciliator minimized emotional, psychological, or financial abuse, or simply did not recognize certain behaviours as abusive. When women brought up the fact that their ex-partner was harassing, stalking or otherwise continuing to abuse them during the mediation, their mediators did nothing to terminate mediation (Rubin, 2000, p.8).

Several critics (Cameron, 2006, p.13; Croker, 1999, p. 2; Daly & Stubbs, 2006, p. 16, 17-18; Wormer, 2009, p. 112) have noted that women also report feeling coerced to participate in the mediations, particularly since restorative justice practices often necessitate the presence of both the offender and the victim. Reports like this have led feminists to conclude that current work on restorative practices (like mediation and restorative justice) that do not have the safeguards of the courts lack sufficient understanding or willingness to deal with gendered violence and the broader societal constructs that perpetuate this violence. If mediators and facilitators do not have a

conceptual understanding of gender inequality, then an understanding associated with the risks of face-to-face interactions with the offender may also elude them (Ptacek, 2010; Rubin, 2000). Insistence on in-person sessions could therefore undermine the safety of victim-survivors (Ptacek, 2010; Rubin, 2000). The Nova Scotia Transition House report also highlights the importance of a mediator's ability to distinguish between conflict and violence. Ignoring this distinction can lead to a heightened safety risk for victim-survivors (Cobb, 1997 in Edwards and Sharpe, 2004, p. 5).

### **Offender Accountability**

Critics such as Croker (1999, p. 85-87) are also unconvinced that restorative processes actually hold batterers accountable. This scepticism is primarily related to concerns with diversionary processes and the belief that steering domestic violence cases away from the courtroom toward the more informal restorative arena compromises the progress feminists have made to date to have domestic violence recognized as a serious offence. Ptacek (2010, p. 20) explains that some researchers and practitioners perceive restorative justice to be too easy or "soft" on offenders making the processes easy to manipulate, thereby thwarting any possibility of real justice (Smith, 2010, p. 273).

Wemmers & Canuto (2002) note that many victims' groups are also concerned that, like the traditional justice system, restorative justice places too much supportive focus on the offender. They maintain that over-concern for offender recidivism may serve the larger justice system, but at the same time, usurps victims' power (p. 23).

This extensive focus on the offender could explain lower satisfaction rates of victim-survivors. When compared to the experiences of victim-survivors in the

traditional court system, victims who completed restorative justice proceedings did not always report higher satisfaction with the process. Victims tended to be equally satisfied or dissatisfied with both processes depending on whether the violence stopped or continued (Wemmers & Canuto, 2002, p. 31-32). Similarly, victim-offender mediation has been found to be effective only if victims and offenders are already committed to ending the violence in their relationship. Other support services such as women's transition houses were noted as being more important in promoting victim empowerment than restorative practices (Pelikan, 2010 in Edwards & Sharpe, 2004, p. 6).

The next three sections discuss issues of healing, forgiveness and transformative change in the context of Acorn's (2004) influential work. In her book, *Compulsory Compassion: A Critique of Restorative Justice*, Acorn (2004) presents several fundamental theoretical challenges to restorative justice—many of which she applies to the context of domestic violence. As Braithwaite (2006) argues, Acorn's work may be the most “foundational critique” in the literature base (p. 435). Although she originally identified as a restorative justice advocate, Acorn (2004) argues that, ultimately, restorative justice is an illusory and dangerous justice “utopia” (p. 22, 160). Acorn (2004) does not provide a clear definition of restorative justice, however, she consistently draws on Martin Buber's “I-It” versus “I-Thou” relationships and refers to restorative justice in terms of moving from a state of “wrong-relation” to “right-relation” (p. 2). This conception of restorative justice provides the basis of her critiques. Overly optimistic promises or themes as discussed by Acorn (2004) are

particularly relevant to cases of domestic violence and to this thesis specifically since they arose during participant e-interviews. They are: healing, forgiveness and transformation on the part of the offender.

### **Healing**

Acorn (2004) contends that proponents of restorative justice are overly optimistic about its ability to assist victims in the healing process. The promise of healing, argues Acorn, is compelling for victims since the word “healing” is the most “emotively powerful word in the restorative justice vocabulary” (p. 69). She continues by explaining that the promise of healing is dangerous because it is undoubtedly mysterious and difficult to measure, particularly since questions aimed at assessing healing are rarely asked on victim-satisfaction surveys. She invokes the story of Lucas Baba Sikwepere, a man who was blinded after being shot in the face by a South African police officer who claims, metaphorically speaking, to have regained his sight through the opportunity to tell his story in front of the South African Truth and Reconciliation Commission. This “dramatic exaggeration” should make us uncomfortable, she suggests (Acorn, 2004).

### **Forgiveness**

This possibility of healing also promotes victims’ desire to meaningfully connect with offenders and lures them into a damaging state of forgiveness (Acorn, 2004, p. 18). Indeed, though Acorn (2004) affirms that apology and forgiveness are key components of restorative justice and the healing process (p. 10-11, 71), she reminds readers that apology and forgiveness are often part of a dangerous cycle of abuse for domestic violence victims (p. 73). To be sure, apology is often used by

perpetrators of domestic violence to regain control over their partners (Nancarrow 2010, p. 128). Ptacek (2010) also discusses this underlying conflict involving the concepts of forgiveness and anger between the restorative justice and feminist perspectives. Restorative practitioners believe anger hinders the pursuit of justice and understand forgiveness to be an avenue to transform anger and achieve justice (p. 22). Conversely, feminist antiviolence activists see forgiveness as an obstacle to justice and anger as transformative (p. 22). Indeed for many feminists, anger is seen as a powerful emotion that allows victims to admit abuse and facilitate action against it (Lamb, 1996, p. 161; Ptacek, 2010, p. 22). Based on this theory, Ptacek (2010) fears that encouraging forgiveness could lead to the silencing of victim-survivors. He also notes the gendered dimension to this effect due to particular discomfort and fears associated with women's anger. This fear and discomfort could lead to pressure on victim-survivors to forgive offenders, regardless of the fact that apology is a frequent tool used by perpetrators of domestic abuse to maintain control over their partner (p. 23).

This pressure to forgive is increased in the Aboriginal context where women feel responsibility to resist cultural stereotypes associated with violence (Goel, 2000). Goel (2000) explains that Aboriginal women who participate in circle processes with Elders and other community members present may feel obligated to embrace and forgive the offender rather than display any feelings of anger or resentment. In this way, sentencing circles may prioritize the interests of the broader community over women's interests including those associated with safety, and the female victim is therefore lost in the perceived best interests of the collective (p. 327).



Despite the legitimate concerns expressed by Acorn (2004), Ptacek (2010) and Goel (2000), Zehr (2011a) rejects the notion that forgiveness is a goal of restorative justice. Instead, he contends that restorative justice is about shedding a spotlight on harms, addressing needs, and helping those who have offended to take accountability for their actions. According to Zehr, if restorative justice processes are engaged in respectfully and safely for all participants, whether or not a victim is angry or forgiving is irrelevant (2011a). The choice to forgive is the victim's alone and forgiveness itself is not a determinant of restorative success (para. 4).

### **Transformative Change**

Acorn (2004) also suggests that only “good bad guys” capable of profound self-reflection with the required resources and desire to repair the harm caused can experience authentic transformation in restorative processes (p. 18). Since it is difficult to determine which offenders fit this description, Acorn (2004) contends that restorative justice asks too much of victims who risk coming face to face with offenders who are incapable of taking responsibility for their actions through equal and respectful dialogue (p. 18).

Aside from the problem of “compulsory compassion”, Acorn (2004) also argues that the restorative “utopia” itself does not align with peoples’ innate needs for justice (p. 160). In her epilogue, Acorn (2004) proposes a new utopia:

In this utopia, victims of crime are validated and protected. And they aren't expected to spend their time and energy sitting down with the people who have raped, assaulted, tortured or stolen from them, or murdered their loved ones, trying to work toward an amicable agreement. There are strong institutions of

criminal justice that are “as little disposed to endure as to offer an injury” to any member of the community. In this utopia the bad guy getting painfully skewered can still potentially be a very good thing (p. 161).

Although Acorn’s work is eloquently presented, serious criticisms of the book have emerged. Braithwaite (2006) takes issue with her narrow view of justice, omission of empirical data to support her arguments, and disregard for the many studies that do not (p. 443). In a similar vein, Ribet (2006) criticizes Acorn (2004) for her reductive view of restorative justice and her assumption that all restorative interventions are uniform in both practice and ideology (p. 116). That being said, Ribet (2006) does maintain that Acorn’s (2004) evaluation of restorative justice can be accurately applied to certain authors or practices within the restorative justice field such as theologian Reinhold Niebuhr and his work on love, justice and Christian paradoxes associated with moral guidelines (Ribet, 2006, p. 116). Ribet (2006) further maintains that Acorn (2004) fails to provide evidence for her most basic claims such as her contention that restorative processes necessitate forgiveness on the part of victims (p. 116).

### **Structural Violence**

As alluded to above, critics have identified a theoretical inconsistency with assigning community justice when the community itself is part of a larger system that perpetuates gendered violence and racism. These community norms present a risk of victim blaming and male dominance within a restorative process. In other words, “making amends and restoring troubled relations in an unequal society may mean

restoring unequal relations and hence reaffirming inequality” (Stubbs, 2002, p. 54). Family members themselves may also encourage these patriarchal functions and place pressure on the victim to forgive the offender and keep the family together (Miller & Iovanni, 2013, p. 260).

Romanticized notions of restorative justice also permeate the Aboriginal-First Nations context where proponents advocate for practices based on indigenous forms of justice (Daly, 2002). In actuality, processes such as Peacemaking Courts are performed in a small number of indigenous communities and have been criticized by many Aboriginal antiviolence advocates. Moreover, it has been argued that these so called “Indigenous” processes are merely the internalization of patriarchal norms as a result of colonization (Ney, Richardson, & Maloney, 2015; Smith, 2010, p. 263).

Another point of concern is the problematic way in which colonial violence and domestic violence become separated in the analyses of many restorative justice proponents (Smith, 2010, p. 263). For instance, Strang and Braithwaite explain that in some cases, Aboriginal families are so negatively impacted by colonialism and fear of harm in custody that they prioritize family reconciliation over safety (2002, p. 19). The tendency of researchers to separate gender and colonial violence ignores the intersection of race and gender and the fact that colonialism is perpetuated through violence against women. Although both Aboriginal men and women suffered physical and sexual violence, Aboriginal women have been disproportionately targeted because of their ability to reproduce the next generation with the power to resist colonialism (Smith, 2010, p. 263). As Smith (2010) notes, “to destroy a people, one must disproportionately target women for destruction” (p. 263).

In sum, communities are subject to the systemic racism and sexism that encourage violence against women. Effective justice interventions, argues Smith (2010), must do more than restore communities, victim-survivors, and offenders to their previous state (p. 274-75). They must identify and denounce the inequitable social structures embedded in the relationship and the community (Smith, 2010, p. 273). Therefore, Smith (2010) argues that neither the criminal legal system nor restorative justice are enough to provoke widespread social change and address oppressive power structures (p. 273). If anti-violence strategies are to be successful, they must be directly connected to political organizing, rather than simply intervening after violence has occurred (Smith, 2010, p. 274-75).

Pranis (2001) disagrees with the idea that restorative justice cannot lead to wider social change. While she recognizes the restorative processes alone cannot address social inequities, she states that the many community-based initiatives in which restorative principles are embedded allow for more inclusive decision-making and create meaningful, just relationships. In time, these micro-level shifts can lead to significant social justice changes (p. 288).

### **Aboriginal Context**

Distrust of the criminal justice system and its roots in colonialization has resulted in Indigenous community efforts to adopt alternative justice approaches to address domestic violence (Marchetti, 2010, p. 271). Recall that circling is one of the most popular forms of restorative justice and that various forms of circling are used in Indigenous communities in Canada and the US. Some circles are used for healing, some for sentencing, and others are used as open community spaces (Ptacek, 2010, p.

9). Guiding principles of circling include negotiation, mediation, consensus-building and peacemaking (Pranis, 1997, para. 3). The criticisms of this practice presented below are key because the victim-survivors recruited in this study participated in an Aboriginal anti-violence program that included circling.

Extensive interviews with various stakeholders involved in peacemaking circles (i.e. Judges, Navajo justices and women's advocates), led Croker (1999) to conclude that these processes have the potential to increase both material and emotional support and resources for victim-survivors, and disrupt denial and minimizing on the part of offenders and their families (p. 106-07). Croker (1999) also found that peacemaking circles promoted the recognition of oppression in the lives of offenders, while simultaneously holding them accountable for the abuse they inflicted. This facilitated a power shift in the relationship (Croker, 1999, p. 106-107; Edwards & Sharpe, 2004, p. 8).

Overall, however, circling in the context of domestic violence as a process has received particularly negative attention in the literature. Analogous to the criticisms of restorative justice overall, the circling process, claim critics, also places too much focus on the offender (Wemmers & Canuto, 2002, p. 23), and is coercive in that victims may feel pressured to participate (Edwards & Sharpe, 2004, p. 13). In this light, circling appears to reflect the values of the traditional justice system rather than those of restorative justice theory (Wemmers & Canuto, 2002, p. 23).

As Edwards and Sharpe (2004) note, the short-lived South Vancouver Island Justice Education Project was subject to these criticisms (p. 7). A formal review of this program by Griffiths & Hamilton (1996) following its closure indicated that community

members were not meaningfully consulted. Lack of credibility of key players, political tensions and cultural differences also contributed to its failure. Moreover, victims who participated in this initiative felt pressured not to pursue criminal charges and community members felt that family connections allowed serious offenders to avoid the criminal justice system (Griffiths & Hamilton, 1996, p. 185-86).

Croker (1999) found similar issues in her study examining the use of Navajo peacemaking circles in cases of domestic violence. Along with coerced participation, Croker also found that peacemakers displayed a bias against couples separating (p. 106-107).

Aside from issues associated with the delivery of circle processes, Goel (2000) describes a barrier that may prevent Aboriginal women from even seeking assistance through circling to end abuse. Aboriginal women “feel the weight” of the mainstream perception about Aboriginal men and increased incidences of violence within Aboriginal communities. Consequently, Aboriginal women may remain silent about violence they are suffering at the risk of further perpetuating cultural stereotypes (p. 327; Edwards & Sharpe 2004, p. 14). This provides support for Smith’s (2010) argument that restorative justice may not be powerful enough to mitigate the effects of oppressive power structures and, in this case, the effects of colonialism and racism, thereby failing domestic violence victims on a macro level (p. 274-75).

### **Empirical Evidence in Support of Restorative Justice in Cases of Domestic Violence**

Generally speaking, supporters of restorative justice argue that victims’ needs and interests become central during restorative processes and contend that victims can

have a high level of control over the procedures and outcomes of restorative justice proceedings (McGlynn, Westmarland & Godden, 2012, p. 213-14). They also maintain that where ideas of restitution are often found to be merely theoretical within the criminal justice system, restorative procedures offer authentic restitution and resolution (Zehr & Mika, 1998, p. 1; Zehr, 2011b). Furthermore, restorative justice offers crucial opportunities for women's empowerment that is so often denied in the criminal justice system (McGlynn, Westmarland & Godden, 2012, p. 213; Wemmers & Canuto, 2002, p. 5).

Despite the profound lack of empirical research and evidence to support the use of restorative justice in cases of domestic violence, Edwards and Sharpe (2004) located a few empirical studies documenting positive outcomes for victim-survivors. Because these studies explored different processes (victim-offender mediation and circling) and utilized varying research methodologies, results and conclusions are not generalizable. Nevertheless, the research collected by Edwards and Sharpe (2004) from across the globe has resulted in positive conclusions about the synergies between restorative justice and domestic violence. Below is a summary of these studies.

### **Victim-Offender Mediation**

Bethel and Singer (1982) interviewed domestic violence victims two months after they completed a victim-offender mediation. They found that eighty percent of victims were satisfied with the restorative justice process. Further, ninety percent of victim-survivors contended that the hearing was conducted fairly and ninety-five percent felt they were "allowed to say everything" (p.27). Similarly, eighty percent of

victim-survivors reported feeling satisfied with the final agreement at the end of the hearing (p. 27).

Pelikan (2000) studied a mediation process in which mediators actively speak for victims and offenders of domestic violence after they had heard the unique issues from both parties in private caucuses. Pelikan (2000) discovered that this form of victim-offender mediation helped to reduce domestic violence in cases where positive change was already underway, meaning that the victim and offender acknowledged and were committed to ending the violence. She also noted that victim empowerment begins outside the restorative process and depends on access to resources and support required to live independently if necessary (Pelikan, 2000, p. 16; Edwards and Sharpe, 2004, p. 8).

In a South African study conducted by Amanda Dissel (2003), victim-survivors described positive effects associated with their sense of safety following a mediation process. Participants also felt that they had equal opportunity to speak during mediation even though they did not have the same opportunities at home (p. 6-7). Moreover, all victims reported that the violence had ceased after completing the mediation and that the general relationship and attitude of the offender towards the victim had improved. Victims also explained that communication improved at home and any verbal abuse had ceased (p. 10).

### **Circling**

Although the Community Holistic Circle Healing (CHCH) process in Hollow Water, Manitoba has been criticized for focusing too much on offenders, for making victims feel obligated to participate and for practices based on values not shared by the



broader community (Edwards & Sharpe, 2004, p. 7), a cost benefit analysis study of the process also reported several successes (Couture, Parker, Couture & Laboucane, 2001). This study employed a participatory research approach based on two fundamental principles: *collaboration* with the Hollow Water community and *action* towards social change (p. i). Because it was impossible to place monetary value on many aspects associated with the healing work, the researchers collaborated with the community to establish a common understanding of the research and the CHCH process (p. i). This strategy allowed the researchers to clearly compare aspects of the CHCH process with the mainstream judicial, victim and family services available in Manitoba (p. i). Data sources included fifty verbal and written interviews with current and former CHCH staff, victims, offenders, educators, psychologists, RCMP, and community and band members (p. iii, 7). This data was referenced against key reports and data obtained from various sources including Manitoba Health, EastMan Regional Health Authority and Canada's Medical Services Branch and Planning Unit (p. 7). The study concluded that the CHCH reduced rates of domestic violence, youth incarceration and recidivism. The study also found that children of families participating in the process stayed in school longer and that the quality of life of the overall community improved. Although the CHCH process incorporated both the criminal justice system and circles, circling was identified as the key to community healing (Edwards & Sharpe, 2004, p. 7).

In summary, Australian studies have revealed high victim satisfaction rates with victim-offender mediation processes and outcomes (Edwards & Sharpe, 2004, p. 6; Wemmers & Canuto, 2002, p. iii). Victims in South Africa also reported greater

feelings of safety in part because they felt equal to their partners in the restorative setting and because they had the opportunity to include their supporters in the process. In the instances where couples remained together following the restorative proceedings, victims reported that the violence committed against them by their partners ceased, and that general conduct and communication between them improved significantly (Edwards & Sharpe, 2004, p. 6; Dissel, 2003, p. 9-11 ). Similarly, Canadian communities utilizing circle processes reported lower instances of violent crimes against women, lower incarceration rates, and lower recidivism rates (Couture, Parker, Couture & Laboucane, 2001, p. 74-76).

### **Feminist Hybrid Models: New Possibilities**

Despite successes with restorative justice for domestic violence victims, very few researchers and practitioners argue that conventional restorative justice practices can be applied to cases of domestic violence. Instead, some have explored how these processes can be modified through feminist praxis to address critics' concerns and meet the needs of victim-survivors. Ensuring that processes are victim-centred emerged as the most important feature of an effective restorative process to address domestic violence.

Marilyn Fernandez (2010), conducted an in-depth study of women's experiences with domestic violence and their perceptions of judicial and community services available to support them (p. 19). Although restorative justice was not an initial focus of her research, it became clear that victim-survivors of domestic violence wanted more than what the traditional, retributive justice system and existing family

and victim services could offer (p. 15). Restorative justice seemed better suited to satisfy their “palpable hunger for healing and closure” (p. 15).

Fernandez (2010) completed an extensive literature review, iterative analyses of surveys that included approximately one hundred twenty women and in-depth interviews with thirty-five women from northern California who had experienced domestic violence and used various domestic violence services. She arrived at a list of frequently unmet victim needs: clear information, opportunities for truth-telling and telling their story, empowerment to reclaim the control they lost, and lastly, restitution and vindication (p. 19). Fernandez’s (2010) research also resulted in a list of ten basic guidelines for restorative justice in domestic violence praxis that promote victim-centred practice (p. 151). They are, 1) restorative programs should supplement, rather than replace existing legal and community-based programs, 2) safety should come first for the victim and her friends and family, 3) participation is truly the victim-survivor’s choice; 4) the legal system’s approval of the restorative process is demonstrated, 5) battered women’s shelters are involved in the preparation and follow-up, 6) victim-survivors are presented with choices throughout the planning process, 7) the offender takes responsibility for the abuse by acknowledging his guilt before in-person sessions are planned, 8) victims select supportive community members and that the number of support people present is “balanced in favour of the victim”, 9) follow-up occurs in a timely manner after the restorative session, and 10) restorative programs are formally evaluated (p. 151-52). As Fernandez (2010) notes, these guidelines also draw on the work of Pennell and Burford (2002), Ptacek (2010), and others (p. 151).

Provided these guidelines are observed, Fernandez (2010) concludes that restorative justice processes can give victim-survivors a voice, increase victim-survivor agency and create space for healing and closure.

Joan Pennell (2006) has also developed an alternative restorative model for addressing domestic violence in families called *safety or family group conferencing*. This work is an extension of the Duluth Model whereby abused women and children are empowered through the mobilization of community supports. Safety conferencing brings together the family, extended family, friends, and other members of their informal support network to develop a plan to protect the mother and children. Before these safety plans can be implemented, they must be endorsed by the protective agencies involved. Studies have consistently documented the success of this model in “democratizing decision making”, embracing and respecting family and community cultures and promoting the safety of women and children. By including a wide range of family members, friends and community, the circle of support grows and more “eyes” help to prevent reoffending (Pennell and Francis, 2005 p. 668; Ptacek, 2010, p. 25). This process employs “ the language of choice and empowerment” and assists women in breaking the silence about their abuse (Pennell and Francis, 2005, 668). The conferences then establish a strong support system for victims. One victim who participated in a conference said:

Safety conferencing is so important for the person that’s being abused but also for the family members, you know. We’ve got to have . . . a group that we can get together and feel like a family, feel like we’re safe at all times, or [if] not, we can

call the whole group together and get that support and that strength (Pennell & Francis, 2005, p 666).

Following family group conferencing sessions, women reported an increase in their sense of leadership within the family unit (Pennell & Burford, 1997, p.121). Follow-up research with thirty-two families who participated in the conferences also found that abuse and neglect declined by half (Ptacek, 2010, p. 25)

A case study conducted by Susan Miller and LeeAnn Iovanni (2013) concludes that a therapeutic post-conviction restorative justice model succeeded in producing empowerment, voice and validation for victims of domestic violence. These successes are attributed to the long length of time that passed between crimes and the restorative justice processes. The offender in this case was also previously prosecuted and convicted of his crimes by the justice system. The “respite time” along with the incarceration of the offender allowed the victim-survivor sufficient time to determine she was ready to find her voice and participate in a restorative process. By using the authority of the criminal justice system, this approach circumvents the main criticisms of restorative justice, particularly those processes conceptualized as diversionary (Miller & Iovanni, 2013).

While not in the context of restorative justice, Rhea Almeida, founder of the Institute of Family Services in New Jersey employs specific “culture circles” to empower victims of domestic violence and hold their abusers accountable. At the same time, Almeida frames these culture circles within the context of multiple forms of inequality and oppression and uses the circle to promote positive change (Ptacek, 2010, p. 23-24).

The above examples of feminist hybrids overhaul traditional forms of restorative justice and antiviolenace approaches based on single theories or sets of principles. Generally speaking, these feminist praxis models of restorative justice encourage practitioners and advocates to resist co-optation by the traditional justice system for reasons provided below (Ptacek, 2010, p. 28). They also open the door for the production of additional innovative approaches to justice for victim-survivors. As Dickson-Gilmore (2014) states:

...the cost of not doing better in dealing with intimate violence renders it one of the most pressing public policy issues facing Aboriginal and non-aboriginal governments. Surely it is time we worked together ethically, meaningfully, and effectively to heal families, build communities, and move forward to a better future. (p. 417)

### **Summary and Conclusions**

As discussed in the previous chapter, feminists and practitioners involved in the field of domestic violence have raised grave concerns about how the traditional justice system confronts cases of domestic violence (McGlynn, Westmarland & Godden, 2012, p. 213-14). The inability of the traditional justice system to effectively respond and provide effective redress to a woman's experience of domestic violence has spawned the creation of alternative justice interventions. Currently, restorative justice offers one potential approach to address these concerns.

In theory, restorative justice offers victims what the traditional system cannot: restitution, healing and resolution. Restorative justice operates from a fundamentally

different theoretical framework for addressing crime. During restorative sessions, offenders are expected to accept responsibility for their actions and personally repair the damage they have caused. The central purpose of restorative justice is to reconcile the damage caused to relationships amongst the victim, offender, and the community. A focus on repairing relational fissures rather than simply administering punishment differentiates restorative justice from the traditional justice system (Braithwaite & Mugford, 1994; Ministry of Public Safety and Solicitor General, 2010; Zehr & Mika, 1998; Zehr, 2011b). Although not always conceived of in this way, restorative justice, when implemented sensitively, also offers victims the chance to overcome power imbalances between the offender and themselves in ways that cannot be achieved in the criminal justice system, and presents them with ample opportunities to be heard (McGlynn, Westmarland & Godden, 2012, p. 213-14).

Nonetheless, the complexity involved in crimes of domestic violence is daunting and critics of restorative justice argue that restorative justice does not live up to its promises. The relationships between victims of domestic violence and their offenders are characterized by deep structural and relational inequality and it is frequently argued that no restorative justice intervention can bridge these deep gendered divides (Acorn, 2004). Critics also have practical concerns involving the physical and psychological safety of the victims (Braithwaite, 2002, p. 237; Edwards & Sharpe, 2004, p 8-10, 12-13).

In spite of these concerns, most researchers are uncomfortable asserting that the traditional justice system is better equipped to deal with domestic violence against women (Pelikan, 2010). Rather, these critiques highlight the need for more

conversation and research around the use of restorative justice in cases of domestic violence, and they conclude that more research and standardization of practice are needed before restorative justice can be implemented in cases of domestic violence (Braithwaite, 2002, p. 567-68; Edwards & Sharpe, 2004, p. 23).

Several of the critiques also appear to originate from discourses associated with the criminal justice system. For instance, the assumption that safety can best be achieved by ensuring the offender and victim are kept separate largely speaks to the language of physical protection within the criminal justice system. Moreover, the general concerns above as well as those specific to circling imply a failure to incorporate Aboriginal ways of being. More specifically, binaries of victim and offender, derived from the criminal justice system, are not so clear cut in Aboriginal cultures (Ross, 2006, p. 105). Ross (2006) reflects on the adversarial and judgmental nature of the English language:

I never realized how ‘harsh’ the English language is, or how judgemental and argumentative we become as we speak it...I had no idea that people could and do—live otherwise, without having to respond to everything around them in such combative and judgmental ways. (p. 105)

Regardless of the *theoretical* criticisms of restorative justice in cases of domestic violence, some *empirical* studies exploring the experiences of domestic violence victims who participated in restorative justice processes suggest that issues of safety, power, and structural inequality can be overcome (McGlynn, Westmarland & Godden, 2012, p. 213-14). Moreover, as described above, other feminists have begun to develop restorative/feminist hybrid models aimed at addressing concerns around how



both the criminal justice system and original restorative justice processes engage with domestic violence cases. These findings may imply a future for restorative justice in this context.

## **Chapter 3 - Methodology & Methods**

The methodology and methods outlined in this chapter were developed to answer the central research question—“*what are the effects of restorative justice proceedings on domestic violence victims’ experiences of empowerment?*” Due to the sensitive nature of the research topic, a discussion about ethics also appears in this chapter. A brief description of the participants recruited is provided along with a discussion of the strengths and limitations associated with this study.

### **Methodology and Research Design**

This research is exploratory in nature. A feminist lens with attention to gender inequality is used in combination with a phenomenological method (Jardine, 2010, p. 72; Patton, 2002, p.129) to examine the specific lived experiences of female domestic violence victims who have participated in restorative justice. The general phenomenon studied is empowerment within the context of restorative justice and domestic violence.

Embedded in this design are several assumptions. First, the idea that how people experience and interpret the world has epistemological value is foundational in phenomenological research. In other words, phenomenological approaches provide insight into how people make sense of experiences to create individual or shared meaning (Patton, 2002, p. 104). A second assumption of phenomenology is that when a phenomenon is commonly experienced, shared essences or meanings can be identified. In this way, commonality of human experience is assumed. Identifying these commonalities can lead to a more thorough understanding of the phenomenon in question than what currently exists (Patton, 2002, p. 106-107). These premises make phenomenology an appropriate methodology with which to fulfill the purpose of the

study—to ascertain the effects of restorative justice processes on victims' lived experiences of empowerment.

### **Data Collection Method**

The problem and the research question identified in this proposal were investigated using qualitative data collection methods. Because the phenomenological design of the study necessitates the exploration of lived experiences (Patton, 2002, p. 106-107), interviews were conducted with participants. Interviews are the most common method found in the literature to collect data in phenomenological and feminist research because they provide windows into the meaning participants assign to the phenomena experienced (Jardine, 2010, p. 70; Patton, 2002, p. 106).

Due to the geographic location and preference of the participants in conjunction with financial limitations, e-interviews were conducted. The e-interview allowed the women to reflect on their own experiences as restorative justice participants. Furthermore, because the interviews were completed electronically, participants could respond to each question at their leisure in a semi-journalistic manner. In this way, participants were able to reflect intimately on their own experiences with themselves, rather than with the researcher.

Most notably, this means of data collection not only provided the researcher with an understanding of what events and experiences may have taken place, but also with the meaning participants have assigned to those events and experiences. This allows for a deeper understanding of the phenomenon under inquiry. Self-reporting is also helpful in locating and exploring self-identity and structure (Breakwell, Hammond, Fife-Schaw & Smith 2006, pg. 256). Lastly, the e-interview allows the researcher to

identify various themes and discourses used by participants to assign meaning to their experiences.

The interview questions were informed by the literature review and divided into seven categories: power, control, safety, respect, fairness, satisfaction with process, and satisfaction with outcome (see Appendix A). These categories were selected because they approach and facilitate the research question by identifying the lived experiences of participants within an empowerment framework. Previous literature developed on this topic locates these categories as central factors in feelings of empowerment (Cameron, 2006, p. 50; Daly & Stubbs, p. 14, 17; Presser, 2005, p. 2069). Joan Pennell, James Ptacek and Alan Edwards (researchers who had completed interviews with victim-survivors of domestic violence who underwent restorative processes), were contacted via e-mail and telephone in order to obtain information on questions they had used in their research. In order to elicit broader narratives, participants were also asked how they experienced these phenomena before, during and after the restorative justice session. At the end of the e-interviews, participants were given the opportunity to write about any other issues, opinions, or feelings they had about their restorative process.

With the exception of the demographic information collected, the interview questions were open-ended and participants had an unlimited amount of text space in which to respond to each question. Probes were used to increase the depth or clarify the content of participant responses. To reduce researcher bias, the questions were constructed using language that was as neutral and as non-directional as possible (Seidman, 2006, p. 81).

Completion of the interviews was entirely voluntary and no incentive was offered because doing so could elicit a biased sample (Seidman, 2006, p. 73).

### **Research Process and Procedures**

Following ethics approval from the University of Victoria Human Research Ethics Board, the recruitment process began. Because statistical generalizability was not a goal of this qualitative and phenomenological research, a smaller sample size was appropriate (Hesse-Biber & Leavy, 2011, p. 45, 53). A purposive homogeneous sample was ascertained using non-probability sampling techniques (Hesse-Biber & Leavy, 2011, p. 46). Participants were recruited based on six qualifications. Eligible interviewees were to 1) identify as female, 2) be over the age of eighteen, 3) be residents of Canada, 4) have experienced domestic violence, 5) have participated in a restorative process to address the incidence(s) of domestic violence within the last ten years and 6) not have undergone this restorative process within the last month.

This sample was drawn from the larger population of women in Canada who suffered domestic violence and who participated in a restorative justice process. The researcher specifically targeted participants from several cities across B.C including Victoria, Vancouver, Nanaimo, Prince George, Kelowna, and Fort Nelson and from Alberta, Nova Scotia and Newfoundland where other researchers completed research or pilot projects involving the use of restorative justice in cases of domestic violence.

Although the proposed research is qualitative and does not require a large sample size compared to that which would be required in quantitative research, a sufficiently large sample would have ideally be drawn in order to adequately address the research question. The researcher aimed to recruit enough interviewees so that

commonalities in the narratives of the participants could be extracted (Patton, 2002, p. 104-106). Originally, the estimated sample size for this research was twenty participants from six B.C cities that have most actively participated in restorative justice (Restorative Justice Victoria, 2011). More participants would have been required if the research question was not properly addressed (Seidman, 2006, p. 55-56). That being said, the researcher did complete an ethics modification form to expand the participant search to other provinces after months of attempting to recruit within B.C alone.

Advertisements for the study were emailed to relevant government, community and non-profit organizations across the country with a focus on justice, women, anti-violence and restorative justice with a request to upload the advertisement to respective websites (See Appendix B and C). Advertisements were also placed on Facebook, UsedEverywhere, various online blogs and social networking sites. Interested parties contacted the researcher who determined if potential interviewees fulfilled the participant requirements. Eligible participants were then forwarded an information letter about the study (see Appendix D) and a consent form (see Appendix E). Interviews were subsequently scheduled to take place either in person or over the phone depending on the location of the participant. Participants were also given the option of completing an e-interview as a last resort. As noted above, participants requested e-interviews. Once the researcher received the signed consent forms, the interview questions were provided to participants. After the interviews were completed, participants were emailed a list of relevant resources (see Appendix F).

Unfortunately, after months of recruitment efforts and after expanding the search to include all of Canada, the researcher was only able to locate two participants willing to complete the interview. During discussions with prominent researchers on this topic, four primary barriers to recruitment were identified. First, due to the controversy surrounding the use of restorative justice in cases of domestic violence, community organizations either did not use restorative justice for cases involving violence against women or were reluctant to admit to doing so. Second, staff in non-profit agencies are severely underfunded and do not have resources or time to assist with the multitude of research requests they receive. Third, confidentiality restraints prevented staff and facilitators from discussing specific or general relevant cases. Lastly, staff and facilitators were reluctant to contact potential participants due to the sensitive nature of the topic. In other words, staff and facilitators did not wish to ask past clients to relive any circumstances surrounding abuse.

## **Ethics**

Before the interviews could be conducted, ethics approval from the University of Victoria Human Research Ethics Board (HREB) had to be achieved. Because this research involves vulnerable individuals (victim-survivors) and a topic of a sensitive nature (domestic violence), several ethical considerations apply. Central ethical issues include confidentiality, risk of harm and informed consent (UVic Human Research Ethics Board, 2010).

Participants were informed that any information they provided during the interviews would be completely confidential. In order to protect their identity, the researcher assigned each participant a pseudonym. Any identifiers that did emerge in

the data that could have undermined the confidentiality of participants or others were omitted. All data including transcripts and researcher notes were stored in a secure location. Only the researcher had access to this data.

Because the e-interview process could also induce emotional risk, it was imperative that this be controlled. Participants were informed of the sensitive nature of the e-interview before commencement. The information letter provided each interviewee with an outline of the purpose and significance of the research. Participants were also provided with the interview questions at least one week prior to when the researcher expected to receive the responses. The nature of the e-interview also allowed participants to take as many breaks as possible and even allowed for days between their responses to each question. They were also reminded that they could discontinue their participation in the study altogether at any time without consequence. As stated above, a list of relevant resources was e-mailed to participants at the end of each e-interview (UVic Human Research Ethics Board, 2010).

A detailed consent form was signed by all participants. They were encouraged to read it carefully and approach the interviewer with any concerns or questions. The researcher took every appropriate measure to ensure that participants fully understood the nature of the study before consenting to participate (UVic Human Research Ethics Board, 2010).

This research also required the permission of outside organizations for participant recruitment. The letter used to request this permission was included in the ethics application (Appendix C) (UVic Human Research Ethics Board, 2010).



Aside from the research standards and processes required by the University of Victoria HREB, the researcher also had other ethical responsibilities since she approached the study from a feminist perspective. The researcher personally reflected on several key ethical questions throughout the research process such as, 1) who is the researcher accountable to? 2) What is her obligation as a researcher? 3) What information should be protected once the research is underway? 4) Who does the research affect? 5) Who is the researcher in relation to this study? (The Canadian Research Institute for the Advancement of Women, 1996).

### **Participants**

Both participants were recruited through the same aboriginal anti-violence agency in B.C and fulfilled each of the eligibility requirements. In addition, both interviewees currently facilitate restorative justice in response to domestic violence. As noted above, each participant was given a pseudonym to protect anonymity and confidentiality.

Claire is a 70-year-old female who identifies as First Nations. She resides in B.C and is married. Claire holds a graduate degree and works part time. As a victim-survivor, she underwent a restorative process in response to domestic violence in 1999 in the form of traditional group circling. She is now a facilitator herself with an anti-violence program based on her experience in the restorative session.

Paige is a 53-year-old female who also identifies as First Nations. She too resides in B.C and completed some high school. Paige is divorced, works part time and is also self-employed. She also underwent a traditional group circling process in 2006

in response to domestic violence she experienced. Paige now facilitates circle processes with victim-survivors and offenders of domestic violence.

### **Method of Analysis**

The extensive literature on qualitative research offers many methods with which to analyze interview data. In accordance with the feminist paradigm and phenomenological design characterizing this study, data analysis reveals the participants' subjective meaning assigned to their lived experience and aids the researcher in locating commonalities between transcripts (Johnston, 2005, p. 278; Patton, 2002 p. 104, 106, 129). An inductive approach to data analysis was therefore utilized and occurred in three phases: reduction, organization, and verification.

During the reduction phase, the e-interviews/transcripts (see Appendix G) were analyzed using sociological and psychological models of thematic and narrative analysis (Cortazzi, 1993 as cited in Johnston, 2005, p. 278-79). Narrative analysis has been cited as a common way for feminists to uncover the lived experiences of marginalized individuals (Johnston, 2005, p. 278). Narrative analysis seeks to understand human experiences through the organization and content of stories. This method of data analysis is particularly appropriate in this study because it accommodates the goals of phenomenology and feminism by bringing forth the subjective lived experiences of the women (Patton, 2002 p. 104, 106, 129). How the participants experience empowerment during restorative processes was revealed in their own narratives and interpretations of the events and relational dynamics experienced. Narrative data analysis will address the research question by helping the researcher to examine discursive power operating during restorative processes. Because narrative

inquiry also involves temporal considerations, it helps the researcher to understand the participants' lived experiences of empowerment before, during, and after the restorative process. Through the women's narrative accounts of what occurred, the researcher identified how power, control, and safety were negotiated and understood and how it may or may not have shifted (Johnston, 2005, p. 279-80). The narratives were coded using themes and discourses as units of analysis (Johnson, 2005, p. 286). Of particular interest are the themes and discourses that fit into one or more of the seven categories previously identified as central to the research question: power, control, safety, respect, fairness, satisfaction with process, and satisfaction with outcome. These are discussed in Chapter 5.

After an initial examination of the narrative present in each transcript, Patton's (2002) process of thematic analysis was used to code the data for themes. First the researcher read the transcripts several times and began annotating them with preliminary observations. This provided the researcher with an overall thematic "feel" for the data. Next, the researcher began to identify more detailed themes embedded in the transcripts. These initial themes were noted in the margins of the transcripts. After several reviews of the transcripts following this process, a master list of all the themes identified was created. Next a coding scheme was developed. This involved grouping the initial themes into broader themes or codes. These codes were then applied to the data and segments of the data were grouped by code in order to answer the research questions (Patton & Cochran, 2002, p. 24-26).

Discourses or collective, socially negotiated and taken-for-granted assumptions about the world (Hollway, 1984) were identified using the processes and tips identified

by Wood and Kroger (2000). Because this process is arguably even more iterative than thematic analysis, this process was much more time-consuming and complicated despite the fact that it yielded fewer results. The researcher adopted a discourse-analytic orientation by considering what is missing from both the entirety of the transcripts and individual sections and themes.

A great deal of reflexivity was also undertaken by the researcher to determine how the transcripts were being read and understood and why. The researcher also investigated her own position and presence as a researcher in this study and how this may have influenced the emerging results and conclusions (Johnston, 2005, 282-85). This is particularly important when approaching the research from a feminist perspective (Leavy, 2000).

After the coding process was complete, the themes and discourses relevant to the research questions that emerged were organized on a gradient from highest to lowest level of experienced empowerment. The use of narrative analysis in this case promoted the consideration of context and allowed the researcher to make connections between these levels of experienced empowerment and the context in which they occurred. The researcher was therefore able to qualitatively identify relationships between the level of empowerment experienced and specific components of the restorative process. This form of organization assisted the researcher in making general statements about the level of empowerment experienced by the women in the restorative setting.

The research results were then compared with the literature base. Results that were similar to those described in the literature were considered the most qualitatively reliable and credible. Because some results of the proposed study differed from literature containing similar participants, conditions and questions, the researcher re-evaluated the research design, process, and analysis. Inconsistencies that remained provided directions for further research.

### **Strengths & Limitations**

This research was particularly helpful in setting the stage for First Nations women with lived experience to reflect on the broader themes and concerns critics of restorative justice have rightfully illuminated. Indeed, their voice is largely absent in the body of philosophical and theoretical research exploring the use of restorative justice in cases of domestic violence.

Data was collected in a similar manner to previous studies such as those conducted by Fernandez (2010), Dissel (2003), and Bethel and Singer (1982). Therefore results from the present study could be compared to previous findings with one important nuance. The journalistic (written, rather than spoken) nature of the method of data collection employed in the present study gave participants an opportunity to reflect privately upon each interview question. Despite the absence of in-person, one-on-one discussion, participants' personal experiences, feelings, opinions and thoughts were discussed in the e-interviews. Although this method of data collection was a consequence of factors outside the researcher's control, in the end it was particularly appropriate given the sensitive nature of the topic.

Nevertheless, because the participants completed the e-interview privately on their own time, the researcher was unable to have interesting or compelling answers expanded upon and clarified by the participants. Several responses to interview questions were brief and elaboration would have been helpful. This particular limitation did, however, generate questions for further research.

The most obvious limitation of the present research is the small sample size. Although this thesis is qualitative in nature, a larger number of participants would have generated more themes and/or provided increased support for the themes extracted by the researcher. Alternatively, the ability to hold several face-to-face meetings with each participant could have allowed for a more thorough case study approach to addressing the research questions.

That being said, since the participants in this study were both victim-survivors and facilitators of restorative justice processes to address domestic violence, both orientations were present in how the participants made meaning of their experiences. The dual roles of the participants undoubtedly enriched the responses to each question. The researcher did not encounter any other studies in the literature base where participants were both victim-survivors, participants in a restorative process and facilitators of restorative processes.

Another key limitation was that both participants took part in the same form of restorative justice. The three primary modes of restorative justice—victim-offender mediation, conferencing and circling are themselves diverse and include varying numbers and types of stakeholders. The results detailed below could therefore have differed or been more diverse had the researcher been able to connect with victim-

survivors who participated in different restorative processes. The e-interview questions around power, control, safety, respect, fairness and satisfaction with process and outcomes would likely have elicited different responses depending on the restorative process experienced, or, at the very least, may have revealed detectable nuances.

## Chapter 4 - Results

This chapter provides a basic overview of the results followed by an in-depth discussion of these results in the following chapter. Recall that the central research question in this study is, “*What are the effects of restorative justice proceedings on domestic violence victims’ experiences of empowerment?*” Sub-questions revolve around how much control victims feel they have over restorative justice proceedings, how safe or unsafe they feel before, during and after the process, their level of satisfaction with the overall process and outcomes of the restorative justice proceedings, and how victims make meaning of power, control and safety within the context of a restorative process. Based on these guiding research questions, five primary themes were identified in the participant narratives. They are: 1) voice, 2) safety and support, 3) change and healing, 4) culture and 5) choice. Many of the direct quotes from the two transcripts also speak to more than one theme. Therefore, they are sometimes repeated and discussed in different contexts.

### Voice

The idea that the circling process gave voice to the participants was undoubtedly the most pervasive theme in the e-interviews. For Claire, experiences of empathy and support partly contributed to her ability to voice her feelings. She also noted the positive effects of describing her experiences in a setting where others identified with her story: “*There [were] opportunities for me to share my experience of violence and abuse in my relationship which I feel I was able to do...I sensed that there was not only support, empathy and understanding, but that others in the group identified with my story.*” Implicit in this finding is the importance or value of



storytelling. This idea emerged in several other instances throughout Claire's transcript. For instance, she stated that her degree of influence during the process was aligned with her ability to share "[her] side of the story". Claire also made a more explicit connection between power and being heard during the restorative process. When asked what power meant for her in this context, she responded: "*Having a voice that is heard.*" She implied that before the restorative process, fear was the primary barrier to her ability to have a voice. For her, power also meant, "*to not be silenced by fear...taking charge of [her] life so that [she] can live without fear [and] oppression.*" When reflecting about her overall satisfaction with the process, Claire wrote, "*I liked the process as it gave me a voice. I was no longer silenced by anyone.*"

Paige described a similar experience of being heard: "*We all had a chance to speak and feel heard...I totally felt heard.*" She also alluded to the appropriateness of the timing of the process and explained she was "ready" to express herself and the perpetrator was ready to hear her. This readiness on the part of both parties was a source of power for Paige. She also reflected on a time when she did not feel she had a voice in her relationship with the perpetrator: "*It wasn't safe for me to be open and honest before the [circling process].*" With regards to how the process impacted her relationship with the offender after the process ended, she said it, "*open[ed] doors for all involved to continue to practice open, honest, safe problem solving.*"

Although both Claire and Paige indicated they had "total" control and experienced feelings of power during their circling processes, they implied that the offenders played active roles too. Claire appreciated that her abuser was given the chance to share his story in relation to the violence he perpetrated against her: "*The*

*process worked well as it was guided by the facilitators who not only heard my story but that of the perpetrator as well". Hearing about the violence from the perspective of the perpetrator provided her with a "clearer picture of why the violence happened."* Claire remarked that the perpetrator "took to heart" what she said and did not minimize the violence he committed. In other words, she stated, *"he accepted all that was said...the victim has a voice in this process and the perpetrator understands where the violence and rage come from...I know this process works well to establish a means to take control whether the victim or perpetrator."*

Similarly, Paige stated that each person had the chance to speak "without interruption" during her restorative session and that [the offender] was "ready to hear her". She explained that the offender *"had influence depending on his reaction to what he was hearing [and was] open to listening"*. Paige recounts witnessing the effects of guilt, remorse and sadness from her partner who "cried silently" and "listened calmly".

### **Safety and Support**

In addition, safety was strongly associated with voice and being heard in Claire's transcript. For her, safety meant being able:

*...to be heard and understood not only by facilitators or supporters but by the perpetrator...[power means] having a voice that is heard. To not be silenced by fear...I experienced a sense of power as I felt I was heard and trusted that I was in a safe place. I was well aware of the presence of the perpetrator but did not feel threatened..."*

Claire's words clearly capture the relationship between having a voice and feeling safe and empowered.

Concern for physical safety was, however, merely alluded to by Claire when she stated that she *“felt totally safe as others were present.”*

In comparison to Claire, Paige located her high degree of influence and control in her role as a mother and partner as well as in her experiences of feeling heard during the circle process. Paige also placed more of an emphasis on feeling physically safe than Claire. She explained that the presence of a male facilitator induced feelings of safety: *“I knew he had the skills to take control of the situation and that we were physically safe.* She also stated that *“to this day...[she has] no fear of being hurt physically.*

Support from facilitators and their depth of knowledge about violence in relationships were also associated with positive experiences for Claire. In response to how the facilitator did or did not make her feel respected, Claire said, *“the role of the facilitator is so important. I felt respected because they were able to listen to my story, provide support [and] be empathetic without judging either of us.”* She elaborated further: *“Facilitators gave me the opportunity to speak in a safe place so it gave me a sense of support and [facilitators] displayed their understanding of violence and abuse in relationships. They assured me through their guidance that I was in control...”* Claire and Paige also credited the facilitators with providing the necessary guidance and respect to allow for open communication and the alleviation of fear.

## **Culture**

For the purposes of this analysis, culture is defined as the “shared, often unspoken understandings in a group” (LeBaron & Pillay, 2006, p. 14). For Paige, attention to cultural tradition was key to her experiences of respect during the

restorative process. Use of “traditional medicine” including smudging to cleanse the energy and prayer prepared the group and provided “an automatic grounding”. In her circling process, the facilitator was an Elder who established a traditional and spiritual environment that Paige described as, “*exactly what we wanted...It felt calm and safe*”.

With regards to the researcher’s question around how she would describe her restorative process to someone in similar circumstances who might be considering it, Claire referenced her cultural history and stated:

*I would describe it as a more personal approach with support from our community; it is a safe way to deal with both the victim and the perpetrators and to get positive results. Feelings of respect, safety and feelings of being heard in a non-judgemental setting [are] what this process provides. It is what our ancestors did to settle conflict.*

In relation to her level of satisfaction with the outcome of the circle process, Claire maintained, “*there is now an understanding of what a healthy relationship is and that violence is not cultural...*” She also explained that the circling process is “*so much more personal...Understanding and support are essential to the process of justice in dealing with violence and abuse in relationships.*” In sum, Claire and Paige legitimized aspects of the restorative process by explaining that their ancestors addressed conflict using circling. They also partially attributed the success of the restorative process to the inclusion of their cultural traditions such as traditional medicine and prayer.

## Choice

The notion of choice was prevalent in the transcripts both explicitly and implicitly. Choice also emerged as a major theme in the transcripts before, during and after circling. With regards to the level of control she experienced while deciding whether or not to participate in the circling process, Claire recalled that it was “totally [her] choice...” Paige made a similar comment in her description of the planning leading up to the circling process: *“I had a say in location, time [and] who could come...I had 100% control.”*

Claire felt that what she said and did not say during the processes was her decision: *“I was in control of what I wanted to share or not share...I felt that what I had to say...was my choice.”* Perhaps most profoundly, Claire alluded to having *“the freedom to make choices that impact the rest of [her] life”* after the restorative process ended.

In addition to the reoccurring use of the word “choice”, Claire alluded to the importance of choice in her discussion of other services she accessed for victim-survivors of domestic violence. Aside from staying in a transition home and participating in separate program for battered women, Claire suggested there are few options for support and that restorative processes should be offered as *“an alternative choice to addressing issues of violence in families...”* Paige echoed this idea by explaining that previous resources she accessed did not meet her needs because *“there was a lot of support for leaving but not in guiding, teaching, support[ing] as a family”*.

## Healing and Transformative Change

For Claire and Paige, having a voice and feeling safe and supported enabled healing from the trauma caused by the abuse. Overall, these findings indicate broader narratives of healing and transformation. Indeed, both participants reported feelings of powerlessness, fear and frustration before the restorative process followed by experiences of empowerment, control, liberation and healing during and after circling.

Claire and Paige described how the process impacted the offenders and their relationships with them. Paige summarized her overall satisfaction with the process by saying, *“I liked the process because we learned what it’s like to be so open and experience that it can be safe and healing”*. She notes that although her romantic relationship with the offender had ended, they still see each other regularly (i.e. at family dinners) and both still utilize the communication skills they acquired by participating in the circle process. In her words, *“ [the restorative process] helped our family. To this day we are very open and honest in how we communicate...I remember it clearly because it helped so much... the tools of communication didn’t begin and end on that day, they continue...”* Since her circling process took place eight years ago, this statement indicates significant and lasting change.

Claire came to a similar conclusion: *“The process not only helped in my journey of healing from trauma in my life but provided me with the confidence to help others.”*

She further elaborates on this connection:

*“It was a difficult journey to get to [the restorative] process and I had tried over and over again to get help to deal with the violence in my life. Once I realized there was an opportunity for the*

*perpetrator to make change in his behaviour, I sensed that I got my power back.”*

Change was also referred to or implied in various other instances throughout the transcripts. With regards to how she experienced power in relation to the offender, Claire stated that, *“it needed to be clear that violence and abuse worked against a healthy relationship and changes needed to be made.”* Along with her desire for change, she also believed that the perpetrator *“wanted to make a change”* and applauded the circling process for offering him this opportunity. She states, *“the perpetrator understands where the violence and rage come from and is able to get help to make positive change.”* With regards to her participation in a separate program for battered women, Claire said, *“it helped me to understand that I had to help myself and that I could not make anyone else change but myself.”* In contrast, she notes that there are very few programs in existence that men can access to facilitate change in themselves.

The perpetrator’s motivation for change also increased Claire’s feelings of safety. The need for change was also implied in Claire’s feelings of safety before the restorative process: *“As my life was threatened, I totally believed that the perpetrator would kill me one day so I did not feel safe before this process”*. This sense of fear was absent in Claire’s comments pertaining to her feelings during and after the process.

This chapter outlined the results of the thematic analysis. Research questions addressing the experiences of the participants over time also allowed for general

statements to be made with regards to the broad narratives embedded in the transcripts. Both participants reported empowering and therapeutic experiences during and after their restorative processes. More specifically, they reported feeling heard, safe and supported. They also credited the inclusion of cultural tradition for the success of their restorative processes. Lastly, they reported a high level of choice and control. When asked what they would change about the process, Paige stated: *“I wouldn’t change anything. We were prepared and grounded.”* Similarly, Claire replied, *“there is nothing I would change.”* The next chapter provides a discussion and analysis of these results against the literature base.



## **Chapter 5-Discussion and Analysis**

This chapter revisits each theme in the previous section in relation to the literature. The researcher identifies areas of convergence between the two as well as the various instances where they differ. Differences between the transcripts are also explored. Once again, discussions in this section are limited to topics that help address the central and sub research questions.

### **Voice**

The pervasiveness of powerful discourse associated with having a voice and feeling heard in the transcripts also supports the feminist cautions around re-victimization and the importance of taking measures to ensure women do not feel disempowered and dominated during a restorative process (Cameron, 2006, p.13; Daly & Stubbs, 2006, p. 16, 17-18; Wormer, 2009, p. 112). Aside from aligning with these theoretical and practical concerns, these findings also reflect the experiences of the women who participated in Dissel's (2003) study who felt they had equal opportunity to speak during mediation (p. 6-7).

The empowering experience of having a voice as recounted by both Claire and Paige also aligns with the narrative therapy approach to domestic violence work as articulated by Edwards and Sharpe (2004, p. 6) and Herman (1997, p. 168). Their contention that telling one's story of abuse can lead to exploration, validation and "re-authoring" of the abuse is reflected in the e-interviews. Claire's specific connection between power and feeling heard during her restorative process also supports Pranis's (2001) claim that power is directly related to whether or not others listen to their stories (Braithwaite, 2006, p. 428). In a similar vein, the importance of voice in Claire and

Paige's e-interview indicates the presence of procedural justice and illustrates the positive effects of this form of justice on perception of outcomes as described by Robbennolt and Sternlight (2012).

Claire and Paige's accounts of the offenders' having a voice in the restorative process while also feeling heard by them align closely with the experiences described by the women in Dissel's (2003) victim-offender mediation study. Offenders in Dissel's (2003) study were asked to understand and explain the violence and the victims reported that they were able to speak on an equal basis with the offender (p. 6-7). All women reported that the violence had ceased (p. 10).

Moreover, rather than providing "soft" or "cheap" justice (Croker, 1999 in Ptacek, 2010, p. 20), Paige's recollection that the offender in her process "cried silently" and her contention that he felt "guilt, remorse and sadness" do not indicate that the process was easy for the offender. She also reported that he was feeling attacked, hurt and blamed but that he listened "without...aggression". These experiences mirror Ross's (1997) insight on how offenders experience restorative processes:

*First, one must deal with the shock and then the dismay on your neighbours' faces. One must live with the daily humiliation, and at the same time seek forgiveness not just from the victims, but from the community as a whole...[A prison sentence] removes the offender from the daily accountability, and may not do anything towards rehabilitation, and for many, may actually be an easier disposition than staying in the community (p. 18).*

Overall, Claire and Paige's experiences of feeling heard in relationship to the offender correspond with the narrative therapy approach. From this perspective, men are seen as wanting relationships characterized by love and respect but are "restrained" from creating these relationships by their acceptance of certain beliefs and attitudes (Jenkins, 1990, p. 32). Claire specifically states that both she and the offender "*wanted a healthy relationship [because they] still love[d] each other.*" Facilitators of the narrative approach address this disconnect by asking offenders to reflect on which beliefs and attitudes are inhibiting the relationships they desire (p. 33). Claire's feelings of "*no longer [being] controlled by the perpetrator*" and her freedom to live the life she chooses may also reflect the assumption that her partner used violence as a patriarchal tool to achieve control—a key component of the feminist or socio-political perspective (Edwards and Sharpe, 2004, p. 3).

Although the researcher did not pose questions directly related to apology and forgiveness, it is surprising that themes and discourses related to these topics were essentially absent from the transcripts. One might have expected these subjects to emerge in response to one or more of the research questions around power, control, safety, respect, fairness, satisfaction with the process, or satisfaction with the outcome. Arguably, this absence may support Zehr's (2011a) contention that the success of a restorative session does not rely on expressions of forgiveness. It may also respond to feminists' concerns in the literature that victim-survivors could feel obligated to forgive the offender, particularly in the context of indigenous circling processes (Ptacek, 2010 p. 22-23). More information would be required from participants, however, to draw solid conclusions.

On a related note, there were indicators in the transcripts that the offender experienced some pressure to listen and take responsibility for the violence. At the same time, Claire did imply that the abuser had also experienced trauma which may be the origin of his violent behaviour: "*The perpetrator understands where the violence and rage come from.*" This finding coincides with Croker's (1999) conclusion that circling may promote recognition of oppression in the lives of offenders, while also holding them accountable for their abusive behaviour (p. 106-107). On the other hand, this finding could also be interpreted as support for Acorn's (2004) claim that love in romantic relationships may allow perpetrators of domestic violence to "get away with it" (p. 37).

### **Safety and Support**

Claire's association of safety with feeling heard is absent in the articles written by critics who consistently associate safety with *physical* safety, protection and security. The researcher in the present study may have drawn similar conclusions had the e-interviews not included questions aimed at identifying how participants make meaning of key concepts such as safety, respect, power and control.

The attention participants in the present study paid to the positive role of the facilitator is not a pervasive theme in the literature. Though critics, such as Rubin (2000), highlight instances where facilitators failed to recognize signs of abuse or failed to respond to these signs appropriately (p.8), little is said about how facilitators may develop capacities to recognize and respond to these special circumstances. Claire and Paige had a very different experience with their facilitators whom they described as supportive, considerate, respectful, understanding, empathetic and knowledgeable about

the realities of intimate partner violence. This juxtaposition highlights the importance of skillful and knowledgeable facilitations in restorative justice processes to address domestic violence. It also highlights the power of procedural justice and, more precisely, the importance of authority figures who are perceived as trustworthy and respectful (Robbennolt and Sternlight, 2012, p. 51).

Paige and Claire's feelings of support and validation align closely with the sparse body of literature reflecting the experiences of victim-survivors in restorative processes—particularly with those who participated in Pennell's innovative safety conferencing process. Recall that these victim-survivors highlighted the benefits of having a “family” of support to help feel safe (Pennell and Francis, 2005, p. 666). The presence and importance of validation and support in the present study also spoke to Laurie's experience in the case study conducted by Miller and Iovanni (2013). Readiness to participate as expressed by Paige reflects Laurie's experience that sufficient time between the abuse and session are imperative to the success of the restorative process. The importance of determining victim readiness and ability to consent to participate also reflects the pre-process guidelines suggested by Fernandez (2010, p. 151).

### **Culture**

The participants' engagement with their culture is inconsistent with the recent critiques of restorative justice cautioning against the use of indigenous restorative processes in response to domestic violence (Croker, 1999, p. 106-107; Edwards & Sharpe, 2004, p. 8; Wemmers & Canuto, 2002, p. 23). Instead, the findings below suggest that successful application of Aboriginal-First Nations values in an anti-

violence community justice process is possible. Because the participants in the present study did not elaborate on their comments pertaining to culture, it is difficult to formulate strong conclusions.

Claire's endorsement of her restorative justice process based partly on the idea that it is "*what [her] ancestors did to settle conflict*" indicates her acceptance of Braithwaite's (2002) contention that restorative justice uses indigenous practices and was the dominate form of pre-modern justice (p.2). This acceptance by the Aboriginal women in this study is significant since it calls into question Daly's (2002) claim that the Indigenous history of restorative practices is nothing more than a "myth" (p. 56). This "myth", she argues, is employed by proponents of restorative justice who wish to advocate for the recovery of older forms of justice that have been extinguished and replaced by retributive responses (p. 62).

Recall that in relation to her level of satisfaction with the outcome of the circle process, Claire said, "*there is now an understanding of what a healthy relationship is and that violence is not cultural...*" This statement could be interpreted as Claire's resistance of racist discourse and as a confirmation of her positive cultural identity. This (re)connection with her culture could imply that the abuse she suffered not only resulted in personal trauma, but also in a disconnect with her cultural identity. This statement could also indicate a refusal on her part to accept cultural oppression as an excuse for the violence committed against her. On the other hand, Claire also indicated that the restorative process gave the offender an opportunity to discover where his violence and rage "come[s] from." If one assumes that this statement is referring in some way to colonialism or oppression, it could be interpreted as contradiction to her

previous statement that “*violence is not cultural*”. Regardless, these findings imply that restorative processes may have the power to not only help heal trauma, but also re-establish positive and empowering connections to culture.

Literature pertaining to circling warns that increased numbers of people involved in process could negatively affect victims. For instance they may feel pressured to prematurely make amends with the offender or to remain silent about the violence altogether (Goel, 2000, p. 327; Edwards & Sharpe 2004, p. 14). Conversely, feminists have spent decades advocating for the public to enter the gendered spheres of personal, sexual and domestic life in order to reveal the subordination, discrimination, inequality and abuse suffered by women. According to this discourse, the gaze of others holds offenders of domestic violence accountable for their actions and works to prevent future abuse. This assumption is present in Pennell’s (2005) work with safety conferences where the goal is to bring domestic violence to the attention of community partners and supporters. Findings in the present study support this approach. As noted above, Claire did not feel threatened during the process and noted the presence of facilitators and “several others” in the circle. This finding shows adherence to the “wanted gaze” discourse as described by Anita Allen (2001, p. 2021) and is exemplified by the feminist slogan “the personal is political.”

In close relation to culture, Paige also explained that more services should provide support to families (rather than solely to victims and/or offenders). She also stated that “*there is not enough support to keep moms and dads together, there needs to be.*” Along with resisting the dominant feminist socio-political assumption that women should ultimately leave their abusive partners, this use of the *family discourse* is

significant because the framing of social problems affects how they are solved (Adelman, 2009, p.194-195). A study conducted by Gillian Walker (1990) showed that use of *family violence discourse* triggered social services aimed at treating problems within the family unit while *wife assault discourse* triggered criminalization of wife-battering and incarceration of batterers. If addressing the justice needs and desires of victims themselves is a goal, this finding supports the addition of restorative options to the current suite of justice responses.

### **Choice**

An in-depth analysis of the transcripts revealed that experiences of control and power were highly dependent on and interwoven with notions of choice. For Claire, the very meaning of power was about “*having the freedom to make choices that impacted the rest of [her] life.*” She also implied that her level of control was reliant on her ability to choose whether or not she wanted to participate in the process. This supports Fernandez’s (2010) contention that the victims must freely choose to participate and that they should be provided with process options throughout the planning process (p. 151). More generally, these findings strengthen the conclusion that “victims’ choice is a very clear and uncompromising principle that practitioners of restorative justice in the context of domestic violence need to keep in mind” (Fernandez, 2010, p 152).

The fact that Claire and Paige appreciated having choice in both the more minor details within the process, and in terms of pursuing the process in general also elicits broader conclusions. The importance of choice implies that no single restorative justice process or design will work for all victim-survivors. This finding has significant



implications for both the heated debate in the literature over the use of restorative justice in the context of domestic violence and for justice reform in general because as Ney (2012; 2014) notes, it suggests that victims should have more than one justice option.

### **Healing and Transformational Change**

The broader narrative enveloping both Claire and Paige's experiences within the restorative process was one of positive or transformational change. This finding aligns with what Daly (2002) called, the "mythical true story" of restorative justice. The perspectives of the two women in this study serve as more than mere "anecdotes" of success, but rather as qualitative empirical evidence that some women who suffer traumatic domestic violence do experience positive change as a result of participating in a restorative process.

Their descriptions and implications of profound and lasting change on the part of the offender, within themselves and in relationship to their families, mirror the grand narratives proposed by Gandhi, Desmond Tutu and the Dalai Lama who believe(d) that crime provides an opportunity to inspire positive change for all involved. From a subjective and social constructionist perspective, these beliefs are not universal or timeless. However, Claire and Paige's experiences prove that for some victim-survivors, these profoundly hopeful perspectives are more than manifestations of optimism. They represent personal truth.

Participation in the restorative process resulted in positive self-constructions (or re-constructions) for Claire. This excerpt from her transcript characterizes the broader narrative of transformation from a victim to a survivor:

*“As my life was threatened, I totally believed that the perpetrator would kill me one day so I did not feel safe before this process...It was a difficult journey to get to this process as I tried over and over again to get help with the violence in my life. Once I realized that there was an opportunity for the perpetrator to make change in his behavior, I sensed I got my power back.”*

This change in self-identity supports the narrative therapy approach to domestic violence in which a “re-authoring” of the abuse is ultimately empowering for the victim (Edwards and Sharpe, 2004, p. 6). Claire’s feelings of power associated with the possibility of change also supports Fernandez’s (2010) proposed guideline that offenders should, at the very least, partially acknowledge guilt and responsibility for harm caused before the commencement of a restorative process (p. 152).

This chapter has provided a more in-depth exploration of the results presented in chapter 4. The fact that both participants repeatedly reported feelings associated with empowerment points to the notion that when safety, control and power are taken into account, restorative processes have the potential to be beneficial for victims of domestic violence. This conclusion aligns with the smaller body of literature relying on the voices of victim-survivors (Bethel and Singer, 1982; Dissel, 2003; Fernandez, 2010; Miller & Iovanni, 2013; Pelikan, 2000; Ptacek, 2010). At the same time, it validates the feminist cautions and critiques in the larger literature base questioning whether basic restorative practices can address safety issues and deep structural inequality

between victims and offenders (Acorn, 2004; Cameron, 2006; Daly & Stubbs, 2006; Edwards & Sharpe, 2004; Wormer, 2009; Wemmers & Canuto, 2002)

## Chapter 6 - Conclusions & Directions for Future Research

Although theory and ideology are absolutely critical in the production of innovative restorative justice models applicable to domestic violence cases, the intricate complexity of how women experience domestic violence and subsequent healing and empowerment necessitates that their voices be salient in future research.

The qualitative results of this small study are far from generalizable. However, Paige and Claire's focus on the importance of choice leads to the conclusion that feelings of empowerment are not nestled in any one approach to justice in cases of violence against women, but that power and justice for victim-survivors are implicit in the opportunity to choose for themselves which process or service addresses their "hunger" for healing and closure (Fernandez, 2010, p.154). By extension, the results of this study provide support for policy reforms that embrace, or at least allow for the option of restorative processes in the context of criminal victim services (Ney, 2012; 2014).

Future research should also investigate the interface of criminal and restorative justice. It is not always clear whether authors in the literature base are discussing restorative justice in place of, or alongside the criminal justice system. As Miller and Iovanni (2013) suggest, diversionary restorative justice may pose more risk of harm to victims. On the other hand, post-conviction models may circumvent many of the critiques in the literature (p. 247).

Taken together, the experiences of Claire and Paige and conclusions from the literature support Fernandez's (2010) list of ten basic guidelines and principles for

restorative justice in the context of domestic violence praxis (p. 151-2). The importance of guidelines to help ensure readiness for change, acknowledgement of accountability on the part of offenders and the presence of choice for victims were particularly salient in the present study. Future research should continue to rigorously evaluate potential guidelines and principles through feminist lenses to effectively address gender inequality and highlight the voices of victim survivors.

Because Claire and Paige's experiences with circle processes are inconsistent with most of the literature pertaining to the use of Indigenous restorative justice approaches, this area of study should continue to be pursued to determine how best to address the feminist cautions in the Aboriginal context. On a related note, since both participants in the present study completed circling processes, future research should investigate the differences and nuances experienced by victim-survivors who take part in different types of restorative justice such as victim-offender mediation and family group conferencing.

Since issues of apology and forgiveness did not emerge in this study and primarily exist in the philosophical and theoretical body of the literature cautioning against the use of restorative justice in cases of domestic violence, this topic represents a more focused direction for further research—particularly within Indigenous frameworks.

In closing, the analysis of participant responses in this study supports the idea that restorative justice has the potential to transcend its current limitations in cases of domestic violence when feminist cautions are taken into account. Claire and Paige revealed rich experiences of power, control, healing and transformation within the

restorative process that they did not experience in other domestic violence programs. Researchers should therefore further extract the aspects of restorative processes and feminist/restorative hybrids that contribute to the empowerment of women from the victim-survivor perspective. Articulating these factors will facilitate the development of novel restorative justice processes and techniques suitable in cases of domestic violence and will increase the overall number of justice options available for victim-survivors.

*I have a voice to be heard. I have feelings I can express and I am no longer controlled by the perpetrator. I feel safe to live my life the way I choose.*

-Claire

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## Appendix A: E-Interview Questions

### Introduction

Thank you for taking the time to answer these questions about your restorative justice experience. This questionnaire will focus on your general experience with, and feelings about the restorative justice process. If possible, please do not disclose specific names, programs, facilitators, etc. The questions do not need to be completed in one sitting—please take breaks and return to them as needed. Please skip any questions you do not wish to answer for any reason. You are under no obligation to complete the interview and may stop it altogether whenever you wish.

If you have any questions, please do not hesitate to contact me. You can also contact my supervisors: Dr. Kim Speers: [kspeers@uvic.ca](mailto:kspeers@uvic.ca) or Dr. Tara Ney: [tney@uvic.ca](mailto:tney@uvic.ca). Once again, thank you in advance for your participation in this study.

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### Demographic Information

What is your age? \_\_\_\_\_

What is your sex?

- Male
- Female
- Other (please specify if you wish) \_\_\_\_\_
- Prefer not to say

Do you identify as Aboriginal-First Nations or Metis?

- Yes

- No
- Prefer not to say
- Other (please specify if you wish) \_\_\_\_\_

If you answered yes above, do you identify as:

- First Nations
- Metis
- Other (please specify if you wish)\_\_\_\_\_
- Prefer not to say

Where are you located?

- Vancouver Island
- Lower Mainland
- Interior BC
- Northern BC
- Other (please specify if you wish)\_\_\_\_\_
- Prefer not to say

What is your marital status?

- Single, never married
- Married
- Domestic partnership

- Widowed
- Divorced
- Separated
- Other (please identify if you wish)
- Prefer not to say

How many children under 18 reside in your home?

- 1
- 2
- 3
- 4
- 5 or more
- Other (please specify if you wish) \_\_\_\_\_
- Prefer not to say

What is your employment status?

- Employed full time for wages or salary
- Employed part time for wages or salary
- Self-employed (part time hours)
- Self-employed (full time hours)
- Out of work for more than 1 year



- Out of work for less than 1 year
- Worker in the home
- A student
- Retired
- Unable to work outside the home
- Other (please specify if you wish)\_\_\_\_\_
- Prefer not to say

What is the highest degree or level of school you have completed?

- Never attended school or only attended kindergarten
- Grades 1 through 8 (Elementary)
- Grades 9 through 11 (Some high school)
- Grade 12 or GED (High school graduate)
- Some college, university, or technical school – not graduated
- Completed college, university or technical school-graduated
- Graduate School (Advanced Degree)
- Other (please specify if you wish)\_\_\_\_\_
- Prefer not to say

### **General**

Once again, this portion of the questionnaire will focus on your general experience with, and feelings about the restorative justice process.

1. To begin, can you tell me about your restorative session?
2. Who attended the session (i.e. facilitator(s), the offender, support persons, etc)?
3. Approximately how many people attended the session?
4. How did the process work?
5. What year did you take part in the process?

**Power**

6. Can you tell me about how you experienced or did not experience feelings of power during the restorative justice proceeding?
7. What does power mean to you in this context?
8. How did you experience or not experience power in relation to the offender?
9. How did you experience or not experience power in relation to the facilitator?
10. How did you experience or not experience feelings of power before and after the restorative process?

**Control**

11. How much control did you have over the decision about whether or not to participate in the restorative process?
12. Can you tell me about how you experienced or did not experience feelings of control during the restorative process?
13. What degree of influence did you feel you had over the process?
14. What degree of influence did you feel the offender had over the process?
15. How did you experience feelings of control before and after the restorative process?

**Safety**

16. Can you tell me about how you experienced or did not experience feelings of safety during the justice proceeding?
17. What does safety mean to you in this context?
18. How did you experience or not experience feelings of safety before and after the restorative process?
19. How do those feelings compare with your feelings of safety now?

**Respect**

20. How did you experience or not experience feelings of respect during the restorative justice proceeding?

21. What does respect mean to you in this context?

22. How respected did you feel by the offender?

23. How respected did you feel by the facilitator?

### **Fairness**

24. Can you tell me about how fair or unfair the restorative justice proceeding was?

25. In what ways did you feel heard or not feel heard during the process?

26. How were your statements, feelings, and emotions received by the offender?

### **Process Satisfaction**

27. Can you tell me about your level of satisfaction with the restorative justice process?

28. How would you describe the process to someone in a similar circumstance as you who might be considering it?

### **Outcome Satisfaction**

29. Can you tell me about your level of satisfaction with the outcome of the restorative justice proceeding?

30. How did the outcome of the restorative process compare with your expectations before the process began?

**Overall Satisfaction**

31. Why did you like and/or not like about the process?
32. What would you change about the process?
33. Did you access any other services for victims/survivors of domestic violence (i.e. transition houses, counselling, etc.)? If so, what was your experience like with these services?
34. Is there anything else you would like to say about your experience with the restorative justice process?

**Follow-up**

35. Would you like to be contacted about the possibility of participating in a focus group at a later date should interest arise and time permit?

## **Appendix B: Advertisement**

### **University of Victoria Research Study Advertisement:**

#### ***The Effect of Restorative Justice on Women's Experiences of Personal Power and Safety***

Participants are needed for a research study exploring women's experience of personal power and safety while participating in restorative justice sessions as a response to domestic violence.

#### **Eligible participants must:**

- identify as female;
- be 18 years of age or older;
- be a resident of Canada;
- have experienced domestic violence
- must have participated in restorative justice or similar community intervention to address the incidence(s) of domestic violence within the last ten years and
- must not have undergone this restorative justice process within the last month.

#### **Participants will be asked to:**

- participate in a 1 hour survey either in person, over the phone or online
- review their own transcribed interview (approx. 30 min)

#### **Please note:**

- *Your confidentiality and the confidentiality of the data will be protected*
- *Use of pseudonyms and changing identifying information and features in transcripts will be used to protect your anonymity. Only the researcher will be able to associate you with the data.*

**If you are interested in participating in the study, please contact:**

Holly Clow

Masters of Dispute Resolution Candidate (principal researcher), University of Victoria

[hclow@uvic.ca](mailto:hclow@uvic.ca)

IMPORTANT: If you are viewing this advertisement on Facebook and wish to respond, please do so via *private message* or email. To protect your privacy and anonymity, please do not comment on or reply publically to this post.

***This research project has been approved by the University of Victoria Human Research Ethics Board***

## Appendix C: Sample Email Script for Contacting Relevant Government Or Restorative Justice Organizations

Dear \_\_\_\_\_,

My Name is Holly Clow and I am a graduate student in the School of Public Administration at the University of Victoria. **I am writing to request your assistance with the participant recruitment phase of my thesis research, *The Effect of Restorative Justice on Women's Experiences of Personal Power and Safety*.** As a graduate student, I am required to conduct research as part of the requirements for a degree in Dispute Resolution.

The purpose of this research project is to give female participants a voice in the debate over whether restorative justice is a suitable response in domestic violence cases. Research of this type is important because the rise in popularity of restorative practices and similar community interventions increases the need for researchers to understand the dynamics involved in them and whether they are effective in meeting victims' needs before they become even more widespread. Empirical research examining the effect of restorative justice on the empowerment of women who have endured domestic violence is particularly sparse.

**I am hoping you can assist me with this work by posting the attached research advertisement to your organization's website. Individuals will then be able to contact me if they are interested in participating.**

If you have any questions or comments about the study, please do not hesitate to contact me. You can also contact my supervisors (Dr. Kim Speers: [kspeers@uvic.ca](mailto:kspeers@uvic.ca) or Dr. Tara Ney: [tney@uvic.ca](mailto:tney@uvic.ca)).

In addition, you may verify the ethical approval of this study, or raise any concerns you might have, by contacting the Human Research Ethics Office at the University of Victoria (250-472-4545 or [ethics@uvic.ca](mailto:ethics@uvic.ca)).

Thank you for your consideration,

Holly Clow  
Masters of Dispute Resolution Candidate (University of Victoria)  
[hclow@uvic.ca](mailto:hclow@uvic.ca)



## Appendix D: Information Letter for Participants

Dear \_\_\_\_\_,

Thank you for your interest in my thesis project, *The Effect of Restorative Justice on Women's Experiences of Personal Power and Safety*. The purpose of this research is to give women with lived experience a voice in the debate over whether restorative justice is a suitable response in domestic violence cases.

If you would like to participate in this study, please:

- 1) confirm that you satisfy the following participant requirements:
  - You identify as female;
  - you are 18 years of age or older;
  - you are be a resident of Canada;
  - you have experienced domestic violence
  - you have participated in restorative justice or similar community intervention to address the incidence(s) of domestic violence within the last ten years and
  - It is been at least 1 month since you completed this restorative justice session.
  
- 2) Confirm that the email with which you used to respond to the advertisement is secure and the best way to contact you. If not, please reply with alternative contact information and;
  
- 3) Indicate whether you are a resident of Greater Victoria, BC.

If you are determined eligible to participate in this study, you will be sent a consent form to complete. An interview date, time and method will then be arranged with you. For your convenience, telephone, Skype or email interview methods are available. Face-to-face interviews will also be possible for eligible participants in the Greater Victoria, BC area. Please note that no compensation or reimbursement for participation will be offered.

If you have any questions or comments about the study or are unsure if you fulfill the participant requirements, please do not hesitate to contact me. You can also contact my supervisors: Dr. Kim Speers: [kspeers@uvic.ca](mailto:kspeers@uvic.ca) or Dr. Tara Ney: [tney@uvic.ca](mailto:tney@uvic.ca). Once again, thank you for your interest in this study.

Kind regards,

Holly Clow  
Masters of Dispute Resolution Candidate (University of Victoria)  
[hclow@uvic.ca](mailto:hclow@uvic.ca)

## Appendix E: Consent Form

### *Participant Consent Form*

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#### **The Effect of Restorative Justice on Women's Experiences of Personal Power and Safety**

You are invited to participate in a study entitled *The Effect of Restorative Justice on Women's Experiences of Personal Power and Safety* that is being conducted by Holly Clow (Master of Arts in Dispute Resolution candidate).

Holly Clow is a graduate student in the School of Public Administration at the University of Victoria and you may contact her if you have further questions by email at [hclow@uvic.ca](mailto:hclow@uvic.ca).

As a graduate student, I am required to conduct research as part of the requirements for a degree in Dispute Resolution. It is being conducted under the supervision of Dr. Tara Ney and Dr. Kim Speers (interim supervisor). You may contact my supervisors at:

Dr. Tara Ney: 250-721-8199                      [tney@uvic.ca](mailto:tney@uvic.ca)

Dr. Kimberly Speers: 250-721-8057      [kspeers@uvic.ca](mailto:kspeers@uvic.ca)

#### **Purpose and Objectives**

The purpose of this research project is to give the women being studied a voice in the debate over whether restorative justice is a suitable response in domestic violence cases.

#### **Importance of this Research**

Research of this type is important because the rise in popularity of restorative practices increases the need for researchers to understand the dynamics involved in them and whether they are effective in meeting victims' needs before they become even more widespread. Empirical research examining the effect of restorative justice on the empowerment of women who have endured domestic violence is particularly sparse.

#### **Participants Selection**

You are being asked to participate in this study because you have expressed interest in the research and meet the below criteria:

- You identify as female;
- you are 18 years of age or older;
- you are be a resident of Canada;
- you have experienced domestic violence and
- you have participated in restorative justice or similar community intervention to address the incidence(s) of domestic violence within the last ten years.
- It has been at least a month since you've participated in this restorative justice process.

#### **What is Involved**

If you consent to voluntarily participate in this research, your participation will include

- a 1 hour interview either in person, over the phone or online
- a review of your transcribed interview (optional-approx. 30 min)

### **Risks**

There are some potential risks to you by participating in this research and they include emotional discomfort, psychological discomfort and/or stress. To prevent or to deal with these risks the following steps will be taken:

- The researcher will ensure that participants understand ahead of time that participating in the research is completely voluntary and that they can take a break or stop the interview entirely at any time without consequence.
- Participants will *not* be asked to provide details about the incident(s) domestic violence. Instead, the focus of the interview will be on participants' experiences of the restorative justice process.

### **Benefits**

To society: Knowing more about women's experience of restorative justice sessions as a response to domestic violence will assist society in making more informed decisions about how the justice system can better serve and address the needs of victims.

To the state of knowledge: As noted above, whether or not restorative justice is appropriate in the context of domestic violence has been debated in the literature. However, the voices of women with lived experience in these instances are largely absent. This research aims to address this gap in knowledge.

### **Voluntary Participation**

Your participation in this research must be completely voluntary. If you do decide to participate, you may withdraw at any time before May 1, 2014 without any consequences or any explanation. If you do withdraw from the study you will be asked whether or not any data already obtained from your interview can be used. If you would like your data to be used in the study, this agreement will be documented using a brief, signed note. If you do not wish to include your data in the study, it will be destroyed.

### **Anonymity**

Use of pseudonyms and changing identifying information and features in transcripts will be used to protect your anonymity. Only the researcher will be able to associate you with the data. If revealed, any identifying information about other participants in the restorative justice process or names of restorative justice programs will be removed from the transcripts and will not appear in the final document.

### **Confidentiality**

Your confidentiality and the confidentiality of the data will be protected by using password protected computer files for transcribed interviews and a locked desk for handwritten notes.

Please be advised that interviews conducted via Skype may include data storage in the U.S.A. As such, there is a possibility that information about you that is gathered for this research study may be accessed without your knowledge or consent by the U.S. government in compliance with the U.S. Patriot Act

### **Dissemination of Results**

It is anticipated that the results of this study will be shared with others in the following ways:

- Via a thesis defense
- On a UVIC website called "UVicSpace"
- For presentation at scholarly meetings
- Via a summary report that may be forwarded to participants and organizations involved in participant recruitment following the completion of the study

**Disposal of Data**

Data including any identifiable information from this study will be disposed of in the following ways:

- Transcripts with unidentifiable information only will be preserved as an appendix to the completed research document
- Any notes or transcripts with identifiable information will be destroyed upon completion of the research. Electronic transcript/notes of this nature will be erased and hard copies will be shredded.

**Contacts**

Individuals that may be contacted regarding this study include Holly Clow, Dr. Tara Ney and Dr. Kimberly Speers. Please refer to their contact information at the beginning of this form.

In addition, you may verify the ethical approval of this study, or raise any concerns you might have, by contacting the Human Research Ethics Office at the University of Victoria (250-472-4545 or ethics@uvic.ca).

Your signature below indicates that you understand the above conditions of participation in this study, that you have had the opportunity to have your questions answered by the researchers, and that you consent to participate in this research project.

---

*Name of Participant*

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*Signature*

---

*Date*

If you are interested in reviewing your transcript, please provide your name, initials, secure email address and the date below. If you do not complete this section, your transcript will be still be used in this study unless you choose to withdraw before May 1, 2014.

---

*Name of Participant*

---

*Initials*

---

*Email Address*

---

*Date*

***A copy of this consent will be left with you, and a copy will be taken by the researcher.***

## Appendix F: List of Resources

### **BC Domestic Violence Resources**

**The Government of British Columbia's domestic violence website:**  
[www.domesticviolencebc.ca](http://www.domesticviolencebc.ca)

- Information about programs and services available across BC

**VictimLink BC: 1-800-563-0808**

- Crisis response
- Information and program referrals

**The Ministry of Justice: [www.pssg.gov.bc.ca/victimservices](http://www.pssg.gov.bc.ca/victimservices)**

- Provides a directory of victim services across BC including the Crime Victim Assistance Program and the Victim Safety Unit.

**Battered Women's Support Services: [www.bwss.org](http://www.bwss.org)**

- Support groups and advocacy
- Over-the-phone counselling
- Resources for indigenous women

**The YMCA Canada: <http://ywcacanada.ca>**

- Emergency housing
- Legal help
- Various programs for those who have experienced or witnessed abuse

**Ending the Violence Association of BC: [www.endingviolence.org](http://www.endingviolence.org)**

- Toll-free support, debriefing and information
- Regional support conference calls
- Monitoring and mitigation of issues
- Newsletters

**The Healing Journey: [www.thehealingjourney.ca](http://www.thehealingjourney.ca)**

- Family violence resources for Aboriginal people
- Transition houses
- Crisis lines
- Legal resources
- Family mediation